

Energy performance of buildings. Recast

2008/0223(COD) - 15/04/2010 - Commission communication on Council's position

The text of the negotiated Council Position is, in substance, in line with the Commission's proposal and therefore can be supported.

The negotiated Council Position is the result of inter-institutional negotiations in two stage process. The first stage covered the technical substance of the proposal and the second the adaptation of the proposal to the Treaty on the Functioning of the European Union (TFEU) as regards its legal basis and comitology provisions.

The main subjects of negotiation on which an agreement was reached are as follows:

Change of legal basis (preamble): due to the entry into force of the Treaty on the Functioning of the European Union (TFEU), the co-legislators agreed to change the legal basis to Article 194 (2) TFEU. It is added that the Directive sets minimum requirements that do not prevent Member States from maintaining or introducing more stringent measures. The Commission agrees with these changes, which do not modify the applicable decision-making procedure.

Cost-optimal minimum energy performance requirements and comparative methodology framework: the Commission will develop a comparative methodology for calculating energy performance cost-optimal levels for buildings. Member States will justify any significant gap and present a plan outlining appropriate steps forward.

Existing buildings: this provision was reinforced by requesting that all existing buildings undergoing major renovation meet energy performance requirements and that energy performance requirements are also set out for building elements.

Technical building systems: a new provision requires the setting of energy performance requirements for the technical building systems (e.g. heating, hot water, and air conditioning systems).

Nearly zero energy buildings: a consensus emerged on the definition of 'nearly zero energy buildings' and the need for developing national plans to increase their number. Member States shall ensure that by 31/12/2018 new buildings occupied and owned by a public authority and by 31/12/2020 other new buildings are 'nearly zero energy buildings'.

Financial incentives and market barriers: this new article was included to highlight the importance of appropriate financing. Member States shall draw up a list of existing and proposed measures and the Commission shall present an analysis of the funds available. A Commission's statement on financing for energy efficiency in buildings indicates its role in supporting the use of financing instruments to achieve an energy-efficient and low carbon European building sector.

Energy performance certificates: this provision was reinforced by improving the content of the certificates, by reinforcing the obligation to display then certificate in public buildings and by requiring that the performance indicator set on the certificate is indicated in housing advertisements.

Inspection of heating and air-conditioning systems and Independent experts and control systems: greater flexibility to Member States regarding the inspection of air-conditioning systems was coupled with a requirement to ensure independent control systems for certificates and reports on inspections of heating and air conditioning systems.

Provisions on delegated and implementing acts: the Directive delegates powers on the Commission to adopt the comparative methodology framework of Article 5 (until 30 June 2011) and to adapt to technical progress (points 3 and 4 of Annex I) for a period of 5 years -automatically renewed- following the entry into force of the Directive. The Parliament and the Council may revoke the delegation of powers at any moment and object to the delegated act within the 2 months following the notification, with the possibility of asking for an extension of 2 additional months.

A Commission statement concerning the notification of delegated acts during the recess period of the institutions has been included at the request of the Parliament, together with a joint statement of the European Parliament, the Council and the Commission declaring that the provisions of this Directive will not constitute a precedent on their positions on delegated acts.

The Commission is also requested to adopt an implementing act to establish a voluntary common certification scheme for energy performance of non-residential buildings.

Review clause: the review clause was made more specific by setting a date to evaluate the Directive (1 January 2017).

Transposition: the adoption of transposition measures by the Member States was changed to 'two years after the entry into force' of the Directive. The dates of application of national provisions transposing most of Directive's provisions are now 'two years and six months' and 'three years' after the entry into force of the Directive. Additional time (until 31/12/2015) was granted for the application of Article 11(1) and (2) to single rented units.