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**Position Paper of the Federal Chamber of German Architects (BAK)**

PROPOSAL FOR A DIRECTIVE OF THE EUROPEAN PARLIAMENT  
AND OF THE COUNCIL ON ENERGY EFFICIENCY (RECAST)

**EU ENERGY EFFICIENCY DIRECTIVE (EED)**

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## Summary

On 14 July 2021, the EU Commission presented its proposal for the revision of the Energy Efficiency Directive (EED). The revised directive is part of the first part of the major climate policy package "Fit for 55", with which the entire European legislation on energy and climate issues is to be reorganised. In parallel, the revision of the Renewable Energy Directive (RED) and, in December 2021, the revision of the Energy Performance of Buildings Directive (EPBD) were presented as part of a second part of the major package.

### Key points / new provisions of the EED recast:

- New: Binding EU 2030 target (previously purely indicative):
  - o Reduction of energy consumption by at least 9 % by 2030 compared to 2020 (previous reference year: 2007).
  - o Each Member State must define its national contribution for target achievement (Annex I: "Indicative formula with objective criteria") as well as indicative target pathway.
- From 2024: increased savings commitment of 1.5% per year (previously 0.8%).
- Reduction of energy consumption in the public sector by 1.7% per year (annual renovation obligation of at least 3% of the total surface of public buildings).
- New approaches to operationalise the "efficiency first" principle.

## General assessment

The BAK supports the goals of the Energy Efficiency Directive (EED) and considers the topics addressed therein to be relevant for achieving these goals.

### The BAK welcomes, *inter alia*, that...

- the European Commission's proposal to revise the EU Energy Efficiency Directive is intended to further **strengthen energy efficiency**. In many areas, binding targets have been set and/or tightened, the scope has been expanded, and exemptions and possible loopholes have been reduced.
- in Article 6, proposals are made to strengthen the **exemplary role of the public sector** and the energy refurbishment rate of public buildings is raised to three percent per year.
- in connection with the revision of the EED, the Renewable Energy Directive (RED) and the Energy Performance of Buildings Directive (EPBD) will also be revised. A **holistic, interlinked view of efficiency and renewable energies** is essential in the building sector.



The BAK demands, *inter alia*, that...

- the **"efficiency first" principle** introduced in Article 3 is **not interpreted too one-sidedly**. On the one hand, energy efficiency as a strategy and basis for evaluation is indispensable for transforming the economies of the EU, and in particular the building sector, in line with the climate targets. On the other hand, too one-sided an interpretation of this principle counteracts the achievement of economically cost-optimal solutions. "Efficiency first" must not lead to other energy policy goals such as security of supply and system security, affordability and the integration of renewable energy sources into the national economies taking a back seat.
- **for listed buildings**, an adjustment **similar to the exemption in the EPBD is made** with regard to the minimum energy requirements of the EED.
- **eliminate existing and expected future overlaps with other EU directives and policies**. This is the only way to avoid duplication and contradictions, to structure European energy and climate policy more clearly and to make it more transparent for citizens and law users in the EU. This will also improve the acceptance of the measures.



## BAK positions on the essential key points

### Efficiency First Principle

**Introduction of the "efficiency first" principle in the EED:** In order to underpin the already generally strengthened role of energy efficiency in Article 1, the proposal contains a new Article 3 on the principle of "efficiency first". According to this, Member States should in future consistently take energy efficiency aspects into account in system-related political decisions, as well as planning and investment decisions. In doing so, the methodology of necessary cost-benefit comparisons is to be adapted to the extent that it also takes into account far-reaching benefits of the measures from a societal perspective. Furthermore, Member States must monitor the implementation of the principle and the impact of planning, policy and investment decisions on energy consumption and energy efficiency.

- Article 3 "Energy efficiency first principle"

○ **Energy efficiency as an additional decision criterion is right:** The BAK supports the efforts of the European Commission to establish energy efficiency and the associated idea as an additional decision criterion in all areas of life through the introduction of an "efficiency first" principle. However, the statements in their current form are still so general that it is difficult to assess the scope that the provisions of this article can develop.

! **Weigh efficiency against other objectives!** The principle of "efficiency first" must not lead to other objectives such as economic cost efficiency, resource efficiency, environmental and social compatibility taking a back seat. "Efficiency first" should therefore not be about "efficiency at any price", but about the efficiency of the overall system and about developing economically cost-optimal solutions.

