



**COUNCIL OF EUROPEAN MUNICIPALITIES AND REGIONS  
CONSEIL DES COMMUNES ET REGIONS D'EUROPE**

**CEMR position paper  
on the recast of the  
directive on the energy  
performance of buildings**

**COM (2008) 780**

**Brussels, February 2009**

## CEMR position paper on the recast of the directive on the energy performance of buildings - COM (2008) 780

### Key points

1. Local and regional government have an essential role in energy policy and key competences to contribute to energy efficiency. CEMR advocates better involvement of local and regional government in the development of European and national strategies for a sustainable and secure energy.
2. The Energy performance of buildings directive is a valuable tool to identify the potential of energy efficiency and reduce CO<sub>2</sub> emissions in the building sector, and should be combined with other policy instruments.
3. The directive has been implemented recently in many Member States, so that local and regional government lack the necessary experience and sufficient data to assess its impact.
4. Local and regional authorities need adequate time to implement provisions of the current directive, in particular to plan and prioritise investments, develop strategies and build the necessary competences. Therefore, CEMR believes that the recast of the directive happens too early.
5. CEMR is convinced that the effective achievement of the directive objectives should prevail over the speed of implementation. Thus, we suggest setting a unique deadline for implementation from 31 December 2012. This would allow local and regional authorities to fully implement current provisions of the directive and already prepare for the recast.
6. Deleting the current 1000 m<sup>2</sup> thresholds of the directive will be very challenging for local and regional authorities and have significant human and financial resources implications.
7. Provisions aiming at improving the value and impact of energy performance certificates and addressing the problem of availability of experts are welcome. Nevertheless, CEMR warns against the administrative burden these new provisions may create.
8. Local and regional authorities are ready to take their responsibilities in the field of energy efficiency and CEMR is satisfied that this leading role is recognised. It stresses however that local and regional authorities have also to find a balance between different policy priorities, while being financially constrained.
9. Local and regional authorities should be involved in the development of national plans on the promotion of low or zero CO<sub>2</sub> emissions buildings.

## **Local and regional government and EU energy policy**

1. The Council of European Municipalities and Regions (CEMR)<sup>1</sup> is the umbrella organisation gathering 53 associations of local and regional authorities in 38 European countries. CEMR is particularly active in the fields of environment, energy, transport and climate change to make sure the interests and concerns of local and regional authorities are taken into account from the earliest stages of the EU legislative process.
2. The exchange of experiences for the benefit of local and regional authorities is a relevant and useful issue for CEMR and its members. For instance, CEMR participated in the Display campaign “Towards Class A” to accelerate the Energy performance of buildings directive implementation by European municipalities<sup>2</sup> and also published a guidebook “Save energy, save money, save the climate”<sup>3</sup> proposing ideas, measures and good practices helping local and regional authorities to develop and implement action plans for sustainable energy and energy savings.
3. CEMR is involved in the Covenant of Mayors’ Office<sup>4</sup>, which supports cities and towns in achieving and going beyond the objectives of the EU energy and climate policy in terms of reduction of CO<sub>2</sub> emissions. Improving the energy performance of buildings contribute significantly to the aim of the Covenant of Mayors.
4. Energy efficiency and energy savings should be a cornerstone of any energy policy. CEMR advocates a greater emphasis to be put on energy efficiency at European level and a better recognition of the relevant role of local and regional authorities in the related EU legislation. A close coordination between the different levels of government is indispensable for the implementation of a sustainable and secure energy policy. Therefore, local and regional authorities should be effectively involved in the development of European and national energy policy agendas.

