EU Energy Efficiency Directive
National Implementation in selected European Countries
30.11.2015
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Introduction

EU Energy Efficiency Directive

Energy Efficiency is an important element of European energy and climate policy. The European Union intends to reduce the primary energy consumption within the EU by 20% until 2020. In order to meet this objective, the EU legislator enacted the Energy Efficiency Directive („EED“) which entered into force on 4 December 2012.

National implementation of directives

Directives are legal acts of the European Union addressing the EU member states and obligating them to transpose the provisions of the directive respectively the intended outcome into their national legislations within a defined period. Unlike EU regulations, directives generally do not have a “direct effect”, i.e. they are not self-executing, but do require implementing measures. Thereby, directives normally leave member states with a certain amount of leeway with regard to the exact rules to be adopted. This often results in a variety of different legal approaches in the EU member states – and, therefore, sometimes in legal uncertainties for the market participants.

Requirements of the EED

By virtue of the EED, the EU member states are obliged to take specific energy-saving measures including the following measures:

- Mandatory energy audits for large enterprises
- Implementation of Energy Efficiency Obligation Schemes to achieve new savings each year of 1.5% of the annual energy sales to final customers
- Renovation of 3% of public buildings per year
- Public procurement of high performing energy-saving products, services and buildings
- Improvement of energy metering and informative billing

Overview of national implementation measures in selected European countries

This presentation shall give you an overview of the implementation status in selected European countries. Thereby we focus on the following questions:

- What is (are) the relevant transposition act(s)?
- Who are the addressees of the transposition acts (apart from the public sector)?
- What are the main obligations the addressees have to comply with?
- What is the timeframe? Are there any deadlines?
- Outlook on any planned amendments or further transposition acts.

Services of Deloitte Legal and Deloitte

If you have any questions with regard to the implementation of the EED, the scope of application of the national transposition acts or with respect to the performance of energy audits or the implementation of energy or environmental management systems, please do not hesitate to contact us.

This is a study conducted in November 2015 and consequently reflects the legislation of the different countries at that particular time. Although this study has been performed with the greatest care the material in this guide is only for information purposes on general practices. The authors may not be held responsible in any way for any possible error that might occur or for any use or interpretation that could be made of this information. It is not intended to be used as a legal opinion in any event.
Implementation in EU Member States
**Austria**

<table>
<thead>
<tr>
<th>Transposition Act</th>
<th>In Austria, the EED Law on Energy Efficiency (EEffG) taking legal effect on 1 January 2014 (except for Sec. 9, 10, 17 &amp; 18, which took legal effect on 1 January 2015).</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Addressees &amp; Obligations</strong></td>
<td>Main addressees of the EEffG are large enterprises and energy suppliers.</td>
</tr>
<tr>
<td>▪</td>
<td>According to the European Commission’s recommendation 2003/361/EG to which Sec. 5 No. 19-21 EEffG refers, <strong>large enterprises</strong> are defined as enterprises having at least 250 employees or an annual turnover of more than EUR 50 million and an annual balance sheet total of more than EUR 43 million. They are obliged to carry out an energy audit every four years or to implement a certified energy management system (EN 16001 or ISO 50001) or environmental management system (ISO 14000 or EMAS) or a nationally recognized management system (Sec. 9 EEffG). Disregard of this obligation can lead into a fine up to EUR 10,000.</td>
</tr>
<tr>
<td>▪</td>
<td>An <strong>energy supplier</strong> (&quot;Energielieferant&quot;) is any natural, legal person or registered partnership (regardless of its head office) selling energy to final consumers (the form of energy consumption is irrelevant). Suppliers of which more than 50 % are held by another company may be attributed to the parent company. Energy suppliers which sold at least 25 GWh to Austrian final energy consumers in the previous year are obliged to report the implementation of energy efficiency measures to an extent of at least 0,6 % of their energy sales in the last year. Thereby, 40 % of the measures have to be achieved in households (respectively in transportation). Instead of reporting measures, suppliers can opt for compensation payments. Moreover, they have to report their energy sales of last year annually by 14 February if they sold 20 GWh or more. Energy suppliers with more than 49 employees and an annual turnover of more than EUR 10 million or an annual balance sheet total of more than EUR 10 million have to set up a service center and to provide further information on energy efficiency and consumption etc.</td>
</tr>
<tr>
<td><strong>Timeframe &amp; Outlook</strong></td>
<td>▪ Large enterprises have to report the taken energy efficiency measures until <strong>30 November 2015</strong>.</td>
</tr>
<tr>
<td></td>
<td>▪ Energy suppliers have to report their energy sales and the energy efficiency measures to the monitoring agency until <strong>14 February</strong> of the following year.</td>
</tr>
</tbody>
</table>
In Bulgaria, the EED has been transposed in Decree No. 84 as an amendment to the Energy Efficiency Act. It was adopted on 30 April 2015 and is legally binding since 6 May 2015. Secondary legislation containing more detailed provisions is expected to be adopted soon.

