

National Context, Legal and Regulatory Framework Analysis

Public report



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ABBREVIATIONS

EU	European Union
EC	European Commission
BEEF	Building Energy Efficiency Facility
CoO	Country of Operation

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Executive summary

"The devil is in the details."

Especially when the task is to compare the legal, regulatory and technical frameworks of six different countries with respect to energy and building codes, namely Austria, Bulgaria, Latvia, Poland, Slovakia. The consortium partners hereto provide the necessary "changes" to allow the replication of the Building Energy Efficiency Facility "BEEF" based on the LABEEF experience. Though their individual analysis confirms that this replication is doable, shoehorning all of the requirements into a single set of Guidelines and a single regional (might we imagine European?) contract will require patience from all sides. The SHAREX platform is the federating tool to support this effort.

This ambition should not minimize the issues regarding "future payments based on future savings." These can be perceived as speculative and therefore forbidden clauses in contracts. While Energy Services under the Energy Efficiency directive¹ requires that members states promote *"financial instruments, incentives, grants and loans to support energy efficiency service projects"*, in much of Eastern Europe, the law has a poor understanding of these mechanisms and little confidence in guarantees from the private sector – sadly, a self-fulfilling prophecy. However, the Energy Union with its emphasis on Governance² should help to solve these challenges. It is agreed *"to step up the role and rights of consumers, transparency and predictability for investors [...] and to facilitate coordination of national climate and energy policies and foster regional cooperation between Member States."* This is the very core of the FinEERGo-Dom project.

In the 1st section, after reviewing briefly the EU context on Building Stock, Energy Efficiency, the directives all based on the new energy rulebook –the **Clean energy for all Europeans package**, we provide a synthetic analysis across the 7 countries and the fit of the Guidelines to the European context.

¹ article 18, 1.2, Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC (Text with EEA relevance) Text with EEA relevance
ELI: <http://data.europa.eu/eli/dir/2012/27/2019-06-12>

² REGULATION (EU) 2018/1999 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 11 December 2018

The 2nd section is a country by country review of the LABEEF guidelines, covering the legal, technical and eligibility rules for using the contracts, the reader will find what doesn't "match" between the Guidelines and the partner's local context/practice/law. The detailed analysis made independently by each national partner demonstrates the "fit" of the BEEF financial instrument to the European Union Energy and Building Directives and their amendments as well as to the national context. Therefore, in this section, we have only included the differences of substance. The details are both in Annexe I and II.

In Annexe I, the eligibility of each requirement or target are set out allowing a detailed comparison country by country using the same breakdown as the existing Building Energy Efficiency Facility rules in Latvia.

One concluding remark: In line with the goal of creating scale, and reducing transaction costs, the success of this instrument is based on a single focus on Multi Family Buildings. By extension, once the current BEEF Guidelines based on the deep renovation of Multi Family Buildings can function it will be extended to Public sector buildings. It is estimated that there are over 3 Billion square meters of public buildings in North, Central and Eastern Europe.

1. Legal and regulatory context

1.1. EU context

In 2011, The Building Performance Institute Europe (BPIE) stated in a report on the European building stock:³

"The major concern is that the use of financial instruments today only achieves the business as-usual case in Europe with very few financial instruments providing enough funding for deep renovations, and ultimately do not correspond to Europe's 2050 aspirations."

In 2019, it must be said again but more urgently. Despite the EU having set binding targets of at least 32.5% energy efficiency by 2030, relative to a 'business as usual' scenario, national policy makers struggle to develop these. In the intervening years, not only the energy efficiency dimension has become more critical due to the acceleration of climate change impact, but a housing crisis is spreading across Europe, including in the 7 countries concerned under the FinEERGo-Dom project.

The Guidelines reviewed by each partner were based on a combination of concrete granular experience and expertise from experts across the Union. The ground practical experience was acquired by the original team (RENESCO/EKODOMA/ESEB) in a first phase. This was followed by a further review of legal and financial requirements. These were elaborated in a collaboration with the European Bank for Reconstruction and Development, European Union Institutions, and local Latvian Banks as well as input from EEFIG and other such bodies. Finally, the Latvian Government Contracting Agency and the Commission for the Protection of Consumers gave their comments.

³ "EUROPE'S BUILDINGS UNDER THE MICROSCOPE - A country-by-country review of the energy performance of buildings

1.2. Synthesis -national legal and regulatory partner countries.

In the countries of operation of the FinEERGo-Dom consortium (CoO), an analysis of legal and regulatory frameworks shows a convergence of law and regulations while technical regulations do not differ deeply from country to country. In the following report, these are summarized by country whilst the multi-variate table accessible online allows a review item by item for each country.

In this first section, we detail briefly the goals of the Union toward decarbonization and the opportunity this creates in each of the CoO for a replication of the BEEF guidelines.

Inspired in 2012 by a private Guaranteed Renovation initiative in Latvia, the Building Energy Efficiency Facility (BEEF) does not propose the how but only the what “watt” targets to reach. Its agreement with service companies is to purchase the future payments resulting from deep renovations investments meeting its targets/procedures/documentation and based on the SHAREX process and monitoring.

