

CLEAN ENERGY FOR ALL EUROPEANS. COMMISSION'S PACKAGE: A LEGAL ANALYSIS

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FONDAZIONE ENI ENRICO MATTEI

VENICE

Clean Energy for All Europeans

Proposal
30 November 2016



Main purposes of the EU Commissions' proposal

Winter Package «**Clean Energy for all Europeans**»

The Commission's proposals are designed to show that the clean energy transition is the growth sector of the future.

Clean energies in 2015 attracted global investment of over 300 billion euros. The EU is well placed to use our research, development and innovation policies to turn this transition into a concrete industrial opportunity.

By mobilising up to 177 billion euros of public and private investment per year from 2021, this package can generate up to a 1% increase in GDP over the next decade and create 900,000 new jobs.



Fields of application

The Clean Energy for All Europeans legislative proposals cover **energy efficiency**, **renewable energy**, the **design of the electricity market**, **security of electricity supply** and **governance rules for the Energy Union**. In addition the Commission proposes a new way forward for **eco-design** as well as a **strategy for connected and automated mobility**.

The package also includes actions to **accelerate clean energy innovation and to renovate Europe's buildings**. It provides measures to encourage public and private investment, promote EU industrial competitiveness and mitigate the societal impact of the clean energy transition. We are also exploring ways in which the EU can show further leadership in **clean energy technology and services** to help non-EU countries achieve their policy goals.



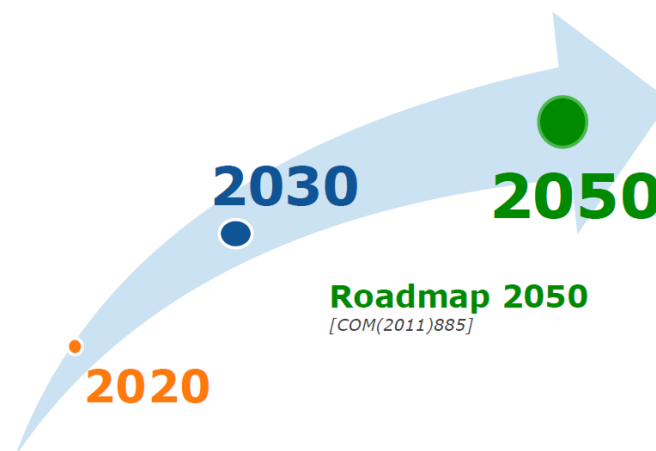
Energy objectives and climatic change

• 2020

- GHG reduction
- 20% renewables
- 20% energy efficiency

• 2030

- [COM(2014)15&COM(2014)520]
- [European Council 23-24/10/2014]
- [Package «Clean Energy for all Europeans»]
- 40% GHG reduction
- 27% renewables
- 27% [->30%] energy efficiency





The strategy for EU



5
GUIDING
DIMENSIONS

Source: EC Commission



Updated Targets

Proposals for a revision of the **Energy Efficiency Directive (EED)** and of the **European Performance of Buildings Directive (EPBD)** to bring them up to date with the 2030 energy and climate goals, to check their effectiveness, to simplify and improve the text, and to facilitate implementation at national level.

On the basis of a comprehensive costs and benefits assessment, it also proposes to **review the target to be reached by 2030 to a binding 30% EU level**, emphasizing the European Union's commitment to its international climate and energy goals for 2030 and beyond.