### Addressees & Obligations

The Bulgarian Decree obliges large and energy intensive enterprises to carry out energy audits. Further addresses of the decree are companies of the energy sector.

- Energy audits are mandatory for **large enterprises** as defined in the EED operating in the manufacturing and service sector, as well as for **industrial systems** consuming more than 3,000 MWh per annum, and **external lightning systems** in towns with more than 20,000 inhabitants. Exemptions apply to enterprises with certified energy or environmental management systems, subject to certification by an independent body for conformity to European or International Standards, providing that these systems already include audits complying with the EED.

- The following **companies of the energy sector** are bound to individually determined energy saving targets (e.g. by means of energy efficiency improvement measures): end suppliers, suppliers of last resort, traders licensed for the business of trade in electricity, heat transmission companies and heat power suppliers selling more than 20 GWh of electricity annually to final customers; natural gas end suppliers and traders selling more than 1 million cubic meters annually to final customers; traders of liquid fuels which sell more than 6,500 t of liquid fuels annually to final customers; traders of solid fuels which sell more than 13,000 t of solid fuels annually to final customers.

- Moreover, all of the aforementioned addressees have to comply with the obligations related to energy management (e.g. analysis and data basis of energy consumption, reporting, etc.).

- In case of non-compliance with the legal provisions, a fine up to BGN 500,000 (app. EUR 250,000) can be imposed.

### Timeframe & Outlook

- The mandatory audits have to be executed at least every 4 years, the first mandatory audit has to be carried out until **6 May 2016**.
- **By 31 January** of each year, the auditors have to present a list of businesses which have carried out energy audits in the previous year.
- **By 1 March** of each year, the companies bound by individual energy saving targets have to inform the mayor of the respective municipality about the amount of energy sold to final customers within the territory of the municipality in the previous year.
In Croatia, the EED has been transposed by the Law on Energy Efficiency (NN 127/14), which is in force since 11 May 2014.

Under Croatian law, large companies and companies of the energy sector are addressees of the transposition act.

- The energy audit obligation applies to large companies, which are defined as businesses whose total assets are at least HRK 130m (approx. EUR 17m), with an income of at least HRK 260m (approx. EUR 34m) and/or an average of at least 250 employees during the business year (at least two of the above mentioned criteria have to be fulfilled). Energy audit obligation of large companies also includes energy audit of affiliated and dependant companies. The requirements for carrying out energy audits will be defined in the respective forthcoming decree. Exemptions hereof apply to businesses with an energy or environment management system that contains the obligation of regular energy audits being certified by an accredited independent body following the relevant EU standards.

- Energy suppliers are obliged to annually provide information on billing and consumption to their final consumers. Additionally, they have to submit information on the energy consumption of the public sector to the national energy management information system.

- Energy distributors are obliged to provide annual information to their final consumers and report the amount of their energy consumption to the competent ministry. Additionally, energy distributors will have to achieve certain annual energy saving objectives in accordance with the national energy saving program. If they fail to achieve these objectives, they will have to pay a contribution to the Environment Protection and Energy Efficiency Fund equivalent to the amount that is needed for achieving the objectives. National energy saving programs and bylaws regulating further obligations have yet to be enacted.

- Energy companies, i.e. energy distributors, distribution system operators and energy suppliers, are obligated to provide their customers with information on energy agencies or similar institutions which will provide further details of energy efficiency improvement measures, comparative end-user profiles and/or objective technical specifications for energy-using equipment.

- Disregard of these legal obligations may entail a fine of up to HRK 500.000 (approx. EUR 65.000).

The first audit is due until 5 December 2015, being mandatory at least every four years. Other provisions of the law entered into force on 6 November 2014.
## Czech Republic

