

Interpretation of Directive 2012/27/EU on energy efficiency

Revision of Directive 2010/31/EU on the energy performance of buildings and of Directive 2012/27/EU

Request to the Governments of the Member States

6 April 2016

The united European property sector: residential, commercial, urban, rural and historic as well as the valuation profession, asks the governments of the Member States:

1. to ignore European Commission guidance to the Member States that erroneously interprets the metering provisions of Directive 2012/27/EU on energy efficiency (EED) – *Deadline for transposition into national law 31 December 2016*

In its guidance to the member states, the European Commission sustains that there is under all circumstances an obligation to install individual consumption meters in multi-apartment and multi-purpose buildings with a central heating or cooling source or supplied from a district heating network or from a central source serving multiple buildings when a new connection is made in a new building or when a building undergoes major renovation. ***The attached Memorandum demonstrates that this is an erroneous interpretation of the Directive, the reality being that the member states are under no such obligation.***

The EED individual metering installation provisions already create a serious implementation problem interfering as they do with housing policy in some Member States like Sweden where they imply a change from gross rent to net rent. *This is why the Swedish government wants implementation of individual metering and billing to be voluntary for the member states in the revised Directive.* Therefore, at the very least, the Commission must be dissuaded from making the situation worse through erroneous interpretation of the existing provisions.

2. to warn the Commission against more detailed and prescriptive renovation requirements in either EPBD or EED and over-emphasis on deep renovation

The current renovation requirements in the EPBD and the framework for member state renovation policy in the EED are well balanced and workable. The EPBD sets minimum requirements to be defined by Member States alongside the cost-optimal methodology and the EED requires member states to establish a renovation roadmap. The current wording allows member states some freedom to define their priorities according to their national objectives and conditions (including climatic and economic ones). Tightening or increasing these requirements in EU legislation (be it the EPBD or the EED) would reduce national freedom of action with predictable negative fallout on the energy efficiency effort being made by our sector that can easily lead to less rather than more renovation.

We also warn against an over-emphasis in EU legislation on deep renovation. If we want to massively improve the energy performance of the European building stock, all kinds of energy efficiency measures should be welcomed. Member State efforts to support small scale energy efficiency renovation should not be sidelined by EU legislation as small scale improvements are easier to implement and often constitute an already considerable financial effort for European households.

3. to urge the Commission to abrogate the provision in Directive 2010/31/EU on the energy performance of buildings (EPBD) requiring insertion of recommendations on energy efficiency improvements in energy performance certificates (EPCs)

3.1 The need to abrogate

Even the most energy-sophisticated governments have been unable to implement this provision and it is causing substantial trouble and cost to millions of home owners and landlords many of whom are now aware that this burden is of EU origin. *This provision is the main reason for the escalation of certification costs for property owners in those states that actually attempted to implement* (they are what led to the Citizen's Initiative in Finland demanding that the entire EPC obligation simply be withdrawn for detached houses – taken up by the Finnish Parliament and raised by the Housing Minister with the Commission). It explains why other member states haven't even tried to implement properly and allow €15 EPCs to be sold on eBay.

This has happened because the provision is fundamentally flawed: Buildings are comprised of many systems which interact with each other closely e.g. indoor climate and energy use are interrelated. Energy experts need knowledge and qualifications in many disciplines to be able to make cost-effective suggestions for enhancing energy efficiency in buildings. No expert understands all building systems. Rather, there are experts in different disciplines such as construction, heating, cooling & ventilation experts, expertise in building physics, building economics and more. To expect a single energy expert to master all disciplines and suggest cost effective measures bears no relation to reality. Even in the most energy-sophisticated states the suggestions made are general and do not correspond to the conditions prevailing in the actual building. The energy certification 'expert' should only establish the requirements for the energy certificate and let the property owner decide whom he wishes to consult for energy efficiency proposals.

A concrete example from one of the most energy-advanced member states: an audit by the Swedish National Audit Office revealed that property owners get little advice for the money they spend on EPCs. 48% of all certificates do not include any recommendations for measures. In 25% of cases, the building was actually inspected but without any measures being proposed. And in 7% of cases, measures to enhance energy efficiency were proposed in the EPC even though the building had not been inspected. The audit questioned whether the benefit building owners derive from the energy-performance certificate justifies the price they pay for it. And this despite the Swedish approach to revising the regulations after the recast of the Directive and making them more stringent in many ways such as mandatory onsite inspections of the building before the certificate is issued.

Politically, the effect is deleterious because it has created popular negativity about EPCs and the EPBD in general and not just about the building improvement recommendations at the heart of the problem.