Energy efficiency First

Key element of the Energy Union

“The cheapest energy, the cleanest energy, the most secure energy is the energy that is not used at all”

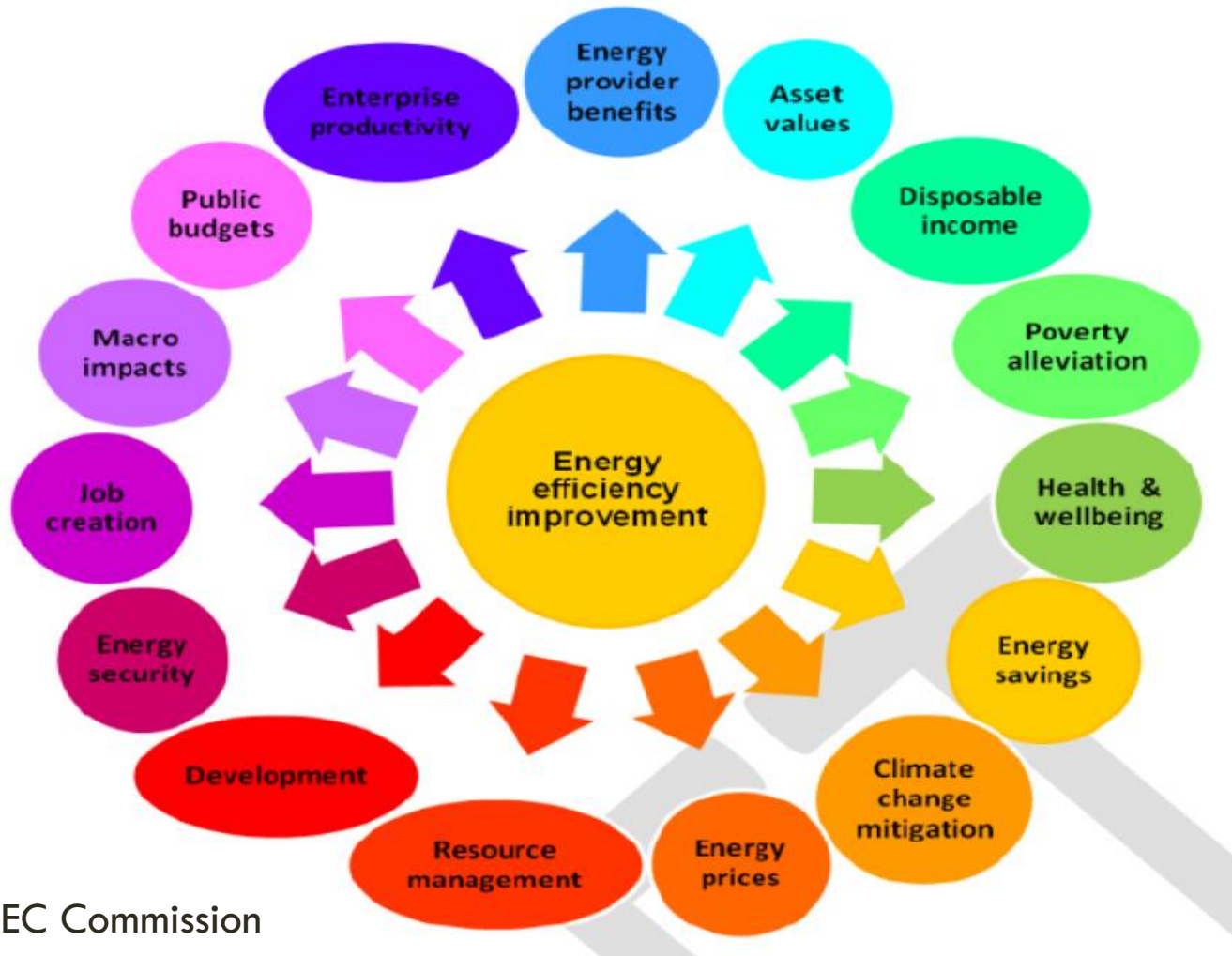
To reconsider the energy efficiency in terms of energy source as such

This means to increase the energy efficiency, in particular in the building sector, and to promote the efficiency of transports and services from an energetic point of view

Targets linked to climate targets (Effort Sharing Decision)



Energy efficiency



Source: EC Commission



EU legal framework concerning the energy efficiency

Energy efficiency

Directive 2012/27/EU



Energy performance in the construction industry

Directive 2010/31/EU



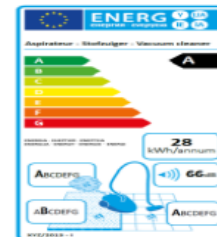
Ecodesign

Directive 2009/125/CE



Energy labelling

Directive 2010/30/EU



The energy efficiency financing

European structural funds; Horizon 2020; LIFE + funding; fund for strategic investments; member states programmes; etc...