<table>
<thead>
<tr>
<th>Transposition Act</th>
<th>In the Czech Republic, the transposition into national law, an amendment to the Energy Management Act, entered into force on 1 July 2015.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Addressees &amp; Obligations</strong></td>
<td>The Czech transposition act obliges large enterprises and energy suppliers.</td>
</tr>
<tr>
<td>▪ The obligation of mandatory energy audits applies to <strong>large enterprises</strong> as defined in the EED whose annual energy consumption exceeds 35000 GJ/h (10 GWh) per year. Exemptions from these obligations apply to large companies which have an energy management system according to CSN EN ISO 50001 or an environmental management system complying with CSN EN ISO 14001, if audits are included. If the obliged person fails to carry out the mandatory energy audit, a fine amounting up to CZK 5,000,000 (approx. EUR 185,000) can be imposed. If the successful execution is not notified to the Ministry of Industry and Trade, a fine amounting up to CZK 200,000 (approx. EUR 7,400) can be imposed.</td>
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<tr>
<td>▪ <strong>Energy suppliers</strong> are obliged to state contact information of the Czech Energy Regulatory Office and information on the sources of electricity (e.g. fossil fuels, nuclear energy, renewables etc.) on invoices since 15 December 2011 (Section 6 of the Decree No. 210/2011 Coll. on the invoicing rules for supplies of electricity, gas and heat).</td>
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<tr>
<td>▪ The Czech Republic grants subsidies to small and medium businesses for promoting an efficient energy use, for advice and the promotion of energy services.</td>
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</tr>
<tr>
<td><strong>Timeframe &amp; Outlook</strong></td>
<td>According to the legal amendment, the first audit has to be carried out until <strong>5 December 2015</strong>. Audits carried out before the mentioned date and after 1 July 2012, can be considered valid.</td>
</tr>
</tbody>
</table>
### Transposition Act

Finland transposed Art. 8 of the EED by means of the Energy Efficiency Law (2014/1429) which entered into force on 1 January 2015. The regulation of energy audits (2015/20), which is part of secondary legislation, was adopted on 15 January 2015.

### Addressees & Obligations

According to Finnish law, large enterprises are to carry out energy audits.

- **Large enterprises** are defined as enterprises having at least 250 employees or an annual turnover of more than 50 million euros and an annual balance sheet total of more than 43 million euros, which is in accordance with the European definition. These companies are obliged to carry out mandatory energy audits at least every four years. SMEs may benefit from state subsidies if they carry out energy audits voluntarily.

- Enterprises that perform audits within the framework of a certified energy management system (according to ISO 50001) or environment management system (according to ISO 14001) are exempted. Furthermore, companies may be exempted if participating in a voluntary energy efficiency agreement that was that includes energy audits and was signed with a government agency (e.g. the national tool ETJ+).

### Timeframe & Outlook

- The first mandatory energy audit is due until **5 December 2015**.
## Transposition Act

In France, the EED has been transposed by the Articles L. 233-1 to L. 233-4 of the energy code (Code de l’énergie) which were adopted on 16 July 2013 and by the decree no. 2013-1121 (adopted on 4 December 2013), by the implementing decree no. 2014-1393 (adopted on 24 November 2014) and by the ministerial ruling of 24 November 2014.

## Addressees & Obligations

Large enterprises in France are covered by the undertaking of carrying out energy audits.

- According to Art. 2 of the decree 2013-1121 (based on the definition of the European Commission’s recommendation 2003/361/EG) to which refers Art. L.233-1 of the energy code, **large enterprises** are defined as all legal entities registered with the French Trade and Companies Registry or legal entities described in Article L 612-1 of the French Commercial Code (Non-commercial private law entities engaged in economic activities) having at least 250 employees or an annual turnover of more than EUR 50 million *and an* annual balance sheet total of more than EUR 43 million (the current wording of decree no. 2013-1121 (November 2015) is “at least 250 employees *or* an annual turnover of more than EUR 50 million *or* an annual balance sheet total of more than EUR 43 million. This is considered to be a mistake and will be amended soon).  
- Enterprises meeting the above-mentioned criteria for two consecutive accounting years are obliged to carry out an energy audit at least every four years, unless they establish an energy management system (according ISO 50001). If a first audit (meeting specific requirement depending on activities) has already been completed between 4 December 2012 and 24 November 2014, enterprises shall perform an audit within four years from the date of the first audit.
- The audits have to cover at least 80 % of every bill paid by the enterprise. This coverage rate can be reduced to 65 % for audits carried out before 5 December 2015.
- In case of non-compliance with the legal provisions, a fine which cannot exceed 2% of the pre-tax turnover of the last financial year, increased to 4% in case of new breach might be imposed (Art. L. 233-4 of the energy code).

## Timeframe & Outlook

- Large enterprises have to carry out the first audit until **5 December 2015**.
- **Introduction of a transitional period for the communication of supporting documents**: companies initiated in an energy audit or initiated in an energy management system on December 5, 2015 can submit their supporting documents or their ISO 50001 certificate by 30 June 2016.
In Germany, the EED has been transposed by the Law on Energy Services and other Energy Efficiency Measures (Energiedienstleistungsgesetz - EDL-G) taking legal effect as of 22 April 2015.

