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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	DE comments on the revision of the Energy performance of buildings Directive (ST 12961/22)

Delegations will find in the annex the DE comments on the revision of the Energy performance of buildings Directive.

Germany

Written Comments on REV-4 of the Energy Performance of Buildings Directive

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Key political points

Art 9 REV4 (Minimum energy performance standards)

Article 9

Minimum energy performance standards

1. Member States shall *establish minimum energy performance standards which ensure that non-residential buildings do not exceed* ***the*** ~~***a***~~ *specified maximum energy performance threshold,* ***as refererred to in subparagraph 2****, expressed by a numeric indicator of primary energy use in kWh/(m2.y), by a specified date.*

The maximum energy performance thresholds shall be established on the basis of the non-residential building stock at the time of entry into force of this Directive. The "[15%] threshold" shall be set so that [15%] of each building category according to Annex I paragraph 6 (c) to (i) of the national building stock ~~***are***~~ ***is*** *above that threshold, and the "[25%] threshold" shall be set so that [25%] of each building category according to Annex I paragraph 6 (c) to (i) of the national building stock* ~~***are***~~ ***is*** *above that threshold.*

Compliance with the thresholds shall be checked on the basis of energy performance certificates. Member States may set the thresholds at a level corresponding to a specific energy performance class.

The minimum energy performance standards shall at least ensure that:

(a) *all non-residential buildings are below* ~~*buildings and building units owned by public bodies achieve at the latest*~~

(i) *the [15%] threshold as of* ~~*after*~~ 1 January 2027 *[2030]* ~~*2027, at least energy performance class F*~~; and

(ii) *the [25%] threshold as of ~~after~~* 1 January 2030 *[2034] ~~2030, at least energy performance class E~~*;

all office buildings are below

(i) *the [15%] threshold as of* 1 January *2026*; and

(ii) *the [25%] threshold as of* 1 January *2028*;

~~(b) non-residential buildings and building units, other than those owned by public bodies, are below achieve at the latest~~

~~(i) as of after 1 January [2027], at least energy performance class F; and~~

~~(ii) as of after 1 January 2030, at least energy performance class E;~~

~~(c) residential buildings and building units achieve at the latest~~

~~(i) as of after 1 January 2030, at least energy performance class F; and~~

~~(ii) as of after 1 January 2033, at least energy performance class E;~~

In their roadmap referred to in Article 3(1)(b), Member States shall establish specific timelines for the buildings referred to in this paragraph to *comply with lower maximum* *~~achieve higher~~* energy performance *thresholds* *~~classes~~* by 2040 and 2050, in line with the pathway for transforming the national building stock into zero-emission buildings.

Rationale:

- **Germany considers that the suggested dates (2030 and 2034) are too far in the future and hinder the aim of a decarbonized building stock in 2050. We clearly prefer earlier dates and timelines.**
- **Germany believes that the 15% and 25% threshold should be applied for every building category as stated in Annex I para 6 (c) to (i) REV3 individually. The regulation should not just be applied in a way, that only the most energy consuming buildings like hospitals, homes for the elderly and swimming pools would be addressed. This could more easily be operationalised by returning to the proposal of REV2 and by definition the efficiency classes for each building category separately. In addition, we refer to our comments dated 12 September 2022**

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- **As regards office buildings, we share the LUX view that ambitious timelines are key. If you are not changing back the timelines for all non-residential buildings to 2027 and 2030, it would be important for us that you foresee these timelines at least for office buildings. In addition, the timelines for the other non-residential buildings should be moved as much as possible back to the EC proposal (2027 and 2030) because the current timelines (2030 and 2034) are clearly not ambitious enough.**

2. ~~In addition to the minimum energy performance standards established pursuant to paragraph 1, each Member State may establish minimum energy performance standards for the renovation of all other existing buildings.~~

~~Where established, the~~ Member States shall establish minimum energy performance standards *for residential* ***~~multi-apartment~~*** *buildings* ***~~with more than ten building units~~*** *which shall be based on a national* ***~~linear~~****trajectory for the progressive renovation of the building stock in line with ~~shall be designed with a view to~~* the national roadmap and the 2030, 2040 and 2050 targets contained in the Member State's building renovation plan and ***~~to~~ with*** the transformation of the national building stock into zero-emission buildings by 2050.

