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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	DK comments on the Article 3 of the revision of the Energy performance of buildings Directive

Delegations will find in the annex the DK comments on the Article 3 of the revision of the Energy performance of buildings Directive following the Energy Working Party on 7 April.

Danish Government preliminary remarks on the Energy Performance of Buildings Directive (revision)

The Danish Government thanks the Commission for the possibility to provide questions and comments, though it still has a general scrutiny and parliamentary reservation regarding the EPBD.

Below follows preliminary comments and questions for clarification following the Energy Working Party on April 7 2022 with an agenda for the articles 10-15, 17-30, 32-34 and annexes IV, VI, VIII.

Summary

Key priorities for the Danish Government

- The Danish Government fully supports the aim of the Green Deal and the Fit for 55 package and how the EPBD contributes to the common climate goals of the EU.
- These goals should be pursued through ambitious and cost-efficient measures and with sufficient flexibility for Member States to account for individual differences and potentials.

Article 10, paragraph 2

Can the Commission elaborate on what is meant by “Member States shall introduce a scheme of renovation passports?” As the scheme is mandatory to create for Member States but voluntary to use, it should also take into account that such an introduction of a voluntary scheme is cost-effective. Can the Commission provide examples on what such a scheme would look like in practice?

Article 11

Denmark is working towards the possibility of setting national requirements to secure a full phase-out of new installations of gas- or oil boilers in new and existing buildings.

Article 11, paragraph 1, section 3 specifies that requirements can be set on fuel-efficiency or greenhouse gas emissions of the heat generator, provided it does not constitute an unjustifiable market barrier. In the directive's explanatory memorandum, the article clarifies that this is ‘a clear legal basis’ for the ban of fossil-fueled boilers.



Denmark finds it difficult to secure the objective of a full phase-out of new installations of gas- or oil boilers by setting national requirements on the fuel. Setting national requirements to greenhouse gas is shown to have limited effect in Denmark, because of the high share of biogas in the gas system.

In order to reach both national and European climate targets, it is necessary to electrify and decarbonize some sectors before others and prioritize scarce resources such as biogas. For instance, the Danish National Gas Strategy states that biogas should be prioritized in sectors that are hard to abate otherwise, e.g. the industrial sector.

We are therefore looking into whether the objective can be reached by setting technology neutral minimum energy efficiency requirements to the technical building system, which would in turn secure a phase-out of gas and oil boilers that do not reach the minimum energy efficiency target set. So far, we do not see a clear legal basis in Article 11 for a full phase-out of new installations of gas- or oil boilers by setting minimum energy efficiency requirements to the technical building system.

Can the Commission clarify if it is possible to justify the above-mentioned measure under Article 11?

In addition to this, can the Commission clarify to which extent, if needed, it is necessary to prepare an impact assessment analysis to demonstrate the expected effects of phasing out fossil fuels using article 11 as the legal basis?

The described measure should be seen in connection with other initiatives that Denmark is currently looking into.

Article 14

We welcome the data exchange relating to building energy usage and support the Commission's considerations that data exchange can reduce transactions cost.

However, we find that the scope of data exchange seems to be very broad, which does not provide for clear limitations on the concerning data. We find there is a need to define a clear framework for specific data in order to make it technically feasible to implement. In addition, it is unclear how cost-effective the regulation is. Can the Commission clarify what the implementation costs and benefits are expected to be for article 14?

Article 14, paragraph 3

In regards to the sentence where "no additional costs shall be charged to the building owner, tenant or manager for access to their data or for a request to make their data available to a third party.":



Can the Commission clarify and/or exemplify how "no additional costs" should be interpreted? For instance, is it possible for a unit to spread costs to all users when implementing a system? In addition, how does paragraph 3 impact market based cloud or hosting solutions for building automation and control systems?

Article 15

Denmark appreciates if the Commission could answer the following questions regarding article 15:

Art. 15, paragraph 1

Could the Commission clarify what constitutes *appropriate* financing, support measures and other instruments, or alternatively inform Member States how the Commission envisions evaluating whether Member States have met the requirement in their implementation?

Art. 15, paragraph 2

Could the Commission clarify what constitutes *appropriate* regulatory measures, or alternatively inform Member States how the Commission envisions evaluating whether Member States have met the requirement in their implementation?

Art. 15, paragraph 4

Could the Commission clarify and/or exemplify how Member States can promote rollout of energy financing products offered by private market actors?

In cases where private market actors already provide the energy financing products, will it still be required that Member States promote the roll-out, or will it be sufficient to document their existence?

Art. 15, paragraph 5

Could the Commission provide examples as to how Member States can *facilitate* the aggregation of energy renovation projects?

Could the Commission clarify what is meant by offering lending products *widely* and in a *non-discriminatory manner*?

Art. 15, paragraph 6

Could the Commission clarify what is the nature of the technical assistance to be provided in the technical assistance facilities?

Art. 15, paragraph 11

Could the Commission clarify what *sizeable programs* mean, and whether cost-efficiency considerations will help determine the validity of pursuing sizeable deep renovations?



Article 17

Regarding the issuance of EPCs: Can the Commission elaborate on how EPCs issued in accordance with the current directive - in the case of Denmark by independent experts in private companies - will apply so that the value of EPCs already issued is not compromised when, for some EPCs, there may be a time overlap with the proposed amendments to the scheme in Article 16?

Furthermore, can the Commission confirm whether the category 'public bodies' will be streamlined with the definition of 'public bodies' in the EED proposal?

Article 19

Can the Commission elaborate on the differences and connections between Articles 14 and 19 with regard to the general objectives?

Article 20

The article regulates both inspections and building automation, which are two different concepts. Can the Commission elaborate on why the paragraphs concerning building automation are included in article 20 on inspections?

Article 23

In article 23, the Commission proposes a new article on certification or qualification schemes for providers of integrated renovation works. The Commission has also proposed certification or qualification schemes in the directive on renewable energy and directive on energy efficiency. Can the Commission clarify which professionals are covered in the various schemes in the various directives and whether they differ? In addition, can the Commission elaborate on why building professionals need the appropriate level of competence according to paragraph 1, when the certification or equivalent qualification schemes shall be available for providers of integrated renovation works?

Article 24 (Annex VI)

Article 24 requires the establishment of a control system for EPCs, while litra 2 of Annex VI requires the introduction of measures to ensure the overall quality of the scheme. This can be seen as a difference, where Article 24 looks at the quality of the individual EPC, while Annex VI sets out requirements for measures to ensure the overall quality. Can the Commission elaborate on why there are two purposes and the intension and connection between both scopes?

Furthermore, in the impact assessment for the EPBD, it is stated that risk-based control can be a more cost-effective control method. Can the Commission elaborate on why risk-based control is only prioritized as an additional control method?

Danish experiences show that building owners' ability to say no can affect in which buildings it is possible to perform on-site controls. Is the Commission aware of



situations where demand of on-site controls can bring a bias to the result of a random sampling, and has it been considered how it affects the possibility of using this control method to describe the overall quality of the scheme?

Has the Commission included in the proposal knowledge from Horizon 2020 supported projects such as the x-tendo project, where, among other things, results have been achieved regarding quality control through validations with check of the input data? A method for quality control that has been removed with the proposal.

Article 29

Can the Commission elaborate on why they wish to set maximum energy performance thresholds to renovated buildings and to zero-emission buildings through delegated acts according to article 7?