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Evaluation of compliance and control in different member states

The EPBD only imposes MS to set requirements without any specification about the severity of the requirements, nor about the measures to be taken regarding the control on implementation. As such, MS can fulfil the requirements of articles 4 to 6 without increasing the existing levels of requirement and without carrying out any kind of control.

Requirement levels are an important instrument to improve the energy efficiency of the building stock, but it is definitely not enough. With no compliance, the energy efficiency of the building stock will not improve.

In the framework of the ASIEPI project, funded by the Community's Intelligent Energy Europe programme, a study has been set up to collect information on compliance and control of energy performance legislation in the Member States. This paper presents the synthesis results.

1 > How is compliance of the EP requirements for buildings handled in MS?

To achieve compliance with the EP-requirements, the responsibilities of the various actors are defined in the EPB-regulations of each country. While some variations exist the procedures are similar. It varies from the simple check of completeness of documents to a random check at the construction site or both of them.

In general, controls are handled in the following way. They are performed by state or federal employees who are allowed to visit any building during the construction or after its termination. Control campaigns are systematic in Denmark, Finland, Netherlands, Belgium (Flanders) and Norway. It is based on Analysis of plans, specifications, or/and calculations. In Norway and Belgium (Flanders), energy performance declaration are generally submitted and checked electronically. In Belgium (Flanders), complementary to the systematic control, authorities execute a second control based on random.

In France, the control is annual. A sample of operations is extracted with representative criteria and several regulations can be controlled including EP regulation. Generally, the control is based on :

- > Analysis of plans, specifications, calculations
- > Visit on site to check insulation
- > Visit at commissioning

When control has taken place, the building owner, designer or EPB responsible must be able to prove that his building complies with the regulation through supply of calculation notes and written proofs.

In Norway, Permit applications are generally submitted and administrated electronically. The check is made automatically.

In Greece, the Energy Performance Regulation for Buildings is going to be implemented during 2009. The checks of compliance of new buildings with the energy requirements will be performed by the energy consultants who also issue the energy certificate. The energy experts group, responsible also for compliance checks, will be consisted by a large number of engineers or experts from other scientific fields related to energy aspects that will carry out the audits and will issue the certification.

In Spain, Most of the 17 regions are working in the development of the administrative procedures, for registry, control and inspection.

In Poland, there is no any special administration procedure to check the compliance with EP requirements.

Non-compliance with construction regulation is an offence with financial penalties : 240 euro/GJ for the energy performance and 60€/W/K for thermal insulation in Belgium, Up to 45.000€ in France, between 5.000 and 50.000 € in Germany, fine calculated on the basis of economic income of the professional in Italy or pecuniary fine in Greece against the responsible. Controllers have the duty to write down a report when they record a breach to require that the owner undertakes remedial actions to comply with the regulation. In general, problems are solved during the informal procedure.

In Denmark and Finland, if the building does not comply with the energy performance requirements it has to be adjusted. The building can be put to a prohibition of use as an extreme measure, but these kinds of measures are rare. The observed incompliance is normally corrected during the implementation phase.

In Netherlands, sanctions in case of non-compliance with EP-requirements can be imposed by the local authorities. In an early stage of the building process they can refuse the building permit. Once the building is started they can stop the construction process until the omissions are solved. Once the construction is finished the local authority can forbid the occupation of the building. Stopping the construction process happens in practice, but because of the large economical consequences it is seen as a severe sanction and therefore not used regularly. Forbidding occupation is even more severe and is nearly ever done.

In Norway, the most common sanction is a fine together with enforced remedial work, or at worst imprisonment. If the planning-&-building authorities find that the offence is of trifling significance, they may refrain completely from subjecting it to sanctions.

In Czech Republic, the Law is not clear about whether the building will have to be subsequently brought into conformity with the requirements of the Act, or not.

In Spain, different decrees and laws state penalties going from economic fines to activity suspensions.

In Poland, the only sanctions caused by non-compliance of EP requirements can be withdrawal from Chartered Associations of Architects or Engineers -

lost of rights for design and supervise construction or obligation to repay incurred losses of building owner according to the sentence issued by Civil Court.

2 > How is compliance of the EP certification process handled in MS?

