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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	CZ comments on the revision of the Energy performance of buildings Directive

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

Energy Performance of Buildings Directive, 3rd November,

CZ comments on Articles 4, 5, 6, 14, 17, 18, 19, 26 and Annexes I, V, VII

Article 4 - Adoption of a methodology for calculating the energy performance of buildings + Annex I

Line 468 – For some Member States, the inclusion of a new indicator, given the theoretical basis of their calculation and the link to the use of the building by its occupants, would not add any positive value to the calculation of energy performance.

Line 469 - Such proposed obligation goes far beyond the calculation of energy performance. It is no longer about a technical system or a building envelope. Moreover, it is these systems that are included in the calculation. The calculation of the thermal behaviour of the building is irrelevant to the performance calculation. In addition, the directive allows the calculation of energy performance to be carried out using theoretical values rather than actual measured values, which again moves away from the estimated response of the building.

Line 472 – This is a red line for the Czech Republic. Member States must be able to choose their primary energy factors. For example, Member States with a large share of nuclear energy in their energy mix would be badly affected, especially in relation to heat pumps. It is essential that the wording of the EC and the Council be maintained.

Line 473 – This line should be left as an option for Member States, increasing requirements that are not strictly necessary increases the cost of the calculation and thus the EPC.

Line 481a – We can show flexibility if the charging points are considered as a technical building system.

Line 488b - The electrical wiring cannot be considered as a technical building system. The Czech Republic disagrees with the EP proposal.

Line 493a - Including positive effects of demand-side flexibility will make the calculation more complex and therefore more expensive. Furthermore, how will demand-side flexibility have an impact on the actual energy performance calculation? We are against such inclusion or to make it voluntary.

Article 5 - Setting of minimum energy performance requirements

Line 198 and 199 – The purpose of this article is to set minimum energy performance requirements; the addition of EP defeats the purpose and makes the reading unclear. The construction and renovation of buildings to higher standards will always require higher than minimum reference values. Furthermore, the calculation of energy performance involves many parameters, and it would be administratively burdensome to set reference values for each of them. It is also likely that such an obligation would have the effect of limiting the creativity of architects or building designers. The wording of the EC and the Council is preferred.

Line 203 – For legal clarity, we would prefer the Council's version, but we can be flexible.

Line 206 – We believe that service buildings are not defined and are unsure whether they cover the agricultural buildings that the EP has removed. In the case of services vs. agriculture and low energy demand, we would keep the EC and Council version. Overall, we do not believe that other EP additions have a significant impact or are necessary.

Article 6 - Calculation of cost-optimal levels of minimum energy performance requirements + Annex VII

Line 212 - There is no clear methodology for calculating GWP. The draft revision of the Directive only refers to an outdated technical standard. In addition, "Commission Delegated Regulation (EU) No 244/2012 of 16 January 2012 supplementing Directive 2010/31/EU of the European Parliament and of the Council on the energy performance of buildings by establishing a comparative methodological framework for the calculation of cost-optimal levels of minimum energy performance requirements for buildings and building elements" does not provide a procedure for including GWP in the calculation of the cost-optimal level. The wording of the EC and the Council is preferred.

Line 213a and 214 – The complexity of the requirements proposed by the EP and the proposed timeframe are not feasible. Construction legislation cannot be changed so often and in such detail every time, given the rather long preparation process for the construction of a building. Legislative stability would be non-existent. We are quite sceptical about the EP's proposals and our flexibility is very low, we strongly prefer the wording of the EC and the Council.

Article 14 - Data Exchange

It is essential that data protection is taken into account, especially in cases where third parties require access to national databases. In particular, EPCs contain very detailed and specific information of a physical and technical nature, including the energy supply for the operation of the property, which among other things, indicates the economic character of the property and enables the financial value of the property to be derived. There is no reason not to share aggregated data, but any third-party access must be limited in accordance with EU and national data protection laws, and this should be clearly stated, condition of "existing contractual agreement" should be applied. This comment is relevant to the whole article and needs to be taken into account.