BEEF’s single focus is “to support the mobilisation of investments into the renovation needed to achieve the goals referred to in paragraph 1” of the Directive amending the Directive on the energy performance of buildings and Directive on energy efficiency [FN](#) BEEF is designed to:

- the aggregation of projects, ... to enable investor access ... and packaged solutions for potential clients and by separating execution risk from payment risk encourages
- the reduction of the perceived risk of energy efficiency operations for investors and the private sector works with, allows the accountability of
- the use of public funding to leverage additional private-sector investment or address specific market failures;

Its guidelines reflect EU Policy and sound banking principles and are guiding investments into an energy efficient public building stock, in line with Eurostat guidance and include SHAREX an online platform delivering accessible and transparent advisory tools

The design of BEEF as a sustainable financial instrument is aligned with the goals of the European Union. Most especially, the Union's main energy efficiency target of 32.5 % in 2030⁴ ; the BEEF

⁴ the Union's main energy efficiency target of 32.5 % in 2030 as referred to in Article 1(1) and Article 3(4) of Directive 2012/27/EU, based on either primary or final energy consumption, primary or final energy savings, or energy intensity; expressed in terms of the absolute level of primary energy consumption and final energy consumption in 2020 and 2030, with a linear trajectory for that contribution from 2021 onwards; including the underlying methodology and the conversion factors used

Guidelines call for no less than 45% of savings per building. The average of the 15 buildings completed in Latvia is over 50% savings monitored on average 7,5 years with 0% defaults.

However, despite past efforts, energy consumption has been on the increase. The factors that have influenced the increase in consumption trends in the years since 2014 indicates that the main increase in energy consumption was seen in buildings (residential and services) in spite of a slight downward trend in 2017⁵. This is likely due to inadequate feedback loops to residents of their consumption. As their income increases, their consumption of energy hungry devices increases exponentially, especially in the Baltic countries and Eastern and Central Europe.

Better monitoring as built into the EPC+ would help counter such trends.

Turning to our specific countries, each plans to meet the amended target of increased energy efficiency target of 32.5% in different ways but a comprehensive process to deliver monitored results via Guaranteed Performance Contracts would provide a useful benchmark in each of our CoO.

Bulgaria and Romania would have the most to gain as they would be able to offset some of the historical buildings lesser gains with the results of deep renovation in their proportionally larger stock of Soviet Era Buildings.

Citizens' perception of energy efficiency is often as a reduction in wellbeing but the model targets improvements in safety and comfort through monitored, accountable self-financing energy savings: energy efficiency investments in measures designed to deliver sustainable benefits.

⁵ <https://ec.europa.eu/energy/en/studies/drivers-recent-energy-consumption-trends-across-sectors-eu28>

2. Conclusions from the analysis of LABEEF Guidelines in the context of the legal framework of partner countries

A detailed comparison of each country's framework confirms that the following holds true for each country and therefore will not be repeated further below:

2.1. General eligibility criteria

Not surprisingly the eligibility of either the ESCOs or the Buildings are similar. The main difference is some countries require 100% of the owners to agree, and others requires 75% while in Latvia 2/3 of owners' favourable votes are required.

However, our experience shows that until there is a serious track record of success it would be difficult in any country to counter the lack of trust of residents and owners. As the 2014 study on decision making in Buildings demonstrated⁶, there is no trust in the finance and construction sectors. This is why the model is based on Guaranteed Savings throughout the contract period, on the execution risk being fully allocated to the builders, and the payment is "on bill" financing⁷.

2.2. Technical criteria

The current results of the research demonstrate that there will more work to be done to harmonize across countries due more to cultural and habits than technical issues. We propose preparing a set of European standards to act as the reference for each country partner.

In some countries, it is accepted that the range of savings in MFB be in the range of 191kWh

2.3. Forfeiting criteria

Contracts are generally signed between two parties (building owner/ manager and the ESCO). Therefore, a forfeiting agreement in the sense of LABEEF has not established itself until now. Due to this reason the developed forfeiting criteria of LABEEF can serve as a template for forfeiting criteria.

⁶<https://ortus.rtu.lv/science/lv/publications/22662Climate+Change+and+Buildings+Energy+Efficiency+-+the+Key+Role+of+Residents>

⁷ <https://renovation-hub.eu/business-models/on-bill-financing/>

2.4. Projects not eligible to receive funding by BEEF

No Agreement may not be entered into any person or entity that has engaged in a coercive, collusive, corrupt and fraudulent practice or for the purpose of refinancing. The person or entity should provide references and all usual requirements for ordinary business activities.

2.5. Procedure for amending the rules of the local BEEF

Following recommendations of management, the Board of Directors proposes changes. All active parties can take position to the amendments in a given period of time and the Board of Directors decides based on the feedback of the active parties about the scope and implementation of the amendments.

2.6. Energy Performance Contract PLUS (EPC+)

Though the ordinary Energy Performance Contract is included in the guidelines for the case of a building which has had a serious renovation, the core contract is the Energy Performance Contract PLUS (EPC+). This contract combines Sustainability with Energy Efficiency taking into account the full life cycle of the building, its materials and the infrastructure supporting it.