## **Implementation of the Energy performance of buildings directive and opportunity of the recast**

5. Through the recast of the energy performance of buildings directive (EPBD), the European Commission proposes to strengthen and extend the scope of the current directive, with the aim to improve the contribution of the building sector to the EU energy and climate objectives.
6. The EPBD is a valuable tool to identify the potential of energy efficiency and reduce CO<sub>2</sub> emissions in the building sector. In the recent past, energy efficiency in buildings has achieved higher priority on the political agenda at local and regional level. CEMR supports the European Commission’s belief that this issue should be tackled through an integrated mix of policy instruments, combining regulatory and non-regulatory measures such as information, training and financial and fiscal incentives.
7. Local and regional authorities have key competences in this field as planners, permit delivering authorities and owners of an important stock of real property and social housing. Their proximity to citizens allows them to provide information and incentives to encourage tenants and owners to improve the energy performance of their building. Therefore, the EPBD has direct impacts on municipalities’ and regions’ policy-making and financial choices.

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<sup>1</sup> CEMR website : [www.ccre.org](http://www.ccre.org)

<sup>2</sup> More information available at <http://www.display-campaign.org>

<sup>3</sup> Available at [http://www.ccre.org/bases/T\\_599\\_34\\_3524.pdf](http://www.ccre.org/bases/T_599_34_3524.pdf)

<sup>4</sup> Covenant of Mayors’ Office website: [www.eumayors.eu](http://www.eumayors.eu)

8. The principle of a recast of the EPBD is welcome but CEMR strongly believes that this revision happens too early. The implementation of the directive is recent in many Member States, so that many local and regional authorities lack the necessary distance and sufficient experience and data to assess the impact of the directive and its potential shortcomings.
9. Local and regional authorities should have sufficient time to implement the current requirements of the directive before considering an extension of its scope. Local and regional policy-making requires adequate time and visibility to plan and prioritise investments, develop strategies and build competences, depending on local circumstances. Modifying provisions in such a short delay would weaken local policies and bring local and regional authorities into trouble to adjust their investments and plans.
10. According to article 23, public authorities would only have about one year to prepare for the implementation of new provisions. The risk is high that local and regional authorities do not have the necessary financial and human resources to comply with the EPBD requirements within the required timescale. We firmly believe that the effective achievement of the directive objectives should prevail over the speed of implementation.

***Therefore, CEMR suggests modifying article 23 to set a uniform deadline for the implementation of the revised directive, from 31 December 2012. This would allow local and regional authorities more time to fully implement current provisions of the directive and already prepare for the recast.***

⇒ ***See proposal for amendment 1 in annex.***

#### **Scope of the directive (recitals 9, 10, 12, 13, 14, articles 3, 4, 5, 6, 7 and annex I)**

11. The European Commission proposes deleting the threshold of 1000 m<sup>2</sup> for meeting the national minimum energy performance requirements for new buildings and buildings undergoing major renovation, arguing that this threshold de facto excludes the majority of buildings having an energy savings potential.
12. CEMR notes that the current thresholds are already very demanding for local and regional authorities. For instance, ensuring minimum performance requirements in existing buildings over 1000m<sup>2</sup> undergoing major renovation, which represent a relevant stock, requires important investments which have to be planned over several years.
13. Therefore, a modification of the directive to encompass all new buildings and buildings undergoing major renovation would have important additional administrative and financial resource implications for local and regional authorities. In this sense, we consider that a proper costs analysis of the extra burden at local and regional level has to be done and adequate financing support considered.
14. Moreover, we are not convinced that the current system is robust enough to extend the scope of the directive and would like to stress that it is still too early to determine if it would be of any value to eliminate the 1000m<sup>2</sup> thresholds. We wonder whether it would not be more efficient to make sure that all large buildings comply with the energy performance requirements and have a certificate instead of worrying about smaller buildings.