### Addressees & Obligations

Addressees of the EDL-G are, inter alia, large enterprises, energy suppliers, energy distributors and distribution system operators.

- According to Sec. 1 No. 4 EDL-G in conjunction with the European Commission’s recommendation 2003/361/EG, **large enterprises** are defined as enterprises having at least 250 employees or an annual turnover of more than EUR 50 million and an annual balance sheet total of more than EUR 43 million. Large enterprises are obliged to carry out energy audits (DIN EN 16247-1) every four years (Sec. 8 para. 1 EDL-G). An exemption from this obligation applies to companies having implemented an energy management system (ISO 50001) or an environmental management system according to Regulation (EC) No. 1221/2009 (EMAS) (Sec. 8 para. 3 EDL-G). Disregard of the obligation to carry out an energy audit may entail a fine of up to EUR 50,000 (Sec. 12 EDL-G).

- **Energy suppliers** are all natural or legal persons selling energy (e.g. electricity, gas, oil, fuel, biomass) to final customers and whose annual turnover corresponds to an equivalent of 75 GWh per year or more, or, who have at least 10 employees, or, whose annual turnover and annual balance sheet total exceeds EUR 2 million (Sec. 2 No. 12 EDL-G). Energy suppliers are obliged to annually inform their final customers about the operative effect of energy efficiency measures and respective available offers, e.g. in the context of invoicing (Sec. 4 para. 1 EDL-G).

- Energy companies, i.e. **energy distributors, distribution system operators and energy suppliers**, are obligated to provide their customers with information on energy agencies or similar institutions which will make available further details with regard to energy efficiency improvement measures, comparative end-user profiles and/or objective technical specifications for energy-using equipment (Sec. 4 para. 2 EDL-G).

### Timeframe & Outlook

- The first energy audit has to be carried out by **5 December 2015**. Energy audits which have been carried out between 4 December 2012 and 5 December 2015 may meet this obligation (Sec. 8 para. 2 EDL-G). If the company implements a management system, it only has to prove the initiation of the system’s implementation. A respective certificate only has to be submitted as of 01.01.2017.

- Obligations for energy suppliers, energy distributors and distribution system operators are in force as of **22 April 2015**.
In Hungary, the EED has been transposed by Act LVII of 2015 entering into force on 7 June 2015.

### Addressees & Obligations

In Hungary, large enterprises are obligated to carry out energy audits as determined in the EED.

- According to the SME Act XXXIV of 2004 which entered into force on 1 January 2005, **large enterprises** have to be considered as enterprises having at least 250 employees or an annual turnover of more than EUR 50 million and an annual balance sheet total of more than EUR 43 million. Enterprises which do not meet these criteria but in which the government holds 25% or more of the capital or voting rights are also qualified as large enterprises. In accordance with the Act LVII of 2015, they are obliged to carry out regular energy audits every four years, except for companies using an energy or environmental management system (according to ISO 50001).

- The Hungarian Energy and Public Utility Regulatory Authority is in charge to supervise the compliance of the large enterprises with the EE obligations. Act LVII of 2015 provides a transitional period for the enterprises as the Authority will not impose any fine until 1 January 2017 (despite the deadline of 5 December 2015).

- The energy audit should be carried out by auditors who have the respective technical degree, experience and passed the exam organized by the registration bodies after the mandatory training regarding energy efficiency.

- After 1 January 2017 the Authority may impose a fine for non-compliance up to an amount of HUF 10 million (approx. EUR 32,000), if (1) the enterprise does not fulfil its obligation to carry out the energy audit within 90 days from the notification of the Authority or (2) fails to fulfil its co-operation obligation during the supervision procedure carried out by the Authority.

### Timeframe & Outlook

The first energy audit has to be carried out by **5 December 2015**.
**Ireland**

<table>
<thead>
<tr>
<th>Transposition Act</th>
<th>In Ireland, the EED has been transposed by the S. I. (Statutory Instruments) No. 426/2014 - Regulations, published on 3 October 2014, and by the S.I. No. 131/2014, published on 14 March 2014.</th>
</tr>
</thead>
</table>
| Addressees & Obligations | In Ireland, addressees of the transposition acts are large enterprises and energy distributors, retail sales companies as well as distribution system operators.  

- According to the EED, **large enterprises** are defined as enterprises having at least 250 employees or an annual turnover of more than EUR 50 million and an annual balance sheet total of more than EUR 43 million. In accordance with Sec. 14 of S.I. No. 426/2014, they are obliged to carry out regular energy audits except for companies using an energy or environmental management system (according to ISO 50001/ISO 14001). Further exemptions apply for persons holding a greenhouse gas emissions permit granted in accordance with the European Communities (Greenhouse Gas Emissions Trading) Regulations 2012 (S.I. No. 490 of 2012). In case of non-compliance with the audit obligation, a fine up to 5,000,00 € (class A fine) may be imposed.  