The elements of such a contract are controversial as legacy businesses models do not provide the necessary level of transparency and accountability for sustainable business practices. Existing ESCO value proposition currently only include energy measures. This has become an issue when the client are residence or public institutions who do not have the competence to evaluate energy efficiency measures and even less the ability to evaluate the sustainability of the project.

Therefore, the design of the EPC+ includes a number of additional clauses including such elements as detailed obligations of the parties, dispute resolution clauses, or the Maintenance Manual annex outlining the responsibilities of the ESCO during the life of the contract. (see 2.8 Maintenance Agreement Annexe).

2.7. Forfeiting contract

In all countries, whether as a forfeiting agreement, a private placement bond or a cession of any sort by the service company to the local BEEF, there is no legal impediment that future utility bill payments secure the financing of the present investments except (and it is a sizeable "except") for lack of knowledge of current financing practice.

2.8. Maintenance Agreement

Furthermore, and in light of paragraph 33 of the same amending directive⁸, the Maintenance agreement ensures the continued quality of works: 33) as each BEEF ensures that “financial measures related to energy efficiency are applied in the best way in building renovation,” they are “linked to the quality of the renovation works in light of the targeted or achieved energy savings. Those measures should therefore be linked to the performance of the equipment or material used for the renovation, to the level of certification or qualification of the installer, to an energy audit, or to the improvement achieved as a result of the renovation by using European protocols.

Through the maintenance agreement annexe and as part of the Performance Contract upside sharing scheme, the service company is motivated to fulfill paragraph 36 while the BEEF ensures that this is so and the agreement includes the automation recommendation found in paragraph 37 of the same directive.

2.9. Instructions for Energy Performance Contract, Forfeiting and Measurement and Verification

Draft procedures would be finalised in concertation with all partners in designing phase of the respective agreements.

In the introduction of our discussion we mentioned that the BEEFs are not designed only to address climate change but also to confront a growing housing crisis. Energy efficiency without Sustainability does not make sense: CO2 would be wasted to renovate or build new. One example: recent analysis⁹ shows that the poorest ten percent of the European population currently spends on average 10.4% of its income to satisfy its energy needs (i.e. higher than the average 7.3% for EU). Currently, the poorest households in Sweden spend only 3% of their total expenditure on energy, whereas (for example) in Slovakia this share is higher than 23%

In combination with European and state authorities, a consistent and sustainable financial instrument such as LABEEF in Latvia, and more importantly, its Guidelines and processes, allows to address both energy and housing challenges. It offers residents and owners “safe, healthy, comfortable¹⁰ and affordable buildings -GUARANTEED.”

BEEF systems and online Platform, Sharex, provide authorities with the necessary information to confirm that targets are being met or exceeded. Additionally, should further savings be available,

⁸ <https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1529483556082&uri=CELEX:32018L0844>

⁹ <https://ec.europa.eu/energy/en/data-analysis/energy-prices-and-costs>

¹⁰ Fit for Purpose

the EPC+ contract allows for further measures to be made at no execution risk to the final beneficiary. Finally, and critically important, as a private sector aggregator of homogenous projects, it attracts institutional investors by mitigating project execution risks and through its “on bill financing” encouraging residents while doing away with the owner-renter split incentive.

Appendix I

Table 1. Definitions

TERM	EXPLANATION	STATUS: OK, N/A, M	AUSTRIA MODIFIED DEFINITION	STATUS: OK, N/A, M	BULGARIA MODIFIED DEFINITION	STATUS: OK, N/A, M	POLAND MODIFIED DEFINITION	STATUS: OK, N/A, M	ROMANIA MODIFIED DEFINITION	STATUS: OK, N/A, M	SLOVAKIA MODIFIED DEFINITION
Apartment	Every apartment property located in the Building for the purpose of the laws and regulations.	ok				M	a set of residential and ancillary rooms, having a separate entrance, separated by permanent building partitions, enabling permanent stay of people and running an independent household	OK		OK	
Apartment Owner	An individual or a legal entity in whose name the Apartment is recorded with the Land Register, or another person who pursuant to laws and regulations holds the property title over the respective Apartment or to whom the property title of the respective Apartment Owner is transferred to whether under the provisions of the law or pursuant to a contractual arrangement.	ok				OK		OK		OK	
Baseline	The Baseline represents the conditions of the building before the implementation of Renovation Works and includes the base year measured energy data and base year conditions of the building.	ok				OK		OK		OK	
Baseyear energy data	The measured energy consumption during the years selected for the baseline and representative of the building energy performance before the implementation of Renovation Works.	ok				ok		OK		M	The measured energy consumption during the year selected for the baseline and representative of the building energy performance before the implementation of Renovation Works.
Baseyear conditions	The set of conditions which gave rise to the energy use/demand of the base year, in particular indoor air temperature, outdoor air temperature, length of the heating seasons.	ok				ok		OK		M	The set of conditions which gave rise to the energy use/demand of the base year, in particular indoor air temperature, outdoor air temperature, number of heating days, number of residents, description of building usage.
Billing area	Billing Area is the area of the Building being inhabited by residents and used by the Manager for issuing utility and service bills and indicated in the Energy Performance Contract.	ok				ok		OK			