In Belgium, the certification procedures and the status of the legislation vary from one Region to another. For new buildings, the EP-certificate is based on the EPB-declaration and is established at the same time as the EPB-declaration. If a control shows that the EPB-declaration is not correct, the EP-certificate is automatically cancelled. The control of the EP-certificate for new buildings is therefore based on the control of the EPB-declaration.

For existing buildings, the control concerns the energy experts allowed to issue the certificate, as well as the certificate itself. The experts must have followed a recognized training. The quality of the certificates is randomly checked. If one or more problems are identified with respect to a certificate, it is cancelled. If the controls show that a particular expert is not competent enough, his license can be abrogated.

In Denmark, the Danish Energy Agency is responsible for the scheme. The daily operation of the scheme is delegated to a secretariat also operating the other schemes related to the EPBD. From April 2008 it became possible to appoint a company official to issue the certificates, thus permitting companies to appoint their own consultants. The companies carry out their own quality checks according to DS/EN ISO 9001. The Danish Energy Agency carries out a market surveillance of the companies. These quality checks are made regularly, but also when there are complaints from clients, out-of-range values, etc. They also check the energy consultants' independence and qualifications.

There are possibilities of penalties if certification is omitted.

In France and Czeck Republic, the Ministry is responsible for this task. It authorizes energy experts for making the certification scheme, keeps the list of authorized experts and annually collects experts' records (number of EPCs, energy saving potential, etc).

In Finland, The quality control procedure of the EP certification is not regulated by the legislation, but the legislation allows the Ministry of the Environment to gather relevant information about the certificates and prices of certificates from the qualified experts. Qualified experts have to keep an archive of the certificates they have issued for 15 years.

In Italy, the selling/renting act must be accompanied by the energy certification. The documentation must be presented with all the relevant project documents. The municipality approves the end of the works only if the certificate/attestation is supplied.

If no compliance, there is a penalty system involving all the actors involved in the certification process, with administrative procedures and economic fees as described above.

In Netherlands, buildings built can get an exemption: the permit is equivalent with the certificate. There are no sanctions when no EP certificate is made, however the buyer can make a demand that a certificate is made based on the civil code.

The quality control scheme comprises the double check on the site executed by the accredited body (this is done by random checks).

In Poland, only new buildings are subject of certification. Designation of building into operation requires presentation of certificate. Certificate itself is not checked by authorities as its compliance with requirements is the responsibility of the expert. Concluding, there is no any special administration procedure to check the compliance of EP certification process.

In Germany, Compliance with EP certification for new buildings and buildings undergoing major renovations is in the hands of the federal states. There is no authority that checks the EP certificates for existing public buildings or buildings that are sold or rent. Here the responsibility is with the building owner as defined in the German energy decree.

3 > Are there incentive policies in MS contributing to respect of the regulations?

In general there are no incentives for the mere compliance with the EPBD. Incentives are only offered for buildings that go beyond the minimum requirements in France, Belgium, Czech Republic, Finland, Italy, Netherlands, Poland, Germany, Spain, Norway and Greece. These incentives include subsidies, zero interest loans, fiscal deductions, etc. Most of these economic supports for energy efficiency are focused on particular technologies (heat pump, insulation of walls or roof, photovoltaic panels, etc.). But in some regions of those countries, the subsidy allocated is based on the overall energy performance of the building and not on the particular systems.

In Denmark, there is no financial support for energy saving measures. The political climate has not been in favour of financial support; however it is currently on the political agenda and negotiations are ongoing and it seems that they will be successful.

4 > Conclusions

Compliance and control is done very differently in MS. In general, control campaigns are systematic or annual and the authorities have the possibilities to execute a random controls to verify that all rules are complied.

The reasons of no systematic check are the lack of expertise and very few funds allocated to make controls. To increase professionals and public awareness, the penalties must be remembered on the energy performance declaration and energy performance certificate. In addition, as certificates must be provided for most of building, energy experts who issue them can check the compliance. In this case a specific training is needed.

Regarding the incentives, there are no incentives for compliance with the EPBD. Existing financial supports concern energy saving measures in MS except in Denmark. This mechanism represents a positive instrument to improve the efficiency of the building and has indirectly a good effect on compliance with the rules of regulation.

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