Line 307 - We prefer the EP proposal as we believe it provides more data protection. However, we are not sure what is meant by "mandate the use of international standards and management formats for data exchanged". Other additions to this line can be supported.

Line 308 - We can be flexible only with the last sentence added by the EP.

Line 308a - We do not agree. There may be an option to provide anonymised aggregated data if available, but certainly not the EPCs themselves as this would violate data protection. See general comment on this article.

Line 310 - We welcome the addition of the condition of "existing contractual agreement" and this condition must be applied broadly, no data should be shared if third parties do not have a legitimate claim to it. Authorised parties cannot have access to all detailed data as per our general comment on this article.

Line 311a – We do not see the need for a DA, this should be under national and EU protection laws.

Article 17 - Issue of energy performance certificates

Line 357 and 355 – Energy performance certificates are a necessity under national law and as such should not be paid for by the Member States that impose the obligation. Furthermore, financial measures usually provide part of the financial amount for technical documentation, of which the EPC is a part. Setting a legal obligation to de facto subsidise that legal obligation is not effective. We should be able to set up national instruments if necessary and if it really becomes a problem. In this matter, the line 357 should stay as per EC and Council suggestion.

The biggest problem we see in this case is probably the refinancing of mortgages and the new obligation that the EP wants to introduce. If banks and other financial institutions need this information for taxonomy purposes, they should require it themselves and make sure that it does not fall on their most vulnerable customers.

In view of this, line 355 should not include the obligation to refinance mortgages, as this is not information needed by Member States to check whether construction is in compliance with national legislation, nor by citizens seeking to buy or rent a home.

Line 362a – We would like to retain the Council's wording. It does not make economic or “security” sense to issue an EPC for such buildings.

Article 19 - Databases for energy performance of buildings

We would stress the need to protect data in line with national and EU protection laws, please see the general comment for Article 14.

Line 370 - We would like to retain the Council's wording, especially the possibility to interconnect several databases.

Line 371 – The addition of "energy building benchmarks" would suggest that there should be a set obligation that the database should monitor, and it is not clear what kind of benchmarks the EP is suggesting we include and how, we would ask to delete this addition. As long as the rest of the EP's addition remains a possibility and not an obligation, we can show flexibility.

Line 372 – The inclusion of Union and national data protection rules is essential, and we will not support any compromise without a clear statement that these rights will be protected. Furthermore, it appears that the EP is proposing amendments that are identical to those in line 371. We strongly support the EC and Council text except the “and to financial institutions as regards the buildings in their investment portfolio”, this either needs to be removed or requirement for permission of homeowners added. Financial institutions cannot have unmonitored access to such detailed and sensitive data without permission by the owner.

Line 373 - We do not agree with the EP amendment. Energy consumption is already reported to Eurostat once a year with a two-year delay and it is not possible to report statistically correct values before.

Line 377a-377d – Such implementing acts are not necessary; Member States should decide how and by what means to fulfil the requirements of this Directive.

Article 26 – Information

Line 421a – This line is already part of the line 421 and as such is not necessary.

Annex V - TEMPLATE FOR ENERGY PERFORMANCE CERTIFICATES

It is essential that **L596** includes optionality. Any addition to the EPC should be carefully considered in terms of its usefulness to the customer and the cost of such inclusion. We believe that the inclusion of a large number of new indicators is not necessary, does not add any real value to the EPC and negatively affects the readability of the document. That is the case for **lines – 595a, 613b, 613c, 614, 614a, 615, 617**.

For **line 595c** – if this addition points towards demand side flexibility, we do not agree – see explanation for L493a.

Moreover, we should avoid adding information that are easily obtainable online and may soon be outdated – **line 614b**.

Some lines make sense only for existing buildings - **lines 595b, 619a**.