

## Proposed amendments to

### DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

#### amending Directive 2010/31/EU on the energy performance of buildings

#### Amendment 1

##### Article 1

##### *Commission proposal*

*Directive 2010/31/EU is amended as follows:*

*(1) in Article 2, point 3 is replaced by the following:*

*‘3. ‘technical building system’ means technical equipment for space heating, space cooling, ventilation, domestic hot water, built-in lighting, building automation and control, on-site electricity generation, on-site infrastructure for electro-mobility, or a combination of such systems, including those using energy from renewable sources, of a building or building unit;’;*

*(2) after Article 2, an Article 2a ‘Long-term renovation strategy’, to be submitted in accordance with the integrated national energy and climate plans of the Regulation*

##### *Swedenergy proposal*

Directive 2010/31/EU is amended as follows:

(1) in Article 2, point 3 is replaced by the following:

‘3. ‘technical building system’ means technical equipment for space heating, space cooling, ventilation, domestic hot water, built-in lighting, building automation and control, on-site electricity generation, on-site infrastructure for electro-mobility, or a combination of such systems, including those using energy from renewable sources, of a building or building unit;’;

(2) after Article 2, an Article 2a ‘Long-term renovation strategy’, to be submitted in accordance with the integrated national energy and climate

(EU) XX/20XX [Governance of the Energy Union], is inserted:

(a) the first paragraph consists of Article 4 of the Directive 2012/27/EU on energy efficiency, other than its last subparagraph;

...

plans of the Regulation (EU) XX/20XX [Governance of the Energy Union], is inserted:

(a) the first paragraph consists of Article 4 of the Directive 2012/27/EU on energy efficiency, other than its last subparagraph;

...

#### *Justification:*

Swedenergy supports that the article in Directive 2012/27/EU on the energy efficiency is moved to Directive 2010/31/EU on the energy performance of buildings (apart from the last paragraph, which is removed). It is important that it is not binding on MS-level.

#### Amendment 2 Article 8, paragraph 6

##### *Commission proposal*

6. The Commission is empowered to adopt delegated acts in accordance with Article 23 supplementing this Directive with a definition of ‘smartness indicator’ and with the conditions under which the ‘smartness indicator’ would be provided as additional information to prospective new tenants or buyers.

The smartness indicator shall cover flexibility features, enhanced functionalities and capabilities resulting from more interconnected and built-in intelligent devices being integrated into the conventional technical building systems. The features shall enhance the ability of occupants and the building itself to react to comfort or operational requirements, take part in demand response and contribute to the optimum, smooth and safe operation of the various energy systems and district infrastructures to which the building is connected.’;

##### *Swedenergy proposal*

6. The Commission ~~is empowered to adopt delegated acts in accordance with Article 23 supplementing this Directive with a definition of~~ **shall in cooperation with expert stakeholders develop the definition and conditions of a** ‘smartness indicator’ **which** would be provided as additional information to prospective new tenants or buyers.

The smartness indicator shall cover flexibility features, enhanced functionalities and capabilities resulting from **advanced technologies**, more interconnected and built-in intelligent devices being integrated into the conventional technical building systems. The features shall enhance the **decarbonisation of the building’s energy use**, the ability of occupants and the building itself to react to comfort or operational requirements, take part in demand response and contribute to the optimum, smooth and safe operation of the various energy systems and district infrastructures to which the building is connected.’;

*Justification:*

*Within EU the focus is to increase the energy efficiency at all stages of the value chain, from generation to final consumption. EU measures therefore focus on sectors where the potential for savings is greatest, such as buildings. By improving the energy efficiency of buildings, the total EU energy consumption can be reduced and the CO2 emissions can be lowered. The focus for energy efficiency must be cost-efficient measures and the flexibility in measures must be kept. The technological development and digitalization lead to new opportunities and possibilities. Detailed governing of 'smartness indicators' for buildings should be avoided in favour for flexibility in technical solutions. Member states should be free to develop necessary requirements applicable to their state.*

*A smartness indicator can play an important role in the development of a market for flexible solutions and technologies, but will also drive innovation and make the 'smart' concept a sales argument for a building. Developing a simple, standard icon or features could make it easier for building owners, investors and buyers to identify smart buildings with part or full flexibility from buildings without.*

*Depending on the implementation of the 'smartness indicator', this feature could work in favour of advanced technologies and enable a better rate of electrification, digitalisation and decarbonisation. The smartness indicator should be developed in cooperation with expert stakeholders, not only via a delegated act. This would add transparency to the exact functioning of the smartness indicator and allow for a political discussion on the matter. The features should be discussed thoroughly, and decided in a transparent manner in the context of discussions of the Directive, in order not to miss out on its potential.*

## Amendment 3

## Article 9, paragraph 3 (a)

*Existing directive*

*3. The national plans shall include, inter alia, the following elements:*

*(a) the Member State's detailed application in practice of the definition of nearly zero-energy buildings, reflecting their national, regional or local conditions, and including a numerical indicator of primary energy use expressed in kWh/m<sup>2</sup> per year. Primary energy factors used for the determination of the primary energy use may be based on national or regional yearly average values*

