Guidelines for robust legal frameworks for better EPC enforcement

Susanne Geissler
ÖGNB – Österreichische Gesellschaft für Nachhaltiges Bauen
(Austrian Sustainable Building Council)
geissler@oegnb.net

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How to achieve EPC compliance

Source book on EPC compliance

Part 1
- Technical procedures to obtain and prove compliant data
- There should be clear technical procedures what must be done

Part 2
- Robust legal procedures in case of non-compliance
- There should be clear legal procedures how to decide on non-compliance and related actions

Part 3
- Handling of non-compliance in practice
- There should be an effective control and sanctions if non-compliance

Compliant EPC
Focus of this presentation:

• The need for:
  
  o Clarity of procedures and how to decide on non-compliance and related actions
  
  o Effectiveness of control and sanctioning mechanisms to be applied in cases of non-compliance

• Some key aspects and examples taken from the Source Book on EPC Compliance
Robust procedures

An exemplary problematic situation, highlighting the need for robust compliance frameworks:

• An investor orders a very energy efficient building. The EPC shows that this objective is met.
• Compliance checks highlight errors in the calculation, whereby the EPC result is worse than stated but still meets the legal requirement.
• There is no sanction as the legal requirement is met. However, the investor does not get the building expected.
• Trust in EPC? Market acceptance? 2030 Targets?
• Compliance framework needs improvement.
Robust procedures

An exemplary problematic situation, highlighting the need for robust compliance frameworks:

- An EPC is subject to control.
- An inspector observes that the roof is less insulated than specified in the EPC.
- The owner declares that the floor on the ground is better insulated than reported in the EPC, resulting in the same overall performance.
- However, is it evident for the inspector to check if the floor is insulated as stated by the owner?
- It depends on the moment defined for EPC submission:
  - Design stage - building permit
  - After completion - as-built situation
Robust procedures

The legislation must clearly specify the latest moment to submit the EPC:

- **In case** the EPC must be submitted at the moment of the building permit: changes may occur, whereby it still might be possible to meet the declared EPC.

- **In case** the legislation imposes to have the EPC reporting after the end of the works, there is no reason to allow the possibility of compensation.

What is subject to control? Many possible options, difficult to handle → expensive framework

Clear situation what is subject to control: effective and cost efficient framework feasible
The moment of control

Most countries check the compliance of energy performance requirements at the design stage as part of the building permit procedure.

There are still countries **ONLY checking at design stage** which is insufficient in terms of clarity of procedures but also regarding the intention of the EPBD.

Bearing the intention of the Directive 2010/31/EU in mind, namely to transform the building sector towards energy efficiency, the **as-built situation needs to be checked and controlled.**

Resources for effective control

Appropriate resources for effective compliance checking:

Financial and human resources to control are limited, thus solutions will have to be found how to disburden the administrative staff
• by improving the efficiency of administrative procedures and / or
• by transferring certain tasks to market players.

The availability of an EPC-database is a precondition for cost-efficient and effective compliance checks.
The EPC-database will be use to select the EPCs to be checked.

The development of the sampling scheme is crucial:
• Which building related energy aspects need most attention because weaknesses are already known?
• Which building related energy aspects should be investigated because there are hints regarding potentially problematic situations?
• Which building related energy aspects should be investigated because little information is available?
Exemplary problematic situations regarding effective compliance checking:

- **There is no central EPC database**, and therefore the basis for setting up an effective sampling scheme is missing.

- **The central EPC-database** was designed in an isolated way and **does not provide all appropriate interfaces** to fully exploit the potential for setting up an effective and cost-efficient sampling scheme.

- **The EPC-database does not contain a publicly accessible part** and thus prevents interested individuals from checking basic information published in advertisements.
Effective compliance checking

Different approaches of effective compliance checking:

• In UK and Ireland, interested individuals check energy indicators published in commercial media by searching this information in the public part of the EPC-database.

• In France, the Third Party in charge of control (private companies) must check at least 8 EPC reports for each expert. In addition, they must carry out one on-site control per expert once every 5 years based on an existing EPC report.

• In Belgium, the Flemish Energy Agency VEA checks yearly 3000 buildings on the availability of EPC when selling or renting out. The compliance rate has changed from 47% in 2009 to 95% in 2012.
Handling non-compliance in practice:

• Stakeholders respect **clear enforcement procedures** resulting in **adequately severe sanctions** executed in case of non-compliance.

• First of all, **sanctions should address the room for improvement** detected during the compliance-check, not only to ensure compliance but also to assure the quality of EPCs in general.

• Thus, apart from financial sanctions such as penalties and withdrawal of grants, there are **different types of sanctions**, such as **additional mandatory trainings for EPC experts**, to improve EPC quality.

• Handling of non-compliance in practice must be effective, cost-efficient and affordable.

• **Find food for thought in the Source Book:**
A questionnaire done during the Concerted Action EPBD shows:

- About 50% of countries have an idea about the compliance rate of new buildings with energy requirements
- About 50% of countries don’t.

To achieve the objective:

Robust legal frameworks for better EPC enforcement

- a 40% cut in greenhouse gas emissions compared to 1990 levels
- at least a 27% share of renewable energy consumption
- at least 27% energy savings compared with the business-as-usual scenario
Thank you for your attention!

Contact: office@oegnb.net