Building	Multifamily residential buildings in which the respective Renovation Works are being implemented and where the Guaranteed Energy Savings are realized.	ok				ok		M	Residential or public building in which the respective Renovation Works are being implemented and where the Guaranteed Energy Savings are realized.	M	Public or residential building in which the respective Renovation Works are being implemented and where the Guaranteed Energy Savings are realized.
Default Rate	The rate in per cent of Apartment owners who fail to remain current on their payment obligations for more than 90 days.	N/A				ok		N/A		N/A	For the purpose of EPC Contract this information is not applicable
Energy	Energy means all forms of energy products, combustible fuels, heat, renewable energy, electricity, or any other form of energy required for heating of the Building and heating of domestic hot water consumed with a view to achieving the Comfort Standards established in the Agreement.	ok				ok	should we include here also energy for lighting?	OK		OK	
Energy Audit	A systematic procedure with the purpose of obtaining adequate knowledge of the existing conditions and energy consumption profile of a Building or installation, identifying and quantifying cost-effective energy savings opportunities, and reporting the findings.	ok				ok		OK		OK	
Energy Efficiency	Means the ratio of output of performance, service, goods or energy, to input of energy.	ok				ok		OK		OK	
Energy Efficiency Improvement Measures	Activities implemented as part of the Renovation Works resulting in the achievement of verifiable and measurable or estimable Energy Savings implemented by an ESCO based on an Energy Performance Contract.	ok				ok		OK		OK	
Energy Performance Contract	The energy performance contract part of these Rules and concluded by and between the ESCO and the Beneficiary of the respective Building where the Renovation Works are being implemented. In energy performance contracting the implementation of Renovation Works and verified and monitored during the whole term of the contract. The investments (work, supply, service) for Renovation Works are paid in relation to a contractually agreed level of Guaranteed Energy Savings.	ok		M	Type of contract defined in the Energy Efficiency Act.	ok		OK		OK	

Energy Savings	Means the amount of saved energy determined by measuring and/or estimating consumption before and after implementation of the Renovation Works, whilst ensuring normalisation for external conditions that affect energy consumption.	ok		M	Means the amount of saved energy determined by measuring and/or estimating consumption before and after implementation of the Renovation Works, whilst ensuring normalisation for external and internal conditions that affect energy consumption.	M	The amount of saved energy determined by measuring and / or estimating consumption before and after the Renovation Works converted into standard heating season conditions (normalized weather conditions for a specific building location)	OK		OK	
Energy Saving Company ("ESCO")	A natural or legal person that delivers energy services and/or other Energy Efficiency Improvement Measures, Building refurbishment and the maintenance of such measures in a user's facility or premises.	ok		OK		ok		OK		M	A natural or legal person that delivers energy services and/or other energy efficiency improvement measures in a user's facility or premises
Guaranteed Energy Consumption	The guaranteed amount of [•] MWh of energy to be consumed after implementation of the Renovation Works which represents a [•] % increase in the energy efficiency performance of the Building compared to its Baseline. For the purposes of avoiding doubt, the Contractor guarantees that the adjusted energy consumption of the Building after the Renovation Works shall not be above its guaranteed energy consumption amounts and separately undertakes to exercise additional reasonable in terms of costs efforts to further decrease the energy consumption for the entire duration of this Agreement.	ok		OK		ok		OK		OK	
Guaranteed Energy Savings	Means the minimum amount of Energy Savings determined by Measurement and Verification against an agreed Baseline, which is guaranteed in the Energy Performance Contract after the implementation of the Renovation Works.	ok		OK		ok		OK		OK	
Facilities	Material, equipment, systems, fittings and other measures installed by the Contractor or otherwise invested in the Building as part of the Renovation Works or for the Measurement and Verification, maintenance and repair thereof, in accordance with the Agreement.	ok		OK		ok		OK		OK	
Forfeiting Agreement	Forfeiting Agreement is the written agreement signed between the ESCO and LABEEF setting out the terms and conditions for the acquisition (cession) at a discount rate of receivables arising from Energy Performance Contracts, whereas the transferor is the ESCO, the debtor is the Beneficiary and the transferee is LABEEF and of which Final Beneficiaries shall be informed	N/A		OK		na		OK			Forfeiting Agreement is the written agreement signed between the ESCO and SKEEF (?) setting out the terms and conditions for the acquisition (cession) at a discount rate of receivables arising from Energy Performance Contracts, whereas the transferor is the ESCO,