EU law should never have gone into such technically unfounded prescriptive detail concerning a direct obligation and cost for citizens.

There is no dishonour in recognising that a single element of the EU's energy efficiency and climate policy is flawed. There is an absolute obligation on Commission, Council and Parliament to do in such circumstances what any national government and legislature would do: abrogate failed law.

The solution is to delete paragraphs 2, 3 and 4 of Article 11 from the next EPBD (*see Annex I*).

3.2 Future Proofing – Enabling elimination of the expert from the EPC production process

Under the current EPBD, there is an absolute obligation on the owner to ensure that the energy performance certification is carried out by a qualified and/or accredited expert. And yet, if, as proposed above, the EPC requirement is restricted to enabling assessment and comparison of performance and not adding on recommendations for improvement measures, it is already possible to produce an operational performance assessment and comparison certificate without recourse to any expert at all.

All that is needed is data on the electricity, heating and cooling used by the building. All three values can be supplied by either the energy company or via internet. They can be sent to a central database – for example, in Sweden, the database owned and managed by the National Board of Housing, Building and Planning under the Ministry of Industry – and the database generates an EPC on the basis of the calculated values. Today, the expert supplies the values to the database. In future, either the energy company or the owner can supply the values and generate the certificate.

Indeed, our governments should positively welcome this opportunity to reduce recourse to experts given the increasing evidence of the unreliability of current 'expertise' even for the core task of establishing the building's energy rating. *Attached is a German study in which ten different experts were commissioned to produce an EPC for the same building. The energy performance indicators varied from F to C.*

The text of the new EPBD should be drafted flexibly enough to accommodate such circumstances when they arise whilst retaining just as strict an obligation to use an expert when these conditions are not in place.

See the proposed amendments to the Directive's Article 17 and Annex I(1) in our Annex I

3.3 *More generally, the Commission should be encouraged to view revision of the certification provisions as an opportunity to seek ways to render the Directive flexible enough to accommodate local real estate market particularities that enable more cost-effective certification.*

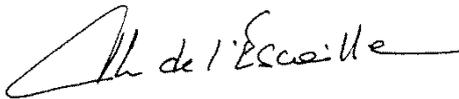
For example, a large segment of the housing stock in some countries is made up of housing companies with two or more buildings which are coupled with a technical building system or connected to the same energy metering system, e.g. district heating, electricity or gas. These can effectively accommodate a single EPC for the building complex. *There is no justification for imposing the useless burden of multiple certificates on such types of housing.*



Stratos Paradias
President
International Union of Property Owners



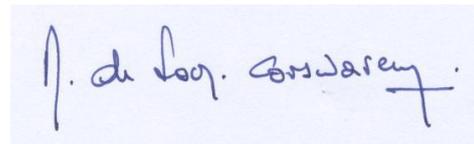
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Annex I

Proposed amendments to Directive 2010/31/EU on the Energy Performance of Buildings

Article 11 EPBD

Energy performance certificates

1. Member States shall lay down the necessary measures to establish a system of certification of the energy performance of buildings. The energy performance certificate shall include the energy performance of a building and reference values such as minimum energy performance requirements in order to make it possible for owners or tenants of the building or building unit to compare and assess its energy performance.

The energy performance certificate may include additional information such as the annual energy consumption for non-residential buildings and the percentage of energy from renewable sources in the total energy consumption.

~~2. The energy performance certificate shall include recommendations for the cost-optimal or cost-effective improvement of the energy performance of a building or building unit, unless there is no reasonable potential for such improvement compared to the energy performance requirements in force.~~

~~The recommendations included in the energy performance certificate shall cover:~~

~~(a) measures carried out in connection with a major renovation of the building envelope or technical building system(s); and~~

~~(b) measures for individual building elements independent of a major renovation of the building envelope or technical building system(s).~~

~~3. The recommendations included in the energy performance certificate shall be technically feasible for the specific building and may provide an estimate for the range of payback periods or cost benefits over its economic lifecycle.~~

~~4. The energy performance certificate shall provide an indication as to where the owner or tenant can receive more detailed information, including as regards the cost effectiveness of the recommendations made in the energy performance certificate. The evaluation of cost effectiveness shall be based on a set of standard conditions, such as the assessment of energy savings and underlying energy prices and a preliminary cost forecast. In addition, it shall contain information on the steps to be taken to implement the recommendations. Other information on related topics, such as energy audits or incentives of a financial or other nature and financing possibilities may also be provided to the owner or tenant.~~

5. Subject to national rules, Member States shall encourage public authorities to take into account the leading role which they should play in the field of energy performance of buildings, inter alia, by implementing the recommendations included in the energy performance certificate issued for buildings owned by them within its validity period.