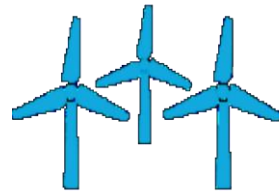


Why the new energy package ?

The energy system of the future shall be different

2030

50% of the electricity shall be produced from renewables sources



2050

2050 of the electricity produced shall be from renewables sources



Thanks to the European Union: ambitious commitments on energy and climate change



With leadership comes responsibility.

Unique opportunity to modernize our economy and

Increasing **competitiveness**

promote **growth** and **employment**

Source: EC Commission



First Energy Efficiency



The cheapest energy is the one we do not consume.



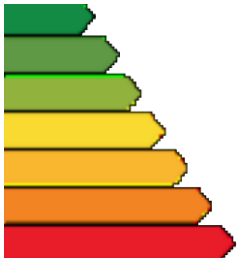
Energy efficiency has to be considered as an energy source in itself:

- It is endless;
- It is available everywhere.



What are European objectives?

CREATING EMPLOYMENT AND GROWTH, REDUCE GREENHOUSE GASES, ENSURE THE POWER SUPPLY



First Energy
Efficiency



Demonstrate global
leadership in renewable
energy



Offer a good deal
for consumers



2016 Proposals on energy efficiency

1. Proposals of changes:
 - a. Energy Efficiency Directive (EED);
 - b. Directive on Energy Performance of Buildings (EPBD).

2. Initiative 'Smart Financing for Smart Buildings'.

ENERGY EFFICIENCY DIRECTIVE

2012/27/EU



WHY AN EARLY REVIEW?

- COM(2016) 761 final Proposal amending Directive 2012/27/EU on energy efficiency intends to modify the Directive after only 3 years from the deadline for the implementation by the Member States;
- Directive 2012/27/EU target was 2020: amendment necessary before such deadline
- Urge to Ensure that the **goals for 2030** are met;
- **Simplify** some parts of the text to facilitate the implementation at national level

NB: partial revision.



OBJECTIVE 2030: STATE OF IMPLEMENTATION

WHERE WE ARE TODAY	PAST POSITIONS OF THE INSTITUTIONS	COMMISSION PROPOSAL
<p>2020</p> <ul style="list-style-type: none">• indicative national targets.• 20% indicative target for the European Union.	<p>2030</p> <p>Commission 2014: • 30% indicative target for the 2030</p> <p>European Union. Council Conclusions of October 2014:</p> <ul style="list-style-type: none">• 'a target of at least 27% for 2030 to be revised by 2020 keeping in mind the objective of the 30%'. <p>Resolution 2015 of the European Parliament:</p> <ul style="list-style-type: none">• binding objective of 40%.	<p>2030</p> <ul style="list-style-type: none">• National contributions for 2030.• binding objective of 30% for the European Union.



Energy efficiency

REACH THE 30% BINDING ENERGY EFFICIENCY TARGET BY 2030

Directive on energy efficiency

- binding objective of 30% for 2030;
- Creating 400,000 new jobs;
- Reduction in imports of gas by 12%;
- Save € 70 billion in fossil fuel imports;
- Empowering consumers by granting access to information on their energy consumption.

Directive on energy efficiency of buildings

- Clear vision for the decarbonisation of the buildings in 2050;
- efficient and intelligent buildings through the use of information and communication technologies;
- Smart Finance for Smart Buildings: - more effective use of public funds; - Aggregation of funds; - de-risking.
- Protecting vulnerable groups and attention to energy poverty.