	pursuant to the sending of the respective written notification thereof.										the debtor is the Beneficiary and the transferee is SKEEF and of which Final Beneficiaries shall be informed pursuant to the sending of the respective written notification thereof.
LABEEF	LABEEF means the Latvian Baltic Energy Efficiency Facility Jsc., operating as a joint stock company duly registered in the Commercial register of Latvia under corporate No. 40103960646.	ok		OK	This will be in this case Bulgarian Energy Efficiency Facility (BULBEEF)	ok		?		?	Definition of SKEEF?
Manager	An individual or a legal entity, who in line with the applicable provisions of the Latvian Law on Management of Residential Housing and based on a management agreement, carries out managerial activities assigned by the Client in respect of the Building.	ok		M	An individual or a legal entity, who in line with the applicable provisions of the Bulgarian Law on Management of Residential Housing and based on a management agreement, carries out managerial activities assigned by the Client in respect of the Building.	ok		M	An individual or a legal entity, who in line with the applicable provisions of the Romanian Law on Management of Residential Housing and based on a management agreement, carries out managerial activities assigned by the Client in respect of the Building.	N/A	
Measurement and Verification	The process of determining energy savings the method indicated in this guideline and based on the International Performance Measurement and Verification Protocol (IPMVP).	ok		OK		ok		OK		OK	
Platform	Means an online website supporting all phases and stakeholders for the implementation of Renovation Works based on Energy Performance Contract and available at www.sharex.lv .	N/A		OK		OK		OK		OK	
Renovation Works	Activities referred in the Energy Performance Contract resulting in achievement of verifiable and measurable or estimable energy savings. Activities involve engineering, procurement, supply, installation, start-up, commissioning and financing building renovation.	ok		OK		ok		OK		OK	
Services	The Renovation Works, Energy Supply and operation and maintenance of the Facilities performed by the Contractor under the present Agreement.	ok		OK	OK	ok		OK		OK	

Table 2. Eligibility Beneficiaries

ELIGIBILITY CRITERIA FOR BENEFICIARIES	STATUS: OK, N/A, M	AUSTRIA MODIFIED CRITERION	STATUS: OK, N/A, M	BULGARIA MODIFIED CRITERION	STATUS: OK, N/A, M	POLAND MODIFIED CRITERION	STATUS: OK, N/A, M	ROMANIA MODIFIED CRITERION	STATUS: OK, N/A, M	SLOVAKIA MODIFIED CRITERION
Series of buildings: Series 103 , Series 104 , Series 119 , Series 316, Series 318, Series 464 , Series 467 , Series 602, Czech project and Special building projects modifying any of the mentioned series.		Categorization need to be based on an EU-Standard	N/A		M		M	Residential and public buildings which do not fulfil the energy efficiency criteria.	M	Series of apartment buildings: T 11-16, T 01 -03, PV-2, BA, G 57, LB (MB), MS 5, MS 11, T 06 B (KE, NA, BA, BB, ŽA), T 08 B, K 61, NMB (VMB), PD-62, ZT, ZTB, BA-BC, B-70, BA-NKS, P 1.14-6.5RP, P 1.14-7.5RP, PS-82 (TT, PP, ŽA, BB), U-65, P 1.15, BA NKS-S, P 1.24 . Public buildings have no standardized series.
Maximum cumulative annual Default Rate of the residents living in the Building for heating and house maintenance bills is less than 5%, whereas default rates shall include all payment delays by more than 90 days for the period of the 3 years preceding the renovation works,	OK		OK		M		M	Depends on the agreement with the client.	N/A	internal rule of the client (financial criteria)
Outstanding debt for heating and house maintenance bills, construction works and similar is less than 15%,	OK		OK		M		M	Depends on the agreement with the client.	N/A	internal rule of the client (financial criteria)
Validly adopted decision of the homeowners' association for implementation of the renovation works using the template of Energy Performance Contract included as Annex I of these Rules with a quorum of at least 55%.		Validly adopted decision of the homeowners' association for implementation of the renovation works using the template of Energy Performance Contract included as Annex I of these Rules with a quorum of at least XX%.	M	Validly adopted decision of the general meeting of the owners taken unanimously by all owners of sites, including consent of the owners on all important elements of the contract	M		M	For collective residential buildings validly adopted decision of the homeowners' association for implementation of the renovation works using the template of Energy Performance Contract included as Annex I of these Rules with a quorum of > 50%. For individual residential building and public buildings decision of the owner of the building.	M	depends on the legal character of the building

Table 3: Eligibility_ESCOs

LATVIAN CRITERION (TESTED)	STATUS: OK, N/A, M	AUSTRIA CRITERION	STATUS: OK, N/A, M	BULGARIA CRITERION	STATUS: OK, N/A, M	POLAND CRITERION	STATUS: OK, N/A, M	ROMANIA CRITERION	STATUS: OK, N/A, M	SLOVAKIA CRITERION
Notwithstanding the below eligibility criteria, eligibility is subject to secure financing from a commercial bank(s) acceptable to LABEEF		LABEEF need to be replaced with the equivalent entity	M	Notwithstanding the below eligibility criteria, eligibility is subject to secure financing from a commercial bank(s) or other financing institution acceptable to BULEEF	ok	LABBEF replaced by Polish entity	OK		OK	
It operates in compliance with all applicable legislation of Latvia		Have to be in accordance with the contract design and the agreed law and jurisdiction	M	It operates in compliance with all applicable legislation of Bulgaria	ok	of Poland	M	It operates in compliance with all applicable legislation of Romania.	M	It operates in compliance with all applicable legislation of Slovak Republic
Has adopted and strictly abides to the European Code of Conduct for Energy Performance Contracting as uploaded on www.transparens.eu and it duly adheres and strictly executes its provisions	OK		M	Has adopted and strictly abides to the European Code of Conduct for Energy Performance Contracting as uploaded on https://www.seea.government.bg/document/s/Code_of_Conduct_EPC.pdf and it duly adheres and strictly executes its provisions	ok		OK		OK	
Maximum cumulative value of any legal dispute of the ESCO is not higher than 5% of the amount invested under the Energy Performance Contract	OK		OK		ok		N/A	Depands on the agreement with the client.	N/A	Internal rule of the client
It is financially viable and does not have any unsettled public obligations or taxes being due and executable forthwith	OK		OK		ok		OK		OK	
Financial accounts for the last two years preceding the date of signing the Forfeiting Agreement demonstrating sound and prudent management. For start-up companies subject to a review of management and shareholders.		OK except the formulation. Suggestion: ...the last two financial accounts available preceding the date...	OK		ok		N/A	Depands on the agreement with the client.	N/A	Internal rule of the client
Meets usual credit and ethics criteria		The criterias should be stated more precisely	OK		ok		OK		OK	
It is bound by the rules of the European Code of Conduct for Energy Performance Contracting, uploaded at www.transparens.eu	OK		M	It is bound by the rules of the European Code of Conduct for Energy Performance Contracting, uploaded at https://www.seea.government.bg/document/s/Code_of_Conduct_EPC.pdf	ok		OK	Also, the Romanian legislation must be considered.	OK	and the Slovak legislative
It implements Investor Confidence Project Europe (ICPEU - http://europe.eepperformance.org/) Protocols for developing, documenting, implementing and measuring projects.		what does this imply? Need every company using the platform to be certified by ICPEU?	OK		ok		OK	Also, the Romanian legislation must be considered.	OK	and the Slovak legislative