### **Energy performance certificates and inspections (recitals 17, 18, 20 and articles 2, 10, 11, 12, 13, 14, 15 and 17)**

15. The draft Commission's proposal suggests strengthening the role and the quality of energy performance certificates, in particular through the inclusion of recommendations for improvement and compulsory information to be given. A certificate should be issued for each property transaction and the information on energy performance indicator largely publicized.
16. CEMR recognises that the potential of energy performance certificates is not sufficiently exploited. For the time being, those certificates are rather seen as administrative and financial burdens than useful tools and do not lead to the awaited improvements.
17. Reinforcing the information provided by certificates is a positive improvement and we would further propose an exchange of best practices on measures to ensure the availability and use of energy performance certificates, the development of incentives to encourage building owners to put in place recommendations suggested by the certificates or communication campaigns to demonstrate their benefit.
18. Besides, we note that certificates as a single tool do not automatically lead to immediate improvements of energy efficiency in public buildings. They represent an investment in time and money and other investments, such as installing air heat pumps, could produce immediate savings and more concrete and rapid results.
19. Provisions to improve the availability and quality of independent experts are very much appreciated. Indeed, one of the main problems in the implementation of the current directive is the lack of appropriately trained professionals to carry out inspections and issue energy performance certificates, making it difficult to comply within the timeframe set in the current EPBD.
20. Nevertheless, to ensure a broad offer of qualified experts while minimising red tape, CEMR would not necessarily recommend imposing an accreditation system. More generally, we tend to consider that provisions related to experts, certificates, and inspections may represent an excessive bureaucracy, which has to be balanced with the added-value of such provisions.

- ⇒ ***CEMR suggests amending article 16 to ensure the availability of experts with the necessary skills and education level, while minimising the administrative burden.***
- ⇒ ***See proposal for amendment 2 in annex.***

### **The financial challenge (articles 4 and 18)**

21. CEMR recognises that the final benefits of the revised EPBD may, in the long run, outweigh the extra initial investments. Nevertheless, the additional financial burden will require to be prioritized against existing and planned budget commitments and there is a risk that local and regional authorities will not have the money to carry out the work and develop the skills necessary within the imposed timescale.
22. Furthermore, the recast comes at a time when the economic downturn is already putting huge and unexpected pressures on the budgets of local and regional authorities, having as consequences budget revisions, increased demands for a range of services, significant loss of income and reduced investment income.
23. Linking provision of incentives to the compliance with minimum energy performance requirement could be a useful tool (art.4.3). However, it is essential to note that not all improvements in a building affect energy efficiency. Local and regional authorities are confronted with demographic change and consequently invest in the adap-

tation of their buildings for elderly people. They also have to make their buildings accessible to disabled people, in accordance with the national and European anti-discrimination legislation.

***Therefore, CEMR suggests amending article 4.3 in order to avoid a prioritisation of energy efficiency investments to the detriment of other necessary adaptation investments in buildings.***

***⇒ See proposal for amendment 3 in annex..***

24. CEMR notes that the Commission may make further proposals with respect to general incentives for further energy efficiency measures in buildings (art. 18) and we also appreciate the announcement in the Second strategic energy review of the creation of new “Sustainable Energy Financing Initiative” and the upcoming publication of communications on “Overcoming the barriers to renewable energy” and “Financing low carbon technologies”.
25. Furthermore, CEMR appreciates that the Economic Recovery Plan published by the European Commission recognises that investments in favour of energy efficiency are an opportunity for Europe’s economy and competitiveness, as well as the announced deepened cooperation with the European Investment Bank and other financial bodies in this area. We are now looking forward to seeing the concrete implementation of these promising proposals.
26. CEMR calls on the European Commission and Member States to make these new financing tools accessible to local and regional authorities and consider adequate and specific funding for municipalities and regions to support their energy-efficiency projects.
27. The modification of the Structural funds’ regulation aiming at extending the eligibility of energy efficiency investments in buildings is very much welcome and CEMR calls on Member States and managing authorities to consider shifting accordingly priorities in their operational programmes to ensure an effective implementation of this modification at local and regional level.