*Swedenergy proposal*

*3. The national plans shall include, inter alia, the following elements:*

*(a) the Member State's detailed application in practice of the definition of nearly zero-energy buildings, reflecting their national, regional or local conditions, and including a numerical indicators of **primary kW and** energy used expressed in kWh/m<sup>2</sup> per year. **The primary energy use shall be made available.** Primary energy factors used for the determination of the primary energy use may be based on*

<i>and may take into account relevant European standards;</i>	national or regional yearly average values and may take into account relevant European standards;
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*Justification:*

*The energy performance of buildings must be based on the actual energy used in the building. The energy use should also be measured in kW or MW. This improves the building's envelopes and decreases peak demand for heating and cooling at the coldest or warmest hour. The directive should apply a technology neutral and competitive approach to the energy performance of buildings. Energy generated on or in buildings must be included in the energy performance.*

Amendment 4

Article 14, paragraph 1

Commission proposal

‘1. Member States shall lay down the necessary measures to establish a regular inspection of the accessible parts of systems used for heating buildings, such as the heat generator, control system and circulation pump(s) for non-residential buildings with total primary energy use of over 250MWh and for residential buildings with a centralised technical building system of a cumulated effective rated output of over 100 kW. That inspection shall include an assessment of the boiler efficiency and the boiler sizing compared with the heating requirements of the building. The assessment of the boiler sizing does not have to be repeated as long as no changes were made to the heating system or as regards the heating requirements of the building in the meantime.’;

Swedenergy proposal

‘1. Member States shall lay down the necessary measures to establish a regular inspection of the accessible parts of systems used for heating buildings, such as the heat generator, control system and circulation pump(s) for non-residential buildings with total ~~primary~~ energy use of over 250MWh and for residential buildings with a centralised technical building system of a cumulated effective rated output of over 100 kW. That inspection shall include an assessment of the boiler efficiency and the boiler sizing compared with the heating requirements of the building. The assessment of the boiler sizing does not have to be repeated as long as no changes were made to the heating system or as regards the heating requirements of the building in the meantime.’;

*Justification:*

*The energy performance of buildings must be based on the actual energy used in the building. The directive should apply a technology neutral and competitive approach to the energy performance of buildings. Energy generated on or in buildings must be included in the energy performance.*

## Amendment 5

## Article 14, paragraph 2

*Commission proposal*

‘2. As an alternative to paragraph 1 Member States may set requirements to ensure that non-residential buildings with total primary energy use of over 250 MWh per year are equipped with building automation and control systems. These systems shall be capable of: (...)’

*Swedenergy proposal*

‘2. As an alternative to paragraph 1 Member States may set requirements to ensure that non-residential buildings with total ~~primary~~ energy use of over 250 MWh per year are equipped with building automation and control systems. These systems shall be capable of: (...)’

*Justification*

*The energy performance of buildings must be based on the actual energy used in the building. The directive should apply a technology neutral and competitive approach to the energy performance of buildings. Energy generated on or in buildings must be included in the energy performance.*

## Amendment 6

## Article 15, paragraph 1

*Commission proposal*

‘1. Member States shall lay down the necessary measures to establish a regular inspection of the accessible parts of air-conditioning systems for non-residential buildings with total primary energy use of over 250MWh and for residential buildings with a centralised technical building system of a cumulated effective rated output of over 100 kW. The inspection shall include an assessment of the air-conditioning efficiency and the sizing compared to the cooling requirements of the building. The assessment of the sizing does not have to be repeated as long as no changes were made to this air-conditioning system or as regards the cooling requirements of the building in the meantime.’;

*Swedenergy proposal*

‘1. Member States shall lay down the necessary measures to establish a regular inspection of the accessible parts of air-conditioning systems for non-residential buildings with total ~~primary~~ energy use of over 250MWh and for residential buildings with a centralised technical building system of a cumulated effective rated output of over 100 kW. The inspection shall include an assessment of the air-conditioning efficiency and the sizing compared to the cooling requirements of the building. The assessment of the sizing does not have to be repeated as long as no changes were made to this air-conditioning system or as regards the cooling requirements of the building in the meantime.’;

*Justification*

*The energy performance of buildings must be based on the actual energy used in the building. The directive should apply a technology neutral and competitive approach to the energy performance of buildings. Energy generated on or in buildings must be included in the energy performance.*

## Amendment 7

## Article 15, paragraph 2

*Commission proposal*

‘2. As an alternative to paragraph 1 Member States may set requirements to ensure that non-residential buildings with total primary energy use of over 250 MWh per year are equipped with building automation and control systems. These systems shall be capable of: (...)

*Swedenergy proposal*

‘2. As an alternative to paragraph 1 Member States may set requirements to ensure that non-residential buildings with total ~~primary~~ energy use of over 250 MWh per year are equipped with building automation and control systems. These systems shall be capable of: (...)

