



There is a Leitmotiv to this report: the importance of working in [EPF-led] coalition and of building support throughout the various departments of the European Commission

ENVIRONMENTAL IMPACT ASSESSMENT DIRECTIVE

Parliament and Council have approved a Directive that gives EPF and its allies practically everything we needed. Particularly gratifying is the extent to which our concepts and our very wording were traded between the European institutions.

In all, we have achieved:

- The developer must provide information on the project’s “likely significant effects on the environment”, not “potential impact on the environment” and the developer is no longer obliged to describe measures envisaged to avoid significant effects, as this is now optional: “developer *may* also provide a description ...”
 - The deadline for decision on whether an EIA is required can only be extended in exceptional cases and the decision to do so must be justified in writing.
 - The developer’s environmental report is to be prepared by “competent experts”, not “accredited and technically competent experts”.
 - The developer’s environmental report is to describe “*reasonable* alternatives relevant to the project’s *specific characteristics*”, not “alternatives to the proposed project”.
 - The competent authority’s determination of whether an EIA is required has to be made “as soon as possible” and within maximum 90 days*.
 - The decision to grant or refuse development consent is to be taken “within a reasonable period of time”*.
- * We long ago lost our original try for 1+1 month deadlines and failing that, our preference for no EU deadline at all was only half achieved. “as soon as possible” and “reasonable period of time” are nice, but hard for Commission and ECJ to control and sanction.

Throughout the process (design of the common property industry position and its delivery in Parliament, Council, Committee of the Regions and European Economic and Social Committee) there was an EPF-led common effort by the European Historic Houses Association (EHHA), European Landowners’ Organization (ELO), EPF, The European Group of Valuers’ Associations (TEGoVA) and the International Union of Property Owners (UIPI), combining expertise and contacts.

SUSTAINABLE BUILDINGS CONSULTATION → COMMUNICATION

In the summer, Commission DG Environment did an on-line consultation about its ideas for top-down EU-designed national building sustainability reporting requirements, EU frameworks for possibly mandatory core indicators and benchmarks, and extension of building certification requirements beyond energy efficiency to broader sustainability requirements such as water and waste, all this hidden inside numerous ‘soft law’ initiatives.



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Memo Member Boards – March 2014

EHHA, ELO, EPF, TEGoVA and UIPI avoided the on-line consultation altogether, and addressed their common view to senior officials in DG Environment and in DGs Energy and Enterprise & Industry.

DG Enterprise & Industry were so impressed by the common paper that they circulated it widely throughout the Commission and to member state governments and industry groups.

Always careful to propose some form of positive action, after explaining why the reporting, EU mandatory core indicator and certification ideas wouldn't fly, we suggested:

“...We believe the priority should be to concentrate on core indicators and benchmarks. Without progress here, it will be hard to achieve any kind of approximation of comparability of national overall building sustainability reporting requirements. However, we strongly advise against any ex nihilo initiative by the Commission in this field. On the contrary, the Commission can bring added value by leading the effort to ensure pan-European comparability of existing voluntary building-related indicators.”

EPF has now learnt from a DG Environment official that the coming Communication will not announce reporting or certification regulation and instead will focus on a “framework to assess performance” with “a set of core indicators that Member States can use if they wish to”.

CLIMATE AND ENERGY 2030 PACKAGE

The Commission is considering an absolute target for buildings combined with more regulation with particular emphasis on housing, viewed as “significant unexploited potential”. On 17 March, EHHA, ELO, EPF, TEGoVA and UIPI wrote to Energy Commissioner Oettinger, insisting that there be no absolute target for buildings. Arguments deployed:

To impose a target that in order to be met necessarily requires massive unfunded above-trend private sector renovation is to impose an obligation on private citizens and small businesses to spend. Any such obligation would run contrary to a fundamental constitutional principle: no taxation and no spending obligation without representation.

The privilege of forcing private citizens to spend their money is the exclusive prerogative of democratically elected governments. The EU is not yet a state and does not yet have democratically elected government. For a matter going straight to the pockets of private citizens and small businesses, the EU system of democracy – in which ‘one man, one vote’ exists neither in Council nor in Parliament – doesn't cut it.

The point here is not about the urgency, advantages or disadvantages of such policy; it is that it touches so directly on the lives and incomes of private citizens that it demands a degree of democratic debate and decision that only exists at national or sub-national level.

Apart from this conflict with a fundamental national constitutional principle, an absolute target for buildings is part of a wider EU problem: *the uncoordinated production of diverse EU regulation that is depriving member states and regions of control over housing policy.*

If a state or region confronted with a limited or reduced housing budget prefers to invest more in – energy efficient – new housing rather than in subsidising deep or staged-deep renovation of x% of the local housing stock, it should be free to do so. It should also be free to debate these policies with local



private and public housing interests without EU law imposing one or other option, in line with the principles of conferral and subsidiarity.