**Leading role of the public sector (recitals 15, 16, 17, 18 and articles 9, 10, 11, 12, 19 and 23)**

28. The European Commission recognises that local and regional authorities have an important role to play, considering their competences and the unrealised potential of energy savings in the public sector. Consequently, specific and more ambitious provisions concerning public buildings are proposed.
29. CEMR stresses that local and regional authorities already implement actions and are ready to take their responsibilities to lead the transition to energy-efficient buildings. Nevertheless, they also have to find a balance between different policy priorities, while being financially constrained.
30. In the full respect of the subsidiarity and local self-government principles, CEMR strongly believes that local and regional authorities should be free to set their political and financial priorities and is wondering whether the implementation of the directive may constrain this freedom of choice and result in a municipality or a region giving up its construction or renovation project or reducing necessary investments in other sectors.
31. CEMR recommends that binding requirements should always be accompanied with an assessment of the impacts at local and regional level and supporting measures be envisaged.

32. CEMR supports the planning and promotion of low or zero CO<sub>2</sub> emissions and energy consumption buildings at national level (article 9) and, considering the specific role for public authorities in developing these buildings, advocates the involvement of local and regional authorities in the drawing up of national plans.
33. The improvement of information and awareness raising is particularly welcome (art. 19). Mobilising people is indeed key to the success of energy efficiency policies. Given their competences as planners and building owners and their proximity to citizens, Member States should consult and involve local and regional authorities at an early stage to develop information, awareness raising, guidance and training programmes.

***CEMR suggests amending articles 9 and 19 to specify the cooperation with local and regional authorities in the development of national plans for the promotion of low or zero CO<sub>2</sub> emissions and energy consumption buildings and in the information and awareness raising programmes.***

***⇒ See proposals for amendment 4 and 5 in annex.***

## ANNEX

### **CEMR proposals for amendments**

Document of reference: COM (2008) 780 final

#### Amendment 1

#### **Article 23 Transposition**

<i>Text proposed by the Commission</i>	<i>Amendment proposal</i>
<p>1. Member States shall adopt and publish, by 31 December 2010 at the latest, the laws, regulations and administrative provisions necessary to comply with Articles 2 to 17, 19 and 22 and Annexes I and II of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.</p> <p>They shall apply those provisions as far as Articles 2, 3, 9, 10 to 12, 16, 17, 19 and 22 are concerned, from 31 December 2010 at the latest.</p> <p>They shall apply those provisions as far as Articles 4 to 8, 13 to 15, and 17 are concerned, to buildings occupied by the public authorities from 31 December 2010 at the latest and to other buildings from 31 January 2012 at the latest.</p> <p>When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.</p>	<p>1. Member States shall adopt and publish, by <b>31 December 2012</b> at the latest, the laws, regulations and administrative provisions necessary to comply with Articles 2 to 17, 19 and 22 and Annexes I and II of this Directive. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.</p> <p><del>They shall apply those provisions as far as Articles 2, 3, 9, 10 to 12, 16, 17, 19 and 22 are concerned, from 31 December 2010 at the latest.</del></p> <p><del>They shall apply those provisions as far as Articles 4 to 8, 13 to 15, and 17 are concerned, to buildings occupied by the public authorities from 31 December 2010 at the latest and to other buildings from 31 January 2012 at the latest.</del></p> <p>When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.</p>



<p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>	<p>2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.</p>
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**Justification**

Current provisions of the directive have just been implemented into national law in many EU Member States and are already challenging for local and regional authorities. Harmonisation of implementation deadline will allow more time to develop consistent solutions and better comply with the reality on the ground. The effective achievement of the directive objectives shall prevail over the speed of implementation.