Table 4. Eligibility Forfeiting

ELIGIBILITY CRITERIA FOR FORFEITING	STATUS: OK, N/A, M	AUSTRIA MODIFIED CRITERION	STATUS: OK, N/A, M	BULGARIA MODIFIED CRITERION	STATUS: OK, N/A, M	POLAND MODIFIED CRITERION	STATUS: OK, N/A, M	ROMANIA MODIFIED CRITERION	STATUS: OK, N/A, M	SLOVAKIA MODIFIED CRITERION
The Renovation Works have been implemented based on the template of Energy Performance Contract included as Annex I of these Rules;		The renovation works need to be implemented based on the Energy Performance Contract in accordance of ist General Terms and Conditions as defined in Annex I	OK		ok				M	The Energy Performance Contract must be drawn up in accordance with the essential content requirements defined in the provisions of Sections 17 and 18 of the Slovak Energy Efficiency Act.
It is based on the template of Forfeiting Agreement included in Annex II of these Rules	OK		M	Under a number of on-going legal disputes, it has been argued that as savings have not materialised yet, the receivables cannot be forfeited. This raises questions as to the validity of the agreement in it's current form (see legal analysis)	ok		OK		OK	
There is a Maintenance Agreement, based on the template included in Annex III of these Rules, between LABEEF, the ESCO and the Manager		The Maintenance Agreement as defined in Annex II applies to the contract	ok		ok				M	All energy reconstruction works should be included in one Contract - EPC Contract
The baseline for the Energy Performance Contract has been determined according to the instructions included in Annex IV of these Rules		The baseline for the Energy Performance Contract is determined according to the instructions included in Annex IV of these Rules	M	The baseline for the Energy Performance Contract has been determined according to the provisions under EEA and relevant by-laws;	ok				M	The Energy Performance Contract must be drawn up in accordance with the essential content requirements defined in the provisions of Sections 17 and 18 of the Slovak Energy Efficiency Act.
It is based on the projected cash flow of the Energy Performance Contract being financed on arm's length market terms with a discount rate calculated for each Forfeiting Agreement using the instructions included in Annex V of this Rules		The market terms should be defined in every detail. The formulation "arm's length market terms" is very inaccurate.	M	See comments above regarding the ability to forfeit receivables, which are subject to energy savings achieved at a future date.	ok				M	The GES provider is obliged to construct the energy improvement of the building at his own expense. The rules of the project financing must be directly enshrined in the EPC, and it must be justified that the way in which the guaranteed energy service is financed will not have an impact on the government debt using the common methodology applicable to the European Union.
It provides sufficient protection for LABEEF by a satisfactory and European market standard regulation of termination events, representations and warranties, as well as first loss-piece insurance policy for an insured amount of EUR 50,000 (fifty thousand euro)		LABEEF needs to be substituted with the proper entity	OK		ok				N/A	IT is internal rule of the client
The Guaranteed Energy Savings provided in the Energy Performance Agreement is meet and verified for at least one settlement period based on the instructions for Measurement and Verification included in Annex VI of this Rules	OK		OK		ok		OK		OK	
The value of the transaction does not exceed EUR 500,000, unless expressly decided otherwise by LABEEF Supervisory Board		The LABEEF Supervisory Board needs to be substituted with the proper entity	OK		ok		N/A	Depending on the decision of the client.	N/A	It is internal rule of the client