- By virtue of the so-called Energy Efficiency Obligation Scheme the Minister for Communication, Energy and Natural Resources (“Minister”) may issue an Energy Efficiency Notice ("Notice") to **Energy distributors, retail energy sales companies** distributing or selling 600 GWh or more of energy per year or the equivalent and **distribution system operators** that sets out certain measures, standards, conditions, thresholds, timescales and targets to be achieved by these companies. Therefore, the addressees are to provide the Minister with all reasonable information requested (Sec. 4 of S.I. No. 131/2014). Particular energy distributors, retail energy sales companies and distribution system operators may opt for contributing to the Energy Efficiency National Fund ("Fund") instead of complying with the Notice (Sec. 6 of S.I. No. 131/2014). In case of non-compliance the minister may impose a fine at a rate of 1.25 times of the normal contribution to the Fund (Sec. 7 of S.I. No. 131/2014). The Minister may request the addressees to submit aggregated statistical information on final customers (e.g. consumption) (Sec. 8 of S.I. No. 131/2014). |
| Timeframe & Outlook | The first energy audit has to be carried out by **5 December 2015**. Audits which have been carried out since September 2014 by a registered energy auditor fulfil the obligation of a first energy audit if it complies with the minimum requirements as set out in Annex VI of the EED.  

Obligations for energy distributors, retail energy sales companies and distribution system operators, are in force as of **14 March 2014**. |
In Italy, the EED has been transposed by the Law on Energy Efficiency (Legislative Decree no. 102) of 4 July 2014 and the Directive for climate and energy of 12 March 2015.

### Addressees & Obligations

- **Large enterprises** and **energy intensive companies** are obliged to carry out energy audits at least every four years. According to the European Commission’s recommendation 2003/361/EG large enterprises have to be considered as enterprises having at least 250 employees or an annual turnover of more than EUR 50 million and an annual balance sheet total of more than EUR 43 million. Energy intensive companies are enterprises who consume at least 2.4 GWh per year and whose energy costs are more than 3 % of the turnover.
  
  Companies who have already implemented a certified energy (ISO 50001) or environmental (ISO 14001) management system or an EMAS are exempted. The national law adopted the criteria stated in the EED without any changes.
  
  Energy auditors require a EU certified accreditation. The bodies that are authorized to audit are energy service companies, experts in energy management as well as the Institute for Protection and Environmental Research.

- Italy has implemented a so-called White Certificate Scheme which shall contribute to the achievement of the national energy saving target fixed for 2020 with a minimum target of 60 %. According to this Scheme **distribution system operators** (DSOs) are required to achieve individual yearly quantitative primary-energy saving targets as set out by the GSE (Italian Energy Service Manager). The Scheme also entitles the following parties to submit projects in order to obtain white certificates: electricity and gas distributors with more than 50,000 final customers (“obliged parties”) and their controlled companies, non-obliged distributors, companies operating as “ESCO” and companies or organizations having an energy manager or an ISO 50001-certified energy management system in place.

  In case of non respect of the yearly energy saving target, a fine may be imposed by the Italian Regulatory Authority for electricity and gas (AEEG) according to Art. 13 Decree of 28 Dec. 2012.

### Timeframe & Outlook

- The first energy audit has to be carried out by **5 December 2015** and every four years following this due date.
- Yearly obligation for energy saving according to the White Certificates Scheme above.
**Latvia**

<table>
<thead>
<tr>
<th>Transposition Act</th>
<th>In Latvia, the EED has not yet been fully transposed into national law. A draft Law on Energy Efficiency (the Draft), which shall complete transposition of the EED, is currently awaiting second reading by the Parliament.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Addressees &amp; Obligations</td>
<td>Addressees of the Draft are mainly large enterprises and electricity, gas and heat energy traders.</td>
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<tr>
<td></td>
<td>In conjunction with the European Commission recommendation 2003/361/EG, <strong>large enterprises</strong> are enterprises having at least 250 employees and/or an annual turnover of more than EUR 50 million and an annual balance sheet total of more than EUR 43 million. Large enterprises are obliged to carry out energy audits regularly, that is, every 4 years. An exemption from the energy audit obligation applies if an energy or environmental management system has been implemented, which obliges to carry out energy audits.</td>
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<tr>
<td></td>
<td><strong>Electricity, gas and heat energy traders</strong> are obligated to provide their customers with information on energy consumption.</td>
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<tr>
<td></td>
<td>The Draft does not yet provide clear answers to the potential obligation of the <strong>district heating distribution operators</strong> to invest into energy efficiency funds or to the actual performance of energy efficiency improvement measures concerning end consumers. This issue is currently heatedly debated and mostly delaying the passing of Draft.</td>
</tr>
<tr>
<td></td>
<td>A failure to comply with the above listed obligations prescribed by the Draft may cause administrative liability (fines), the amount of which will be determined after the Draft has passed.</td>
</tr>
<tr>
<td>Timeframe &amp; Outlook</td>
<td>Already under <em>current</em> laws of energy efficiency, a list of entities which are considered as <strong>large consumers</strong> of energy are obliged to conduct their first mandatory energy audit <strong>by 5 December 2015</strong>.</td>
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<td>Regular audits are mandatory at least every four years.</td>
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## Netherlands