Energy saving legislation and building subsidies in Germany have so far focussed on the principle of "efficiency first", i.e. efficient building operation. Against the background of necessary energy cost savings and limited energy generation capacities, this is an understandable approach. This approach is also correct against the background that (a certain minimum level of) efficiency is the door opener for the use of renewable energies in the building sector. For example, the use of heat pumps requires very specific low flow temperatures in the heating distribution system, which in turn can only be guaranteed if certain minimum efficiency requirements are taken into account. However, the focus on energy efficiency neglects the actual goal: climate neutrality in the building sector. Particularly with the more ambitious "efficiency house standards" (Effizienzhaus-Standards) in Germany, the energy savings achieved are not in optimal proportion to the financial, material, planning and construction effort. However, no matter how efficient a building is - for technical, legal, economic and aesthetic reasons it is not possible to reduce its heat demand to zero. Most estimates of the heat demand base of the German building stock are in the range of 450-700 TWh/a. So heat will have to be generated in the future



as well. To achieve the goal of climate neutrality, this heat must then be based on renewable energies. Curiously, despite all the efficiency requirements, it is still permitted in Germany to build new buildings in which fossil fuels are used. This illustrates in an unpleasant way what happens when the "efficiency first" approach is interpreted too dogmatically.

In this respect, it is important from the BAK's point of view that the energy optimisation of buildings is carried out at the right levers and that, in addition to efficiency, the integration of renewable energy sources in building operation and sector coupling, among other things, are treated as strategies of equal importance.

- ! **Consider energy efficiency over the entire life cycle:** It is too short-sighted and, with regard to the targeted climate neutrality of the building stock, not expedient to consider energy efficiency only for the use phase. There are always three phases in the life cycle of buildings: production, use and deconstruction. Accordingly, energy efficiency should take into account not only the use phase but also the "production" and "deconstruction" phases and the energy expended in these phases (grey energy).

### Exemplary function of public buildings

**Extended renovation obligations:** Article 6 specifies the renovation of public buildings. The present proposed amendment to the EED extends the scope of the renovation obligation. The obligation no longer applies exclusively to buildings owned by national governments, but - to all public bodies at all levels of administration and in all sectors of activity of public bodies (including health, education and public housing) where the buildings are owned by public bodies. This is intended to multiply renovations in the public sector. The renovation rate remains at least 3%. This quota refers to the total surface of all publicly owned buildings that are larger than 250 sqm total floor area and are energetically worse than the lowest energy building standard as of 1 January 2024. The lowest energy building standard (according to Art. 9 EU Buildings Directive 2010/31/EU) must be achieved as the minimum energy level in the course of renovations. In Germany, this corresponds (as of February 2022) to the currently applicable new building standard of the Building Energy Act (Gebäudeenergiegesetz).

- Article 6 para. 1 " Exemplary role of public bodies' buildings"

- **Tightening of renovation obligations for public buildings is basically right:** In principle, addressing the entire public building stock is correct and desirable. In principle, the tightening of the obligations to renovate public buildings is also welcomed.
- ! **Address public buildings not via EED, but via EPBD!** However, the addressing is set in the wrong place in the Energy Efficiency Directive (EED). New and existing buildings are addressed in Directive (EU) 2010/31/EU on the Energy Performance of Buildings (EPBD), last amended by Directive (EU) 2018/844, whose revision is currently underway. The EPBD proposal submitted by the EU Commission in December 2021 contains obligations for the existing public buildings, according to which they may not be worse than energy



efficiency class F from 2027. It would therefore only be logical to consistently combine the provisions on the renovation quota and the minimum energy requirements for public buildings in the EPBD. This contributes to the transparency of the European regulations and avoids contradictions and duplication.

- ! **Avoid negative lock-in effects!** According to Art. 6, the nearly zero-energy building standard should apply as the minimum energy level for public buildings that are being renovated. From the BAK's point of view, this is not ambitious enough as a minimum standard against the background of the exemplary function of public buildings. The nearly zero-energy building standard will be outdated in just a few years; especially with regard to the requirements for minimum coverage of energy demand with renewable energies. Buildings that are renovated today will probably not undergo another energy upgrade until 2050. Therefore, from the BAK's point of view, the demand for a nearly zero-energy building standard entails the risk of a lock-in effect.
- ! **When renovating public buildings, also consider sustainability aspects:** Achieving a climate-neutral building stock requires more than an "efficiency house" approach based on building use. Instead, an approach is needed that combines efficiency, consistency and sufficiency. The renovation of public buildings must therefore take into account broader approaches to creating a sustainable built environment - i.e. aspects of the circular economy and resource efficiency.