The trajectory shall be expressed as a ~~linear~~ decrease of the average primary energy use in kWh/(m2.y) of the whole residential building stock over the period from 2025 to 2050, and shall identify the number of buildings and building units or floor area to be renovated annually. When establishing the national trajectories and the corresponding minimum energy performance standards, Member States shall ensure that the average primary energy use in kWh/(m2.y) of the whole residential building stock, as compared to 2025, are reduced by a specific amount and a specific date as follows:

a) By [XX %] by 2030

b) By [YY %] by 2040

The national trajectories and the corresponding minimum energy performance standards shall also ensure that direct greenhouse gas emissions from the whole residential building sector, as compared to 2025, are reduced by a specific amount and by a specific date as follows:

a) by [ZZZ %] by 2030; and

b) by [AAA %] by 2040.

The trajectory shall refer to data on the national residential building stock, based, as appropriate, on statistical data, statistical sampling and energy performance certificates. The trajectory and the corresponding level of average primary energy use may be differentiated between building types and categories, for example between single- family houses and multi-apartment buildings.

Member States shall remove regulatory barriers preventing the renovation of common elements and the replacement of technical building systems in multi-apartment buildings aimed at compliance with minimum energy performance standards, including approval procedures, addressing in particular the need to obtain unanimous consent from the co-owners, without prejudice to the property and tenancy law of the Member States.

Rationale:

- **The REV4 suggests that residential buildings should not any longer have to comply with a certain performance standard, but that an average of the building stock should meet a certain energy class. This lowers the ambition of this paragraphs.**
- **To ensure that some ambition is kept, it is necessary to:**
  - **link the minimum energy performance standards to the requirements on average primary energy use, so both need to be compatible. Furthermore, we need specific intermediate aims.**
  - **include a provision on direct greenhouse gas emission reduction to ensure that despite the included flexibilities, the long-term target of a CO2-neutral building stock can be achieved.**
  - **The percentages for the primary energy use reduction and the greenhouse gas reduction have to be defined by COM according to the PRIMES scenario and guarantee that the targets in 2050 will be reached.**
- **The EPC class approach of the REV4 is not useful and will hinder the Climate targets, because these classes have different meanings in each country and will lead to an uneven renovation effort in each MS.**

2a. Member States may choose to treat ~~shall at least ensure that~~ single family houses on a separate basis while ensuring that at least those ~~and multi-apartment buildings with ten~~

~~*building units and less*~~ *which are sold, rented, donated or* ~~*which*~~ *whose purpose is changed within the cadastre* ***or*** ~~*-*~~*land registry towards residential buildings after 1 January [2028*~~*30*~~*], achieve at least energy performance class [D] or higher within three [ ] years* ~~***after of***~~ *the above mentioned triggers* ***where necessary through renovation*** *by the acquirers* ~~*buyers*~~ *or owners and leading the national building stock into zero-emission buildings by 2050. When boilers are replaced, Member States shall ensure that the new heating installation uses at least 65% renewable energy, including heat pumps, waste heat or efficient district heating and cooling systems or other available technologies in accordance with Article 24 (1) of Directive (EU) …/… [recast EED] .*

Rationale:

- **Germany holds the view that the timeframe until energy class 'D' needs to be achieved within be three years after the mentioned trigger point instead of 5 years.**
- **Moreover, Germany is in favour of an additional trigger point which limits CO2-emissions on-site. After each boiler replacement the new heating has to use 65% of renewable energy, waste heat or electricity. We refer to our comments in the Working group on 19 September.**

3. ~~***In addition***~~ ***Alternative*** ***to primary energy use referred to in paragraphs 1 and 2, Member States may define additional indicators of non-renewable and renewable primary energy use, other numeric indicator of energy use in kWh/(m2y) and of operational greenhouse gas emissions produced in kgCO_2eq/(m^2.y)****[provided that this leads as least to the same level of ambition as the use of a numeric indicator of primary energy use].*