### Transposition Act

The Netherlands transposed the EED only partly, being in force since 11 July 2015. Article 8 of the EED has been temporarily transposed by the ‘Temporarily Transposition Regulation Articles 8 and 14 of the EED’.

### Addressees & Obligations

Addressees of the ‘Temporarily Transposition Regulation Articles 8 and 14 of the EED’ are companies having the following characteristics:

- They are not a small or medium company according to the recommendation 2003/361/EG of the Commission of 6 May 2003.
- In case of an international group, at least one Dutch entity of the group has at least 250 employees.
- The entity is considered as an entity with a considerable impact on the environment in the sense of the Dutch environmental legislation:
  - a. It is a company or a body with corporate-like structures,
  - b. its activities take place in one location and not in multiple locations,
  - c. the activities have a duration of at least six months or return regularly to the same location and
  - d. the activities are listed in Annex I of the Decree on Environmental Law (‘Bor’).

- Enterprises meeting these criteria are obliged to carry out energy audits (for example according to DIN EN 16247-1) every four years. An exemption from this obligation applies to companies having implemented an energy management system (ISO 50001) or an environmental management system (ISO 14001) which includes energy audits. Companies involved in a voluntary scheme such as the Dutch MJA3 or MEE-schemes on energy efficiency are also exempted from this obligation.

- The country’s aim is to achieve a completely sustainable energy supply system by the year 2050. Therefore, the Energy Agreement for Sustainable Growth was published in September 2013 with the aim to save 1.5 % energy per year. This exceeds the requirements of the EED.

### Timeframe & Outlook

- Deadline for the first audit is **5 December 2015**.
- Since Art. 8 of the EED is now temporarily transposed in the aforementioned Act, the final transposition will most likely take place in 2016 when the next implementation step of the Activity Resolution ‘Activiteitenbesluit’ will be taken (secondary environmental legislation).
Poland

Transposition Act

Poland has not yet implemented the EED (in particular, although the current version of the Law on Energy Efficiency contains energy efficiency support schemes it expires by the end of 2016). However, relevant authorities have already prepared the Draft Law on Energy Efficiency (Ustawa o efektywności energetycznej, hereinafter: LEE). The below information is based on the published Draft Law, dated 22 May 2015. Subsequently, the present draft law may be amended.

Addressees & Obligations

• **Large enterprises** are defined as enterprises which are no SMEs according to the national legislation. Thus, large enterprises are enterprises having at least 250 employees or an annual turnover of more than EUR 50 million and an annual balance sheet total of more than EUR 43 million in at least one out of two last turnover years. Large enterprises are obliged to carry out energy audits every four years. An exemption from this obligation applies to enterprises which implemented an energy management system or an environmental management system according to Regulation (EC) No. 1221/2009 or registered in Eco-Management and Audit Scheme (EMAS).

• **Energy suppliers**: The LEE obliges *inter alia* energy enterprises selling energy to final consumers to make an investment in the result of which the overall energy consumption by final consumers decreases by 1,5% annually and the amount of energy purchased by an energy enterprise on commodity markets decreases by 1,5% annually or to obtain certificates of energy efficiency (‘white certificates’). Commodity brokerage houses are also obliged to obtain certificates of energy efficiency. In 2016-2018 this obligation can be partially fulfilled by making ‘compensatory payment’. Exempted from the obligation of the improvement of energy efficiency or obtaining the certificate are enterprises selling heating energy if the amount of the ordered heating energy does not exceed 5 MW annually.

Addressees of the LEE, which are obliged to improve the energy efficiency or obtain white certificates are obliged to present documents necessary to assess the compliance with statutory obligations on demand of the President of the Energy Regulatory Office.

Lack of compliance of obligations set forth in the LEE may entail a fine up to 5 or 10 % of the revenue taken in the year preceding the imposition of the fine or no more than 3 000 000 PLN. The manner of calculation of the fine depends on the type of the contravention.