Ecodesign Working Plan 2016-2019

- List of new product groups;
- Description of how eco-design will help circular economy;
- Specific measures for air conditioners;
- Guidelines on voluntary agreements.



Study the impact SWD (2016) 405: Chapter 5.1 on target level (I)

Reach your goal of 30% on energy efficiency in 2030



1321 Mtoe of primary energy - 987 Mtoe of final energy in 2030.



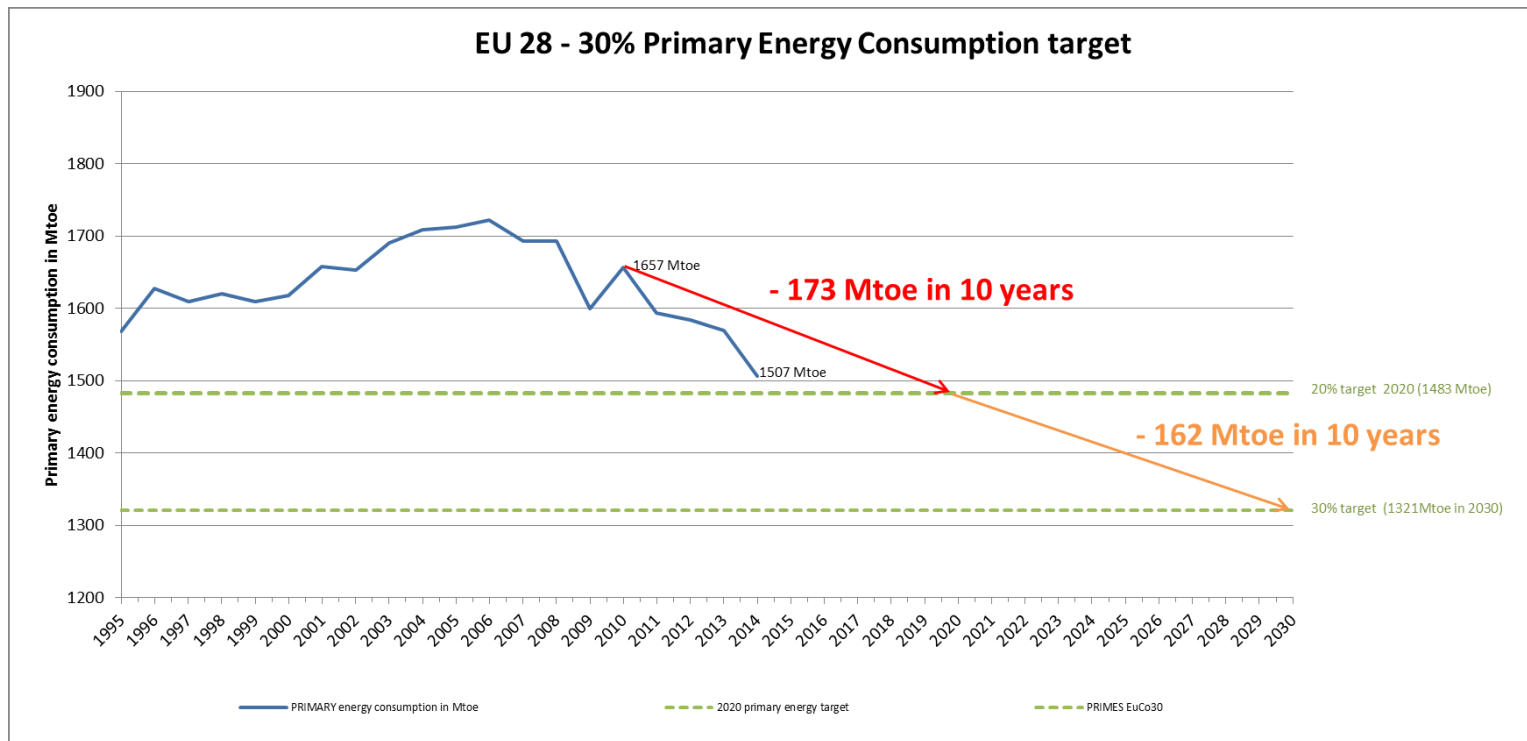
Reduction of 23% of primary energy consumption.