The maximum aggregate value resulting from multiple forfeiting transaction with an ESCO shall not exceed EUR two (2) million on an annual basis		the maximum value should not be defined absolute but rather relative e.g. x % of the annual turnover...	OK		ok		N/A	Depending on the decision of the client.	N/A	IT is internal rule of the client
The ESCO has obtained credit appraisals for pre-financing the Renovation Works by a Financial Institution or a commercial banks' or LABEEF		The ESCO has obtained credit appraisals for pre-financing the Renovation Works by a rated, or mutually agreed Financial Institution	OK		ok		OK		M	The GES provider is obliged to construct the energy improvement of the building at his own expense. The rules of the project financing must be directly enshrined in the EPC, and it must be justified that the way in which the guaranteed energy service is financed will not have an impact on the government debt using the common methodology applicable to the European Union.
The ESCO has fully paid all costs for the implementation of the Renovation Works to the respective contractor and subcontractors (if any)		specification of the timeframe is needed	OK		ok		OK		OK	
The ESCO complies with all applicable Laws and Standards effective and applicable in Latvia		The ESCO complies with all applicable Laws and Standards effective and applicable in the relevant country	M	relevant for Bulgaria	ok		M	The ESCO complies with all applicable Laws and Standards effective and applicable in Romania.	M	The ESCO complies with all applicable Laws and Standards effective and applicable in Slovak Republic
The Renovation Works complies with all applicable Laws and Standards effect in Latvia including by ensuring a valid construction permit is held prior to implementing building renovation works and the commissioning and exploitation protocol is signed by the respective authority prior commissioning the renovated building.		The Renovation Works complies with all applicable Laws and Standards effect in the relevant country including by ensuring a valid construction permit is held prior to implementing building renovation works and the commissioning and exploitation protocol is signed by the respective authority prior commissioning the renovated building.	M	for Bulgaria	ok		M	The Renovation Works complies with all applicable Laws and Standards effect in Romania including by ensuring a valid construction permit is held prior to implementing building renovation works and the commissioning and exploitation protocol is signed by the respective authority prior commissioning the renovated building.	M	The Renovation Works complies with all applicable Laws and Standards effect in Slovak Republic including by ensuring a valid construction permit is held prior to implementing building renovation works and the commissioning and exploitation protocol is signed by the respective authority prior commissioning the renovated building.

Table 5. Technical General targets

GENERAL TARGETS FOR TECHNICAL CRITERIA	STATUS: OK, N/A, M	AUSTRIA MODIFIED TARGET	STATUS: OK, N/A, M	BULGARIA MODIFIED TARGET	STATUS: OK, N/A, M	POLAND MODIFIED TARGET	STATUS: OK, N/A, M	ROMANIA MODIFIED TARGET	STATUS: OK, N/A, M	SLOVAKIA MODIFIED TARGET
The Guaranteed Energy Savings for space heating and domestic hot water circulation losses indicated in the Energy Performance Contract is reached with Measurements and Verification for at least a period of 12 months (one settlement period). Measurement and Verification according to Annex VI of this Guideline;		The Guaranteed Energy Savings for space heating and domestic hot water circulation losses defined in the Energy Performance Contract is measured and verified for at least a period of 12 months (one settlement period). Measurement and Verification is done according to Annex VI of this Guideline;	M	The Guaranteed Energy Savings for space heating and domestic hot water circulation losses are based on Investment Grade Energy Audit and reached with Measurements and Verification for at least a period of 12 months (one settlement period). Guaranteed Energy Savings, Investment Grade Audit and Measurement and Verification are parts of the Energy Performance Contract	ok		OK		OK	
For buildings with a centralized domestic hot water system, energy consumption for space heating and domestic hot water circulation losses is reduced to less than 85 kWh/m ² year for building below 1,600m ² conditioned area and to less than 80 kWh/m ² year for building over 1,600m ² conditioned area. Energy consumption shall be determined according with the Measurements and Verification instruction given in Annex VI this Rules for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to MK. 348 considering indoor air temperature of 21.5° C and outdoor temperature according to LBN 003-01;		For buildings with a centralized domestic hot water system, energy consumption for space heating and domestic hot water circulation losses is reduced to less than 89 kWh/m ² year for building below 1,470m ² conditioned area and to less than 87 kWh/m ² year for building over 1,470m ² conditioned area. Energy consumption shall be determined according with the measurements and verification instruction given in Annex VI this rule for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to OIB Directive 6 considering indoor air temperature of 20° C and outdoor temperature according to ÖNORM B 8110-5;	N/A		M	According to the rules: PN-EN ISO 52000-1:2017-10 Energetyczne właściwości użytkowe budynków -- Nadrzędna ocena EPB -- Część 1: Ogólne ramy i procedury PN-EN 16212:2012 Obliczanie efektywności energetycznej i oszczędności energii metodami oddolną i oddolną PN-EN 15316-1:2017-06 Charakterystyka energetyczna budynków -- Metoda obliczania zapotrzebowania na ciepło przez instalację i sprawności układu -- Część 1: Informacje ogólne i obliczanie wydajności energetycznej, Moduł M3-1, M3-4, M3-9, M8-1, M8-4	M	For buildings with a centralized domestic hot water system, energy consumption for space heating and domestic hot water circulation losses is reduced to less than 85 kWh/m ² year for building below 1,600m ² conditioned area and to less than 80 kWh/m ² year for building over 1,600m ² conditioned area. Energy consumption shall be determined according with the Measurements and Verification instruction given in Annex VI this Rules for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to SR EN ISO 12567-1:2011 considering indoor air temperature of 20.0° C and outdoor temperature measured in the nearest hydrometeorological station.	M	For buildings with a centralized domestic hot water system, energy consumption for space heating and domestic hot water circulation losses is reduced to less than 85 kWh/m ² year for building below 1,600m ² conditioned area and to less than 80 kWh/m ² year for building over 1,600m ² conditioned area. Energy consumption shall be determined according with the Measurements and Verification instruction given in Annex VI this Rules for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to STN EN ISO52016-1 considering indoor air temperature of 20.0° C and outdoor temperature measured in the nearest hydrometeorological station.