**Amendment 2**

**Article 16  
Independent experts**

<i>Text proposed by the Commission</i>	<i>Amendment proposal</i>
<p>Member States shall ensure that the <input checked="" type="checkbox"/> energy performance <input checked="" type="checkbox"/> certification of buildings, <del>the drafting of the accompanying recommendations and</del> the inspection of boilers <math>\Rightarrow</math> heating systems <math>\Leftarrow</math> and air-conditioning systems are carried out in an independent manner by qualified and <del>or</del> accredited experts, whether operating as sole traders <input checked="" type="checkbox"/> self-employed <input checked="" type="checkbox"/> or employed by public <input checked="" type="checkbox"/> bodies <input checked="" type="checkbox"/> or private <input checked="" type="checkbox"/> enterprises <input checked="" type="checkbox"/> enterprise bodies.</p>	<p>Member States shall ensure that the <input checked="" type="checkbox"/> energy performance <input checked="" type="checkbox"/> certification of buildings, <del>the drafting of the accompanying recommendations and</del> the inspection of boilers <math>\Rightarrow</math> heating systems <math>\Leftarrow</math> and air-conditioning systems are carried out in an independent manner by qualified <del>and/or</del> <b>accredited</b> experts, whether operating as sole traders <input checked="" type="checkbox"/> self-employed <input checked="" type="checkbox"/> or employed by public <input checked="" type="checkbox"/> bodies <input checked="" type="checkbox"/> or private <input checked="" type="checkbox"/> enterprises <input checked="" type="checkbox"/> enterprise bodies.</p>
<p>Experts shall be accredited taking into account their competence and their independence.</p>	<p><del>Experts shall be accredited taking into account their competence and their independence.</del></p>

**Justification**

Imposing an accreditation system may have a negative impact on the availability of experts and could represent a significant amount of money that could otherwise be invested in other climate protection measures. Assessing experts according to their diploma and educational should be sufficient.

### Amendment 3

#### Article 4.3 Setting of minimum energy performance requirements

<i>Text proposed by the Commission</i>	<i>Amendment proposal</i>
3. As from 30 June 2014 Member States shall not provide incentives for the construction or renovation of buildings or parts thereof which do not comply with minimum energy performance requirements achieving the results of the calculation referred to in Article 5(2).	3. As from 30 June 2014 Member States shall not provide incentives for the construction or <b>energetic</b> renovation of buildings or parts thereof which do not comply with minimum energy performance requirements achieving the results of the calculation referred to in Article 5(2).

#### **Justification**

*Linking provision of incentives to the compliance with minimum energy performance requirement should not lead to a prioritisation of energy efficiency investments to the detriment of other modernisation investments in buildings (e.g. adaptation to elderly people). The proposal for a directive on anti-discrimination (COM (2008) 426/3) published on 2 July 2008 imposes obligations on the accessibility of buildings for disabled people. Such a provision would imply consequent costs for the adaptation of public buildings and local and regional authorities would also need incentives to realise these investments.*

### Amendment 4

#### Article 9 Buildings of which both carbon dioxide emissions and primary energy consumption are low or equal to zero

<i>Text proposed by the Commission</i>	<i>Amendment proposal</i>
2. The national plan referred to in paragraph 1 shall include inter alia the following elements:	2. The national plan referred to in paragraph 1 shall <b>be developed in co-operation with local and regional authorities and</b> include inter alia the following elements:

#### **Justification**

*Considering the specific role for local and regional public authorities in developing these buildings, the involvement of local and regional authorities in the drawing up of national plans should be set up in the directive.*

### Amendment 5

#### Article 19 Information

<i>Text proposed by the Commission</i>	<i>Amendment proposal</i>
Member States shall take the necessary measures to inform the owners or tenants of buildings or parts thereof as to the different methods and practices that serve to enhance energy performance.	Member States shall take the necessary measures to inform the owners or tenants of buildings or parts thereof as to the different methods and practices that serve to enhance energy performance.

<p>Member States shall in particular provide information to the owners or tenants of buildings on energy performance certificates and inspection reports, their purpose and objectives, on cost-effective ways to improve the energy performance of the building and on mid- and long-term financial consequences if no action is taken to improve the energy performance of the building.</p>	<p>Member States shall in particular provide information to the owners or tenants of buildings on energy performance certificates and inspection reports, their purpose and objectives, on cost-effective ways to improve the energy performance of the building and on mid- and long-term financial consequences if no action is taken to improve the energy performance of the building.</p> <p><b>Member States shall ensure that local and regional authorities are involved in the development of information, awareness raising, guidance and training programmes.</b></p>
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**Justification**

*Given their competences as planners and building owners and their proximity to citizens, local and regional authorities should be consulted by Member States for the development of information, awareness raising, guidance and training programmes.*