## Monument protection and cultural heritage

**Exemptions from minimum energy performance requirements for (listed) public buildings removed:** The EED previously allowed Member States to exempt public buildings "officially protected as part of a designated environment or because of their special architectural or historic value" from minimum energy performance requirements, provided that similar energy savings are achieved through measures other than renovation. These exemptions for (listed) buildings are completely deleted in the current EED proposal.

The EPBD also contained a similar exemption from minimum energy performance requirements under Article 4(2a). However, this did not refer exclusively to public buildings, but to all existing buildings. This exemption for (listed) buildings was also deleted to this extent in the current EPBD proposal and replaced by a new, weakened exemption provision in Art. 5. Previously, it was stated that the minimum requirements do not have to be applied to (listed) buildings. In the current proposal for the EPBD, the possibility is granted that the requirements may be applied in an adapted form. This is justified by the fact that an improvement in the energy performance of such buildings is now possible due to technical progress without changing their technical character and external appearance.

- Article 5 para. 2a old version: Exception was not included in Article 6 new version.

- ↘ **Deletion of the exemptions of (listed) public buildings from renovation obligations without the possibility of a case-by-case assessment is criticised:** In principle, the BAK welcomes the initiative of the European Commis-



sion to intensify the renovation of buildings in the EU. However, listed buildings are much more difficult to renovate in terms of energy if one wants to preserve their identity-forming appearance. The obligation to comply with minimum energy performance requirements without exception could mean destroying the value of some of these buildings for the cultural landscape and destroying (regionally) individual sites as well as the diversity of our cultural heritage. Against this background, the BAK recalls the commitment repeatedly made by the institutions of the European Union to take cultural heritage into account in European policies. The conflict between climate protection on the one hand and the protection of cultural heritage on the other must be balanced without completely subordinating the one to the other. This can only be achieved if monumental and architectural aspects continue to be given importance in the future.

- ! **The BAK calls for an adjustment similar to the exemption clause in the EPBD:** The BAK concedes that public (protected) buildings should not be exempt from all minimum energy performance requirements. However, the extension of the requirements regarding building renovation to all public buildings for protected objects, as envisaged in the EED proposal, should at least be limited. Instead, Member States should be allowed to define the energy requirements for these buildings in such a way that their appearance and substance are always preserved. The BAK therefore proposes that the following passage, which is included in the amendment proposal to the EPBD under Art. 5 Para. 2, should also explicitly apply to public (protected) buildings:

*„Member States may decide to adapt the requirements referred to in paragraph 1 to buildings officially protected as part of a designated environment or because of their special architectural or historical merit, in so far as compliance with certain minimum energy performance requirements would unacceptably alter their character or appearance. [...]“*

During renovation, energy and building culture concerns must be considered and weighed up in equal measure. Architects are qualified to carry out this often difficult balancing act.

- ! **Addressing the exemptions also in the EPBD and not in the EED:** In principle, as already mentioned above, all provisions on the minimum energy performance requirements for public buildings and accordingly also possible exemptions from them should be addressed in the EPBD and not in the EED.
- ! **Proven Strategies / instruments in Germany on the conflicting issues of "monument protection and energy efficiency":** The BAK points out that with the introduction of the "Energy Advisor for Historical Buildings" (Energieberater Baudenkmal) in Germany in the context of the federal funding programmes, an exemplary and groundbreaking strategy for further training and advice on the topic of "Historical Building Conservation and Energy Efficiency" has been established. Furthermore, with DIN EN 16883:2017-08 "Conservation of cultural heritage - Guidelines for improving the energy-related performance of historic buildings", a process standard has been developed that can



be used as a basis for sustainable, responsible and resource-conserving handling with regard to the requirements of climate targets for cultural heritage.