Reduction similar in the two periods 2010-2020 and 2020-2030



Study the impact SWD (2016) 405: Chapter 5.1 on target level (II)



Source: EC Commission



Main amendments (i)

- Addition of the Union's 2030 binding 30% energy efficiency target
- However, there are no binding targets for Member States but their indicative national energy efficiency contributions for 2030 will be notified in Member States' Integrated National Energy and Climate Plans
- Commission's assessment by regular evaluation
- Extension of the obligation period beyond 2020 to 2030 and to make it clear that Member States can achieve the required energy savings through an energy efficiency obligation scheme, alternative measures or a combination of both approaches



Main amendments (ii)

- The calculation of the amount of savings required for the 2012 to 2030 period will continue to be based on annual energy sales to final customers averaged over the 3 years preceding the start of that obligation period
- MS are required to take energy poverty into account when designing alternative measures
- New measures on metering and billing
- Final customers versus consumers: **prosumers**



ENERGY SAVING OBLIGATION (NEW ARTICLE 7)



Obligations of prolonged energy savings after 2020 (1.5% annually)



simplified and clarified rules



Consistency with the EPBD and social dimension strengthened.





SAVINGS OBLIGATIONS: 2021-2030 (I)

Like before:

- Annual 1.5% target
- Transport sector not included.
- Exemptions: (b) exclude sales of energy on the ETS; (C) allow savings from the energy supply sector; (D) permit savings from "early" actions.



SAVINGS OBLIGATIONS: 2021-2030 (II)

New Items:

- automatic extension of the **period of the savings obligations for 10 years.**
- New exemption 2 (e): exclusion from the calculation of verifiable amount of energy generated by renewable energy in and on buildings (as a result of NEW installations).



NB: All exemptions on the basis of Article 7 (2) can not cumulatively exceed 25% of the savings calculated on the basis of Article 7 (1).

DIRECTIVE ON THE ENERGY PERFORMANCE OF BUILDINGS

2010/31EU



Why real estate sector?

COM(2016) 765 final intends to amend the Directive 2010/31/UE on the energy performance of buildings

Directive implemented within **2012** by Member State

Buildings account for 40 % of total energy consumption in the Union

Target: 20% consumption reduction by 2020

The methodology for calculating the integrated energy performance: minimum requirements established by the Member States



The impact of Directive 2010/31

The Directive introduced the «**nearly zero-energy buildings**» (by 2020), including new buildings occupied or owned by public authorities (2018)

Energy performance certificates

Member States shall lay down the necessary measures providing funding for the **construction or major renovation** of buildings



ENERGY EFFICIENCY FIRST – in the real estate sector

New targets: 40% reduction of consumption by 2030

Results more ambitious than those for EE

Amendment proposal of the Directive 2010/31 on the basis of the insufficient results obtained:

- 75% of inefficient buildings (in Europe)
- 0.4/1.2% of renovated buildings per year



The amendment proposal of the Directive (2016/0381 COD)

1. integrating buildings' long-term renovation strategies
2. encouraging the use of «smart technologies» – technical building systems and *smart indicators* - to ensure buildings operate efficiently
3. streamlining of procedures when they have not delivered the expected results



The amendment proposal of the Directive (2016/0381 COD) ii

A better efficiency makes the building more comfortable and pleasant

The reduction of consumption contributes to avoid the so-called «energy poverty»: helps for 515.000/3,2 millions domestic houses