Timeframe & Outlook

The day of enactment of the LEE is hard to predict (due to the fact that the term of office of current parliament started on November 2015). Regardless of the legislative process, the draft of the LEE foresees the 30 days period between the promulgation in the official journal and the date the law takes legal effect.
## Transposition Act

The Romanian parliament transposed the EED through the Law on Energy Efficiency which is in force since 1 August 2014. The secondary legislation is in force since 17 December 2014.

## Addressees & Obligations

Romania transposed the minimum criteria of the EED without major modifications. The Romanian transposition act obligates large enterprises and companies with a certain energy consumption.

- The Law on Energy Efficiency applies to **companies consuming more than 1000 TOE per annum**, notwithstanding the size of the company, as well as to businesses with a lower consumption if they are not SMEs according to the European Commission’s recommendation 2003/361/EG. They are obliged to carry out an energy audit, to set out programs for the improvement of energy efficiency and to appoint an energy manager, attested by the Department of energy efficiency or to conclude a management agreement with a natural person or legal entity authorized by the Department of energy efficiency. Exemptions from the audit obligation apply to businesses that have implemented a certified energy or environmental management system which meet European or international standards.

- Auditors have to be authorized by the Romanian National Regulatory Authority for Energy (“ANRE”). Furthermore, they must dispose of a sufficient professional experience and need to undergo energy audit trainings offered by accredited institutes.

- Companies shall notify to ANRE all information required by law (e.g. declaration of their total annual energy consumption).

- In case the company fails to comply with these obligations, it may be subject to a fine ranging between 1000 lei (approx. 200 EUR) and 200,000 lei (approx. 45,000 EUR).

- **Energy distributors** have an obligation to inform and assist their consumers in relation with the equipment installed for the management and supervision of their consumption.

- **Energy suppliers** have to fulfil several obligations concerning the issuance of energy bills (issuance form – on paper or via e-mail, mandatory information to be comprised in at least one bill per year – contact information of the relevant authorities), and provide information to their final consumers on their consumption of energy (value, cost, evolution in time).

## Timeframe & Outlook

- The first energy audit has to be carried out until **5 December 2015**. It is mandatory at least every four years.

- The declaration regarding the total annual energy consumption must be completed by **30 April of each year**.
**Spain**

<table>
<thead>
<tr>
<th>Transposition Act</th>
<th>The EED has been transposed partially by the Royal Decree-Law 8/2014 dated 4 July and Law 18/2014 dated 5 October, transposing Article 7 by including a national obligation system which consists in financial contributions to a National Energy Efficiency Fund (&quot;Transpositions Acts&quot;). A formal transposition of the rest of the EED (especially Art. 8 of the EED) was not proceeded, but there is a draft Royal Decree-Law in the Spanish legislative process, which is pending of approval. It sets out obligations in the area of energy audit, heating services, electricity and cooling services, etc.</th>
</tr>
</thead>
</table>
| Addressees & Obligations | The Transposition Acts obligate companies of the energy sector.  
- The addressees of the act of transpositions are the following companies (i) gas and electricity marketing companies; (ii) wholesale petroleum products operators; and (iii) wholesale liquefied petroleum gas operators.  
- These companies have to make an annual financial contribution to the National Energy Efficiency Fund that could be paid in three rates. The annual contribution of each company is calculated by multiplying the annual saving obligation by the corresponding financial equivalence. The obligation of annual savings and the financial equivalence are established by the Spanish State.  
- The Transpositions Acts determine the infringements and penalties in the field of energy efficiency obligations. Moreover, they provide for the issues which shall be regulated by the draft Royal Decree-Law transposing the rest of the EED.  
- Remaining transposition act – draft Royal Decree-Law (regarding energy audit)  
  - The addressees of the draft Royal Decree-Law which transposes the EED are enterprises having at least 250 employees and an annual turnover of more than 50 million euros or an annual balance sheet total of more than 43 million euros; although referring to the European Commission’s recommendation 2003/361/EG this definition is not congruent to the term “non-SME” (see Abbreviations & Explanations below). Once entered into force, the Royal Decree-Law will obligate these companies to carry out an energy audit. There are two exemptions from this audit obligation (buildings: when the enterprise has an energy performance certificate, and transport: when the enterprise has implanted an energy management system that includes transport programs to the work center, efficient driving courses, etc.). |
| Timeframe & Outlook | According to the draft Royal Decree-Law which transposes the EED, the first energy audit has to be executed by **5 December 2015** and at least every four years. However, as this Royal Decree-Law has not yet been approved, this obligation does not yet exist. |
The Swedish Legislation transposing Art. 8 of the EED was adopted on 30 April 2014 to govern energy audits in large enterprises (Sw. Lag (2014:266) om energikartläggning i stora företag) (the “Act”).