*Justification*

*The energy performance of buildings must be based on the actual energy used in the building. The directive should apply a technology neutral and competitive approach to the energy performance of buildings. Energy generated on or in buildings must be included in the energy performance.*

## Amendment 8

## Article 23

*Commission proposal*

1. The power to adopt delegated acts referred to in Articles 5, 8 and 22 is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5, 8 and 22 shall be conferred on the Commission for an indeterminate period of time from [date of the entry into force...].
3. The delegation of power referred to in Articles 5, 8 and 22 may be revoked at

*Swedenergy proposal*

1. The power to adopt delegated acts referred to in Articles 5,~~8~~ and 22 is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5,~~8~~ and 22 shall be conferred on the Commission for an indeterminate period of time from [date of the entry into force...].
3. The delegation of power referred to in Articles 5,~~8~~ and 22 may be revoked at

any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before the adoption of a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Inter-institutional Agreement on Better Law-Making of 13 April 2016<sup>11</sup>.

5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 5, 8 and 22 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.’;

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5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.

6. A delegated act adopted pursuant to Articles 5, ~~8~~ and 22 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or the Council.’;

### *Justification*

*The smartness indicator should be developed in cooperation with expert stakeholders, not only via a delegated act. This would add transparency to the exact functioning of the smartness indicator and allow for a political discussion on the matter. Its features should be discussed thoroughly, and decided in a transparent manner in the context of discussions of the Directive, in order not to miss out on its potential. Therefore, we propose to remove the power of delegation for article 8 from this article.*

### Amendment 9

#### Annex I, point 1

*Commission proposal*

‘1. The energy performance of a building shall reflect its typical energy use for heating, cooling, domestic hot water, ventilation and lighting. The energy performance of a building shall be expressed by a numeric indicator of primary energy use in kWh/(m<sup>2</sup>.y), harmonised for the purpose of both energy performance certification and compliance with minimum energy performance requirements. The energy performance and the methodology applied for its determination shall be transparent and open to innovation. Member States shall describe their national calculation methodology following the national annex framework of related European standards developed under mandate M/480 given by the European Commission to the European Committee for Standardisation (CEN).’;

*Swedenergy proposal*

‘1. The energy performance of a building shall **be determine on the basis of the calculated or actual energy use and** reflect its typical energy use for heating, cooling, domestic hot water, ventilation and lighting. The energy performance of a building shall be expressed by **a numeric indicators of kW and primary—energy used** in kWh/(m<sup>2</sup>.y), harmonised for the purpose of both energy performance certification and compliance with minimum energy performance requirements. The energy performance and the methodology applied for its determination shall be transparent and open to innovation. Member States shall describe their national calculation methodology following the national annex framework of related European standards developed under mandate M/480 given by the European Commission to the European Committee for Standardisation (CEN).’;

*Justification*

*The energy performance of buildings must be based on the actual energy used in the building. The energy use should also be measured in kW or MW. This improves the building’s envelopes and decreases peak demand for heating and cooling at the coldest or warmest hour. The directive should apply a technology neutral and competitive approach to the energy performance of buildings. Energy generated on or in buildings must be included in the energy performance.*

Amendment 10  
Annex I, point 2

*Commission proposal*

2. The energy needs for space heating, space cooling, domestic hot water and adequate ventilation shall be calculated in order to ensure minimum health and comfort levels defined by Member States.

*Swedenergy proposal*

2. The energy needs for space heating, space cooling, domestic hot water and adequate ventilation shall be calculated in order to ensure minimum health and comfort levels defined by Member States.



The calculation of primary energy shall be based on primary energy factors per energy carrier, which may be based on national or regional annual weighted averages or on more specific information made available for individual district system.

Primary energy factors shall discount the share of renewable energy in energy carriers so that calculations equally treat: (a) the energy from renewable source that is generated on-site (behind the individual meter, i.e. not accounted as supplied), and (b) the energy from renewable energy sources supplied through the energy carrier.';

The calculation of primary energy shall be based on primary energy factors per energy carrier, which may be based on national, ~~or~~ regional **or local** annual weighted averages or on more specific information made available for individual district system.

Primary energy factors shall discount the share of renewable energy in energy carriers so that calculations equally treat: (a) the energy from renewable source that is generated on-site (behind the individual meter, **i.e. may or may not be** accounted as supplied), and (b) the energy from renewable energy sources supplied through the energy carrier.';

#### *Justification*

*The energy performance of buildings must be based on the actual energy used in the building and not how it is supplied. The directive should apply a technology neutral and competitive approach to the energy performance of buildings. Energy generated on or in buildings must be included in the energy performance. Equal treatment of on-site and off-site renewables must be secured, to ensure cost-effective rollout of renewables, but deletes the reference to obligatory discounting, as this entails a risk of undermining the correct picture of buildings' actual energy consumption and performance. Thereby, incentives to make energy efficiency improvements could be undermined.*