Rationale:

The REV 4 proposal is in our opinion not flexible enough and only offers MS the possibility to use other parameters 'in addition to primary energy use'. Instead, MS must be allowed to use indicators alternatively, as long as these lead at least to the same level of ambition as primary energy use. In order to ensure comparability, Member States could report both parameters to the European Commission. Same has to account for all relevant provisions especially in Art. 3 (National building renovation plan), Art 9, Art 16 (EPC) and Annex 1 of the REV4.

Annex I para 1 sub para 4 should have the following wording:

The energy performance of a building shall be expressed by a numeric indicator of primary energy use or an alternative numeric indicator of energy use ⇨ per unit of ~~***reference***~~ **useful** floor area per year, ⇦ in kWh/(m^2.y) or greenhouse gas emissions, for the purpose of both energy performance certification and compliance with minimum energy performance requirements. The methodology applied for the determination of the energy performance of a building shall be transparent and open to innovation.

In Art. 9 para 4 lit. (a) at the end the following words must be added: "furthermore, Member States are allowed to provide exemptions for the above mentioned cases of lit (a)."

Recital 28a REV4 Solar energy on buildings

(28a) There is an urgent need to reduce the dependence on fossil fuels in buildings and to accelerate efforts to decarbonise and electrify their energy consumption. In order to enable the cost-effective installation of solar technologies at a later stage, all new buildings should be "solar ready", that is, designed to optimise the solar generation potential on the basis of the site's solar irradiance, enabling the fruitful installation of solar technologies without costly structural interventions. In addition, Member States should ensure the deployment of suitable solar installations on new buildings, both residential and non-residential, and on existing non-residential buildings. Large scale deployment of solar energy on buildings would make a major contribution to shielding more effectively consumers from increasing and volatile prices of fossil fuels, reduce the exposure of vulnerable citizens to high energy costs and result in wider environmental, economic and social benefits. In order to efficiently exploit the potential of solar installations on buildings, Member States should define criteria for the implementation of, and possible exemptions from, the deployment of solar installations on buildings in line with the assessed technical and economic potential of the solar energy installations and the characteristics of the buildings covered by this obligation. ***As the obligation to deploy solar installations on individual buildings depends on the criteria specified by Member States, the provisions on solar energy on buildings ~~should~~ does not qualify as a "Union standard" within the meaning of State aid rules.*** *Rather, Member States are allowed to continue to grant aid for energy*

generation from solar installations on rooftops in accordance with European state aid law.

Rationale:

Germany prefers the wording "does not qualify" instead of "should not qualify" in the proposed recital on solar rooftop as it clarifies that it is not a 'Union norm' and that state aid and national support schemes are still allowed for Member States.

Art 2 no 19, 20 and recital 33 REV4 (Definitions)

19. 'deep renovation' means a renovation which ~~*transforms a building or building unit (a) before 1 January [2030], into a nearly zero-energy building;*~~ *transforms a building or building unit*

a) before 1 January [2030], into a nearly zero-energy building;

(b) as of 1 January [2030], into a zero-emission building;

~~*(b) as of 1 January [2030], into a zero-emission building;*~~

20. 'staged deep~~*deep*~~ renovation means a deep ~~*deep*~~ renovation carried out in several steps, following the steps set out in a renovation passport in accordance with Article 10

Rationale:

The REV uses a percent reduction of primary energy savings as parameter. However, a deep renovation must be defined with respect to the target state not the relative reduction which depends significantly on the starting point of the building. A non-renovated building from 1950 can easily achieve -60 % reduction and still has a much higher energy demand than a building from 1990 that is renovated with the same measures. We are of the opinion that it is more coherent to get back to the REV2 version of no 19 and 20 and the indicator 'zero-emissions building' because the overarching aim of the EPBD is to achieve a zero emission stock. This has to be changed back accordingly in recital 33 and Art 15 para 11 (Financial incentives). Art 16 REV4 (Engery performance certificates)