The Coalition also underlined that further EU energy efficiency regulation for buildings should be subject to rigorous impact analysis including the impacts on property owners, landlords and investors.*

- * **NB:** All EU legislation must be preceded by an impact assessment. The goal is to get the Coalition embedded in the gestation of impact assessments.

ENERGY EFFICIENCY DIRECTIVE ARTICLE 19(1)(a): RESOLVING THE OWNER – TENANT ENERGY EFFICIENCY INVESTMENT ‘SPLIT INCENTIVE’

At a conference organised by the Commission on 13 March, Aart Hordijk, Chairman of the EPF Energy & Environment Committee, presented an initial draft of an on-going EPF comparative study.

- Goal:
 - An inventory of the hurdles to clear when implementing split incentive solutions
 - Highlighting of the differences between member states
 - Suggestions for increasing the understanding of the split incentive in buildings
- Method: a questionnaire for EPF-member practitioners

It was well received, especially as the rest of the interventions at the conference showed that there is a lot of confusion and what little progress has been made so far has been in the context of social housing benefitting from particularly favourable financing conditions.

EU ECONOMIC GOVERNANCE

Planning Law Reform – Romania

Following on the common EHHA-ELO-EPF-TEGoVA submission to the Commission detailing nine fundamental shortcomings of Romanian planning law, a delegation led by Liz Peace, Economic Governance Committee Chairman, and by Liviu Tudor, EPF Managing Committee Vice Chairman and President of the Romanian Association of Building Owners, met with Commission DG ECFIN and DG Regional Policy officials on 26 February.

The EPF delegation recognised that planning reform is slowly progressing in Romania and that the Troika’s Memorandum of Understanding does usefully cover one of the planning failings that the Coalition paper highlighted. But they insisted that the only way to ensure progress is for the Commission to keep up the pressure. The Romanian government does not need technical help in reforming planning law; it understands what is wrong and how to fix it. It simply needs regular doses of ‘European courage’ to see the reforms through.

Rent Control – Denmark

On 7 February a common EHHA-ELO-EPF-TEGoVA-UIPI position was submitted to the Commission illustrating the knock-on effect of rent control on public finances and labour mobility, two prime EU concerns about the Economic Governance of Denmark:

- ↓ Complex and multi-level rent regulation of housing built before 1992 negatively affects the interest of investors in investing in residential properties;



- ↓ causing an increasing drain on the exchequer because lack of financing for private investors causes a maintenance and modernisation backlog in the rent controlled sector giving rise to a growing need for public subsidies for urban renewal, energy-related improvements and district-related facelifts;
- ↓ while resulting in higher rents for the uncontrolled sector;
- ↓ which creates a self-reinforcing effect by which the controls and regulation increase the need for further government intervention and support.

A delegation led by John R. Frederiksen, EPF President and Chairman of the Board of the Danish Property Federation, will meet with DG ECFIN on 19 February.

European Semester – Results of the Macroeconomic Imbalance Procedure In-depth Reviews

These show that DG ECFIN now has an extraordinarily sophisticated understanding of Swedish planning and rent control deficiencies and that the Swedish Property Federation is now completely embedded in the process and has the Commission clearly on its side.

The Commission is also going very deep in its investigations and analysis of planning law and rental markets in the Netherlands and the UK.

CONSTRUCTION 2020

Construction 2020 is the construction and real estate segment of Europe 2020, an EU policy to achieve a “smart, sustainable and inclusive” economy by 2020.

Industry groups work alongside the member states in the selection of policy priorities, with a number of Thematic Groups all under the umbrella of a High Level Tripartite Strategic Forum that EPF Managing Committee Chairman Joe Houlihan sits on.

In this context, EPF’s most important result by far concerns future EU policy for sustainable buildings: DG Enterprise and the High Level Forum gave their support to the EHHA-ELO-EPF-TEGoVA-UIPI Position (see “Sustainable Buildings Consultation→ Communication”).

For the rest:

- EPF and UIPI scuppered the attempts by other stakeholders to promote deep renovation.
- They did the same with attempts to discuss modernising rent regulations in order to address the split incentive problem in energy efficiency investments, essentially because, regardless of the merits of the case, the EU is not the proper level even for ‘soft policy’ in this field.
- Somebody tried to introduce “Define the principles of property valuation that would consider the degree of obsolescence of real estate assets” (so as to increase frequency of renovation-demolition-construction; purportedly to accelerate energy efficiency improvements – in reality to increase construction turnover). EPF explained to the Commission that valuations cannot be allowed the luxury of accommodating political, social or sustainability objectives that take



Memo Member Boards – March 2014

away from or dilute the supreme and overriding purpose of valuation methodology: to determine the price that the parties to the transaction will pay for the asset.

- The “Fitness Check” of the burden of EU regulation is for the moment entirely centred on construction products and services, but EPF will be ready if an opportunity arises.

Now that the priorities have been set, 2014 will be spent taking them forward. The first round of Thematic Group meetings will take place between 1 and 9 April.