6. Certification for building units may be based:
- (a) on a common certification of the whole building; or
 - (b) on the assessment of another representative building unit with the same energy-relevant characteristics in the same building.
7. Certification for single-family houses may be based on the assessment of another representative building of similar design and size with a similar actual energy performance quality if such correspondence can be guaranteed by the expert issuing the energy performance certificate.
8. The validity of the energy performance certificate shall not exceed 10 years.
9. ~~The Commission shall, by 2011, in consultation with the relevant sectors, adopt a voluntary common European Union certification scheme for the energy performance of non-residential buildings. That measure shall be adopted in accordance with the advisory procedure referred to in Article 26(2). Member States are encouraged to recognise or use the scheme, or use part thereof by adapting it to national circumstances. **Member States may allow adoption by non-residential building owners of the voluntary common European Union certification scheme for the energy performance of non-residential buildings adopted under Commission Decision n° ... of ... as an alternative to their national certification schemes.**~~

Article 17 EPBD

Independent experts

Unless a government-approved databank exists enabling energy performance certification without the intervention of an expert, Member States shall ensure that the energy performance certification of buildings and the inspection of heating systems and air-conditioning systems are carried out in an independent manner by qualified and/or accredited experts, whether operating in a self-employed capacity or employed by public bodies or private enterprises.

Experts shall be accredited taking into account their competence.

Member States shall make available to the public information on training and accreditations.

Member States shall ensure that either regularly updated lists of qualified and/or accredited experts or regularly updated lists of accredited companies which offer the services of such experts are made available to the public.

Annex I EPBD

Common general framework for the calculation of energy performance of buildings
(referred to in Article 3)

1. The energy performance of a building shall be determined on the basis of the calculated or



actual annual energy that is consumed in order to meet the different needs associated with its typical *or operational* use and shall reflect the heating energy needs and cooling energy needs (energy needed to avoid overheating) to maintain the envisaged temperature conditions of the building, and domestic hot water needs.



Annex II

About the Parties to this Request

Name followed by Commission Register of Interest Representatives identification number

European Historic Houses Association (EHHA) 594015610806-90

An umbrella organisation for national historic houses associations, promoting the interests of Europe's privately-owned historic houses, parks and gardens and their contents. The organisation promotes European cooperation in the conservation of historic houses which are most of the time SMEs. The Association brings together 22 national members and represents more than 50,000 historic houses in Europe and supports actively its members' interests on several European issues such as culture and education, VAT, energy and environment, tourism, and security. www.europeanhistorichouses.eu

European Landowners' Organization (ELO) 36063991244-88

Created in 1972, ELO promotes a prosperous and attractive European Countryside. ELO is a unique federation of national associations from the EU28 and beyond which represents the interests of landowners, land managers, rural entrepreneurs and family businesses. It targets its actions on land use and housing, via seven major areas of European importance: environment, renewable energy, agriculture and rural development, status of private property and companies, forest, enlargement and trade. www.elo.org

European Property Federation (EPF) 36120303854-92

EPF represents all aspects of property ownership and investment: residential landlords, housing companies, commercial property investment and development companies, shopping centres and the property interests of the institutional investors (banks, insurance companies, pension funds). Its members own property assets valued at € 1.5 trillion, providing and managing buildings for the residential or service and industry tenants that occupy them. www.epf-fepi.com

International Union of Property Owners (UIPI) 57946843667-42

UIPI is a pan-European not-for-profit association comprising 30 organisations from 28 countries. Jointly, they represent more than 5 million private property owners and some 20 to 25 million dwellings. Founded in 1923, the UIPI aims at protecting and promoting the interests, needs and concerns of private landlords and owner-occupiers at national, European and international levels. The UIPI is involved in many issues, including general housing; taxation and inheritance concerns; technical matters and new regulations such as energy saving in buildings; the private rented agenda; as well as universal consumer rights and social responsibilities. www.uipi.eu

The European Group of Valuers' Associations (TEGoVA) 070444714545-60

TEGoVA is the European organisation of national valuers' associations, covering 63 professional bodies from 34 countries representing 70 000 valuers and comprising specialist consultancies, major private sector companies and government departments both local and national. Its main objectives are the creation and spreading of harmonised standards for valuation practice, for education and qualification as well as for corporate governance and for ethics for valuers. It speaks with a common voice on valuation to European legislators and policy makers. www.tegova.org