Predictable involvement of private investments through large-scale



The long-term renovation strategy (art. 2 bis)

Strategy integrated with integrated national energy and climate plans

Member States need to ensure a roadmap with clear steps and measures to decarbonise the national buildings stock by 2050, with intermediary step in 2030

Orientations on mechanisms for investments:

- the aggregation of projects, to make it easier for investors to fund the renovations
- de-risking operations for investors
- the use of public funding to leverage additional private-sector investment or address specific market failures



Financial measures for Energy Efficiency (new art. 6)

Member States shall link the financial measures for energy efficiency improvements in renovation of buildings to the energy savings achieved due to such renovation (support to PF in EE)

These savings shall be determined by comparing energy performance certificates issued before and after renovation (improving of the metering)

ITALY

National implementing
measures and domestic
market



Transposition in Italy

Directive 2010/31/UE transposed with DL 63/2013 (turned into L. 90/2013) amending **D.lgs. 192/2005 s.m.ed i.**

Other relevant regulations:

- ✓ **D.lgs. 115/2008** transposition of Directive 2006/32/CE on energy end-use efficiency and energy services
- ✓ **D.lgs. 102/2014** transposition of Directive 2012/27/UE:
 - ✓ Exemplary role of Central Public Authorities
 - ✓ Specific actions of Regions and Local Entities
- ✓ «National Energy Strategy» (SEN) – March 2013
- ✓ «Action plan for the environment sustainability of consumption in the Public Administration sector» (PAN GPP)



Some national features

The situation deeply change from region to region

Funds and regional / local regulations

Lack of national coordination

«**Success stories**» very limited for various practical reasons eg. value of the works, the works are not standard and may vary from case to case, lack of confidence of the investors...



Players and instruments (i)

Energy Service Companies (ESCO)

Natural or legal persons providing energy services or other energy efficiency improvements in facilities or premises, accepting a certain degree of financial risk
(Ministerial Decree 20 July 2004)

D. Lgs 115/2008 e 102/2014

"Natural or legal person that provides energy services or other measures to improve energy efficiency in facilities or premises, and in so doing, accepts some degree of financial risk. **The payment for the services is based, fully or partially on energy efficiency improvements and the achievement of other established performance criteria.**"

Certification no. 11532

Official List at the GSE (Energy Services Managers)

Players and instruments (ii)

- Which kind of ESCO are currently in the market?
- Companies benefitting of corporate loans and financing rather than project financing
- Banks not happy to finance ESCO companies on the basis of their projects
- Bankruptcy of a number of small ESCO companies
- Limits of the domestic market



Players and instruments (iii)