Main addressee of the transposition act are large enterprises.

- **Large enterprises** are obliged to carry out energy audits at least every four years. According to the Act, which refers to the European Commission’s recommendation 2003/361/EG, large enterprises are defined as enterprises having at least 250 employees and an annual turnover of more than EUR 50 million or an annual balance sheet total of more than EUR 43 million.

Exemptions of this regulation apply to enterprises that have already implemented audits within the framework of a certified energy or environmental management system that comply with the minimum criteria of the EED (i.e. certified according to international ISO standard, European EN standards, Swedish SS Standard or equivalent requirements).

- The Swedish legislation concerning the EED is also applicable to governmental controlled business and companies that offer energy services.

- Failure to comply can result in injunction which may include a fine based on the company’s total turnover.

As a main rule, the first energy audit has to be executed by 5 December 2015, being mandatory at least every 4 years. However, the first reporting will be made in two or more steps meaning that the company, on 5 December 2015 at the latest, only needs to provide information on (inter alia) whether or not the company is affected by the law and which part of the business will be audited. The second reporting will be in the beginning of 2017.
## Transposition Act

In the United Kingdom, Art. 8 of the EED has been transposed through the Regulation 2014 No. 1643 giving effect to the Energy Saving Opportunity Scheme (ESOS) and entering into force on 17 July 2014.

## Addressees & Obligations

- According to Art. 1 of Schedule 1 of the ESOS Regulation, **large undertakings** are defined as UK enterprises having at least 250 employees or an annual turnover of more than EUR 50 million (£38,937,777) and an annual balance sheet total of more than EUR 43 (£33,486,489) million. Besides, large undertakings are also overseas companies with a UK registered establishment which has 250 or more UK employees paying income tax in the UK.

- These enterprises are obliged to carry out energy audits at least every four years (Regulation 26). Display Energy Certificates (DECs) or Green Deal Assessments (GDAs) may be taken into account within the ESOS assessment. Enterprises which have an energy management system in compliance with ISO 50001 are exempted from this obligation (Reg. 33).

- In case of failing to carry out energy audits or to implement an energy management system the Agency may impose a fine of up to £50,000 (additional £500 for each working day until the breach is remedied, max. 80 days) (Reg. 45). After having fulfilled the obligations the qualified companies for ESOS must submit a notification of compliance (“notification”) to the Environment Agency (“Agency”), or, in the event of non-compliance, a notification containing the reasons and the expected notification time (Reg. 29). In case of failure to notify the Agency, a fine up to £5,000 can be imposed (additional £500 for each working day until the notification is completed, max. 80 days) (Reg. 43). Furthermore, addresses of the ESOS Regulation are obliged to provide the Agency with written evidences about the details of the carried out audit or implemented management system (Reg. 28). A breach to this obligation may entail a penalty of up to £5,000 (Reg. 44).

## Timeframe & Outlook

- Large enterprises have to carry out the first energy audit until **5 December 2015**. To be fully compliant with the ESOS Regulations, the notification for the Environment Agency has to be submitted to the same date (also in case of non-compliance). According to Guidelines of the Agency, there will normally be no enforcement action for late notification until 29 January 2016 as well as for an ISO 50001 certification until 30 June 2016.
## Abbreviations & Explanations

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td>EMAS</td>
<td>Eco-Management and Audit Scheme based on the European Regulation No. 1221/2009 (is equivalent to ISO 14001 since 2001)</td>
</tr>
<tr>
<td>Large enterprises</td>
<td>With regards to the European Commission’s recommendation 2003/361/EG, large enterprises are defined as enterprises which are no SMEs (see below). Thus, large enterprises are companies having at least 250 employees or an annual turnover of more than EUR 50 million and an annual balance sheet total of more than EUR 43 million. However, in some countries – although referring to the recommendation – the wording of the national transposition act deviates from the aforesaid definition. In some countries, this is considered as a mistake and will be corrected.</td>
</tr>
<tr>
<td>Reg.</td>
<td>Regulation</td>
</tr>
<tr>
<td>SME (Small and medium sized enterprises)</td>
<td>According to the European Commission’s recommendation 2003/361/EG, SME are defined as enterprises having less than 250 employees and an annual turnover of up to EUR 50 million or an annual balance sheet total of up to EUR 43 million.</td>
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<tr>
<td>TOE</td>
<td>Tonne of oil equivalent</td>
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</tbody>
</table>
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