Article 16~~11~~

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 ⇨ expressed by a numeric indicator of primary energy use in kWh/(m2.y), ⇦ and reference values such as minimum energy performance requirements ⇨ , minimum energy performance standards, nearly zero-energy building requirements and zero-emission building 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. ~~***By***~~ 31 December *[2026]* ~~*2025*~~ at the latest~~,~~ **the newly issued energy performance certificate** shall comply with the template in Annex V~~. ***It*~~ ***It*** shall specify the energy performance class of the building, on a closed scale using only letters from A to G. The letter A shall correspond to zero-emission buildings as defined in Article 2, point (2) and the letter G shall correspond to the 15% ~~*the [15]%*~~ worst- performing buildings in the national building stock at the time of the introduction of the scale. ~~*Member States shall ensure that the remaining classes [(B to F)] have an [even] bandwidth distribution of energy performance indicators among the energy performance classes.*~~

Member States may define an A+ energy performance certificate ~~***certificate***~~ *for buildings that are net-contributors in terms of energy and/or reduction of green-house gas emissions.* ~~***for buildings that are net-contributors in terms of energy and/or reduction of green-house gas***~~

Member States shall ensure a common visual identity for energy performance certificates on their territory.

Rationale :

Germany underlines the importance of the suggested improvement of energy performance certificates. To this end, the Directive has to state at least the best and the worst class: A as the ZEB standard and G as the

class for worst performing buildings. Therefore, it is indispensable to determine the volume for class G to the 15% worst performing buildings. We ask to get back to this suggestion of the former version. Concerning the alterations, we prefer the KOM proposal. Moreover, we hold the view that the possibility to postpone the application of this provision in para 2 is not useful and should be deleted.

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Other points to mention:

Recital 37 REV4

(37) Combined with an increased share of renewable electricity production, electric vehicles produce ~~***fewer***~~ ***less*** greenhouse gas emissions. Electric vehicles constitute an important component of a clean energy transition based on energy efficiency measures, alternative fuels, renewable energy and innovative solutions for the management of energy flexibility. Building codes can be effectively used to introduce targeted requirements to support the deployment of recharging infrastructure in car parks of residential and non-residential buildings. Member States should ~~***aim to***~~ remove barriers such as split incentives and administrative complications which individual owners encounter when trying to install a recharging point on their parking space.

Rationale:

In our opinion Member States shall remove barriers like split incentives so that we prefer the deletion of the wording 'aim to'.

Art 5 REV4 (Setting of minimum energy performance requirements)

In Art. 5 the following sentence must be added:

District and neighbourhood approaches are possible for the Member States while setting Minimum energy performance requirements.

Art 7 REV 4 (New buildings)

1. Member States shall ensure that ~~*from the following dates,*~~ new buildings are zero-emission buildings ~~*in accordance with Annex III*~~ *in accordance with Article* ~~***9a b***~~.

(a) as of 1 January 2027 *[~~2027~~]*, new buildings occupied or ~~***occupied or***~~ owned by public ~~***authorities***~~ ***bodies***; and

(b) as of 1 January *[*2030*]*„ all new buildings;

↓ 2018/844 Art. 1.3 (adapted)
⇨ new

~~1.~~ ⇨ Until the application of the requirements under the first subparagraph, ⇦ Member States shall ~~take the necessary measures to~~ ensure that ⌦ all ⌫ new buildings ⇨ are at least nearly zero-energy buildings and ⇦ meet the minimum energy performance requirements laid down in accordance with Article 5~~5~~.

Rationale:

Germany prefers to keep the date of 1 January 2027 of the COM Proposal for new buildings occupied or owned by public authorities. The deletion of the wording 'occupied' should be annulled. Furthermore, the last sentence of para 1 should be deleted. Public bodies have a role model function so that a softening of ambitions is not appropriate. Art 11 REV4 (Technical building systems)

Article 11~~8~~

Technical building systems~~, electromobility and smart readiness indicator~~

⇩ new

3. Member States shall require zero-emission buildings to be equipped with measuring and control devices for the ~~*monitoring and*~~ *monitoring and* regulation of of operational energy efficiency and for non-residential buildings additionaly for indoor air quality. In existing buildings, the installation of such devices shall be required, where technically and economically feasible, when a building undergoes a major renovation.