## Consumption recording and billing information

### Provisions on meters and billing information:

Member States shall, by means of Articles 12, 13 and 14, ensure that end-users in the supply of district heating, cooling and hot domestic water are provided with competitively priced meters that accurately reflect actual energy consumption. Where meters or cost allocators have been installed, the billing and consumption information of all end-users shall be accurate and based on actual consumption. Member States shall ensure that final customers receive all their energy consumption bills and related billing information free of charge and that they are also given appropriate access to their consumption data free of charge.

Article 15 shall in future provide that newly installed metering equipment shall be capable of being read remotely. This obligation shall apply to existing installations with a retrofitting obligation until 1 January 2027. With the present draft directive, the provision is now to apply not only to systems installed after 25 October 2020, but to all new systems.

Article 16 contains provisions on what information is to be included in the energy suppliers' bills.

- Article 12 „Metering for natural gas“
- Article 13 „Metering for heating, cooling [...]“
- Article 14 „Sub-metering [...]“
- Article 15 „Remote reading requirement“
- Article 16 „Billing information for natural gas“

**! Adjust EED regulations on consumption recording/billing information (Article 12 et seqq. EED) so that they can be used for the databases for the energy performance of buildings provided for in the EPBD (Article 19 EPBD)!** In Germany, the EED is implemented to a large extent in the Heating Costs Ordinance (Heizkostenverordnung) and in Articles 12 to 16 contains stipulations on recording consumption and on what information must be included in the bills of the energy suppliers. This results in an overlap with the data / energy parameters required for the national building databases provided for in the EPBD (Art. 19 EPBD). In the opinion of the BAK, the provision can only be automated and with the involvement of the energy supply companies as well as the energy suppliers. Therefore, corresponding foundations should be created in the EED that the suppliers and providers must provide the consumption data/delivery quantities for the national building databases yet to be created. Together with information on the living/usable space of the buildings (to be requested from the owners via the energy suppliers), a robust data basis for the evaluation of the national building stock could be created quickly.



! **Extend EED regulations on consumption recording/billing information to all (common) energy sources!** However, the regulations in Article 12 et seqq refer exclusively to gas and district heating suppliers. This does not cover, among others, oil and pellet suppliers as well as the steadily growing share of heat pumps that are operated with electricity. These would also have to be integrated into the EED. Electricity for heat pumps would have to be recorded separately from household electricity in all building types. There is also potential for savings here and the information on consumption data/supply volumes is required for the creation of a national building database if this is done on the basis of the buildings' consumption values as proposed.

### Information and awareness raising

**Extension of information obligations:** Article 21 provides for an extension of the information obligations of the Member States towards consumers and all important market players. The establishment of one-stop shops for legal advice and dispute resolution is envisaged. In these, consumers are to be offered low-threshold and centralised, technical, administrative and financial advice and support in the field of energy efficiency, including the energy renovation of buildings and the use of renewable energies for buildings.

- Article 21 „Information and awareness raising“

! **Individual energy advice must be provided by independent and qualified experts!** The BAK demands a clear definition of the scope of services of the contact points proposed in paragraph 2 and, above all, a demarcation from the scope of services of energy consulting architects. It is important for the BAK to clarify in this context: The informative discussion of the central contact and advice point proposed in paragraph 2 may make an important contribution to raising awareness and motivating consumers. However, it cannot replace individual energy advice by independent and qualified experts such as architects and engineers.

### Qualification of energy consultants / implementation of consultations

**Qualification of energy advisors and provision of advice:** Articles 26 and 27 deal with the qualification of energy advisors and the provision of advice. In both articles "independent experts are mentioned".

- Article 26 „Availability of qualification, accreditation and certification schemes“
- Article 27 „Energy services“

! **Architects are among the "independent experts" required for energy consultations!** Regarding the "independent experts" mentioned in Articles 26 and 27, the BAK would like to clarify the following:



- The energy consultant's work does not only include individual questions of energy balancing, but always also topics that affect the building as a whole. Energy consulting usually takes place in the run-up to a planning decision, i.e. in the goal-setting phase. On the basis of energy consulting, far-reaching and fundamental planning decisions are made, which must be professionally sound and effective in the long term.
- Therefore, "independent experts" in the field of energy consulting and energy planning of buildings always include (also) architects and engineers. In addition to the necessary professional qualifications, as "trustees" of their clients they also bring the independence required for energy consultations.

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