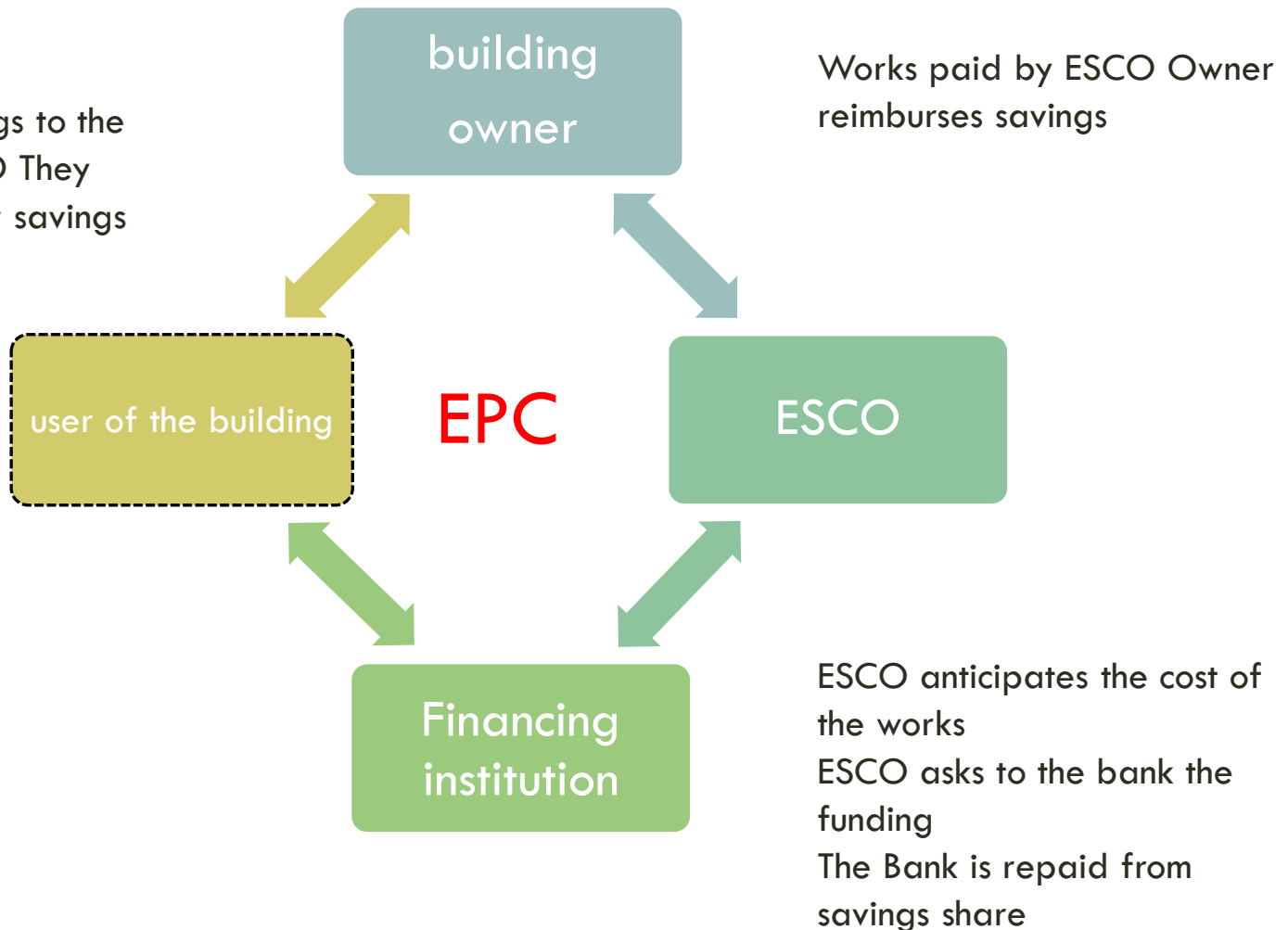
Energy performance contract (EPC): agreement between the beneficiary or whoever exercises the negotiating power and the provider of an energy efficiency improvement measure, verified and monitored during the entire duration of the contract, where investments (works, supplies or services) made are paid depending on the energy efficiency level set by contract or other agreed energy performance criteria, such as financial savings (Article 2 Legislative Decree 102/2014).

Players and instruments (iv)

- Obligations of results
- Remuneration based on the level of savings reached by various works (such as for instance building coats, substitution of windows, changes of heating boiler etc.)
- Market's obstacle: legislative standard as well as CONSIP (Governmental Agency for the purchases of public authorities www.consip.it) standards are not in line with EPC contracts