4. Member States shall ensure that, when a technical building system is installed, the overall energy performance of the altered part, and where relevant, of the complete altered system, is assessed. The results shall be documented and passed on to the building owner, so that they remain available and can be used for the verification of compliance with the

minimum requirements laid down pursuant to paragraph 1 and the issue of energy performance certificates.

Rationale:

Germany holds the view that the monitoring is important as it gathers the necessary information about the buildings efficiency. Furthermore, for non- residential buildings the indoor air quality should be monitored and regulated especially to safeguard a healthy environment for persons located in the building.

Art 9 b REV3 EPBD proposal (Zero-emission buildings)

We are concerned that renewable energy and other non-fossil energy are put on the same level as fossil fuelled district heating systems. It is therefore necessary to ensure that the path to decarbonise efficient district heating and cooling systems as set out in Art. 24 (1) of the recast EED is ambitious enough to meet our climate and energy targets.

Art 12 para 2 REV 4 (Infrastructure for sustainable mobility)

2~~3~~. ⌦ With regard to ⌫ ~~Member States shall lay down requirements for the installation of a minimum number of recharging points for~~ all non-residential buildings with more than twenty parking spaces, ~~by 1 January 2025~~ ⇨ Member States shall ensure

a) the installation of at least one recharging point for every ten parking spaces, or

b) the installation of publicly accessible recharging points with a total combined power output of at least 2 kW for each parking space, and

c)~~at least one~~ bicycle parking space*s ~~for every car parking space~~ representing at least [15%] of the ~~**total**~~ **average** user capacity of the building*, by 1 January 2027. In case of buildings owned or occupied by public ~~*authorities*~~ *bodies*, Member States shall ensure pre-cabling for at least one in two parking spaces by 1 January 2033. ⇦

Member States may decide to postpone the implementation of this requirement until 1 January 2029 for all non-residential buildings that have been renovated in the two years prior to entry into force of this directive to comply with the national requirements set in accordance with Article 8(3) of Directive 2010/31/EU.

Rationale:

Due to the heterogeneity of the use cases in the non-residential sector more technical flexibilities for larger buildings are required, by which e.g. slow AC charging points are substituted by a smaller number of (more powerful) DC charging points. Due to the disproportionately high costs for DC charging infrastructure, it can be assumed that this will only be used where there is a need for this type of charging infrastructure.

In this way, we provide the necessary flexibility, that takes into account both an ambitious level and a needs-based charging infrastructure expansion.

Art 13 REV 4 (Smart readiness of buildings)

Article 13

⌦ Smart readiness of buildings ⌫

1~~0~~. The Commission shall~~, by 31 December 2019,~~ adopt ~~a~~ delegated ~~act~~ ⌦ acts ⌫ in accordance with Article 29~~23,~~ ~~supplementing this Directive by establishing~~ ⌦ concerning ⌫ an optional common Union scheme for rating the smart readiness of buildings. The rating shall be based on an assessment of the capabilities of a building or building unit to adapt its operation to the needs of the occupant and the grid and to improve its energy efficiency and overall performance.

In accordance with Annex IV~~Ia~~, the optional common Union scheme for rating the smart readiness of buildings shall ⌦ lay down ⌫ :

(a) ~~establish~~ the definition of the smart readiness indicator; ~~and~~

(b) ~~establish~~ a methodology by which it is to be calculated.

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1. ⇩ new

2. *Further to the test phase of the smart readiness indicator, the Commission shall submit a report to the Member States, by 1st January 2026, with a view to assess the result of the smart readiness indicator testing.* ~~***result of the smart readiness indicator testing.***~~

Rationale:

The proposed amended sentence does not make sense in our opinion. We support the former version and that smart readiness testing is encompassed.

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