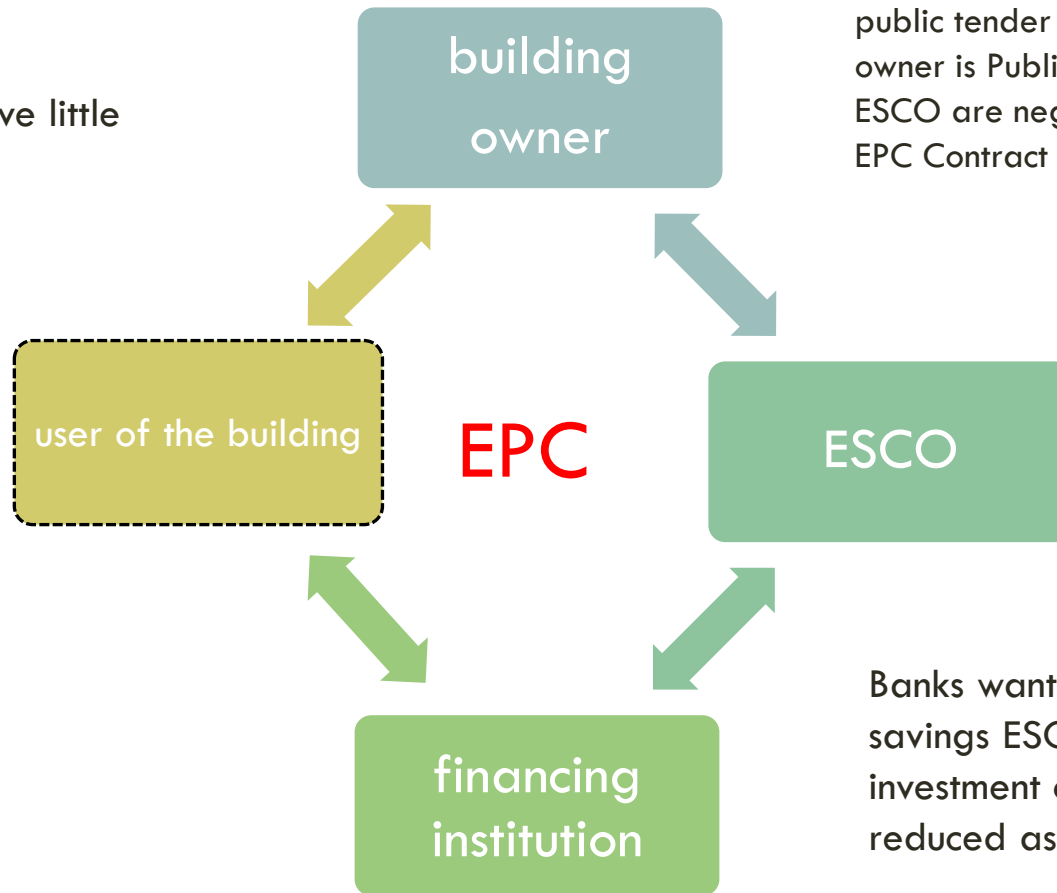
The roles of the Players

If existing, pay savings to the owner or to the ESCO They benefit of the energy savings



The sequence of the issues

If they exist, they have little interest in the works



Works difficult to control and assess
Lack of confidence by owners
public tender procedure if the if the owner is Public Administration
ESCO are negatively perceived
EPC Contract little known and misused

Banks want more guarantees than savings ESCOs have significant investment costs in spite of reduced assets



Conclusions (i)

Beware of "real" EPC contracts: obligations referring to results fully borne by the ESCO

Refund/Earnings not fixed but parameterized on the level of efficiency achieved (contractually agreed)

Necessary technical assessment by independent experts

Penalties in case of failure to achieve objectives

For both public and private owners



Conclusions (ii)

Efficiency is not only technical but also behavioral issue: change of habits of energy use in any environment (offices, schools, homes)

Essential is the initial diagnosis and planning the schedules of use

Sensitization on the issue as an action that contributes to the fight against climate change



Conclusions (iii)

The problems have not been solved: the financing institutions consider project risks and subjective risks insurmountable so far

Public funds not yet sufficient to develop the market
(**except a few exemplary cases eg. Cariplo Foundation for municipalities in Lombardy region and regional calls**)

Lack of confidence in ESCOs

The few who have managed such issues, however, are satisfied ...



THANK YOU FOR YOUR ATTENTION

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