For buildings without a centralized domestic hot water system, energy consumption for space heating is reduced 75 kWh/m ² year for building below 1,600m ² conditioned area and to less than 70 kWh/m ² year for building over 1600m ² conditioned area with Measurements and Verification for at least a period of 12 months (one settlement period). Energy consumption shall be determined according with the Measurements and Verification instruction given in Annex VI this Rules for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to MK. 348 considering indoor air temperature of 21.5° C and outdoor temperature according to LBN 003-01;		For buildings without a centralized domestic hot water system, energy consumption for space heating is reduced to 91,1 kWh/m ² per year for building below 1,470m ² conditioned area and to less than 89,8 kWh/m ² per year for building over 1,470m ² conditioned area with measurements and verification for at least a period of 12 months (one settlement period). Energy consumption shall be determined according with the measurement and verification instructions defined in Annex VI. This rule apply for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to OIB Directive 6 considering indoor air temperature of 20° C and outdoor temperature according to B 8110-5;	N/A		M		M	For buildings without a centralized domestic hot water system, energy consumption for space heating is reduced 75 kWh/m ² year for building below 1,600m ² conditioned area and to less than 70 kWh/m ² year for building over 1600m ² conditioned area with Measurements and Verification for at least a period of 12 months (one settlement period). Energy consumption shall be determined according with the Measurements and Verification instruction given in Annex VI this Rules for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to SR EN ISO 12567-1:2011 considering indoor air temperature of 20.0° C and outdoor temperature measured in the nearest hydrometeorological station.	M	For buildings without a centralized domestic hot water system, energy consumption for space heating is reduced 75 kWh/m ² year for building below 1,600m ² conditioned area and to less than 70 kWh/m ² year for building over 1600m ² conditioned area with Measurements and Verification for at least a period of 12 months (one settlement period). Energy consumption shall be determined according with the Measurements and Verification instruction given in Annex VI this Rules for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to STN EN ISO52016-1 considering indoor air temperature of 20.0° C and outdoor temperature measured in the nearest hydrometeorological station.
Indoor climate is suitable in terms of temperature, humidity, concentration of carbon dioxide, odour and comply with LBN 211- 15;		Indoor climate is suitable in terms of temperature, humidity, concentration of carbon dioxide, odour and comply with ÖNORM EN 16798-17 & ÖNORM EN 16798-7 & ÖNORM EN ISO 15927-1 & H 5056-1;	M	Indoor climate is according to Ordinance № E-PД-04-2 / 22.01.2016	M	According to: PN-EN 16798-1:2019-0 Charakterystyka energetyczna budynków -- Wentylacja budynków -- Część 1: Parametry wejściowe środowiska wewnętrznego do projektowania i oceny charakterystyki energetycznej budynków w odniesieniu do jakości powietrza wewnętrznego, środowiska cieplnego, oświetlenia i akustyki -- Moduł M1-6	M	Indoor climate is suitable in terms of temperature, humidity, concentration of carbon dioxide, odour and comply with SR EN 16798-5-1: 2018.	M	Indoor climate is suitable in terms of temperature, humidity, concentration of carbon dioxide, odour and comply with Decree no. 259/2008 Coll.
Building's air-tightness complies with LBN 002-15 and determined in accordance with LVS EN 13829:2013 or a similar norm;		Building's air-tightness complies with OIB Directive 6 and determined in accordance with ÖNORM B 9972	N/A		M		M	Building's air-tightness complies with SR EN ISO 10456:2008 and determined in accordance with SR EN 16798-5-1: 2018 or a similar norm.	M	Building's air-tightness complies with Decree no. 364/2012 Coll. and determined in accordance with STN EN 73 0540-3;
Include automated, forced, ventilation system in all building apartments ensuring a minimum air exchange rate according to LBN 211- 15 and LBN 231-15. The type and configuration of the ventilation system is flexible as far as both Energy Efficiency and technical requirement are met.		Include automated, forced, ventilation system in all building apartments ensuring a minimum air exchange rate according to OIB Directive 6. The type and configuration of the ventilation system is flexible as far as both Energy Efficiency and technical requirement are met.	N/A		M	According to: PKN-CEN/TR 14788:2012 (Wentylacja budynków -- Projektowanie i wymiarowanie systemów wentylacji mieszkań) PN-EN ISO 13789:2017-10 (Ciepłe właściwości użytkowe budynków -- Współczynniki przenoszenia ciepła przez przenikanie i wentylację -- Metoda obliczania)	M	Include automated, forced, ventilation system in all building apartments ensuring a minimum air exchange rate according to SR EN 16798-5-1: 2018. The type and configuration of the ventilation system is flexible as far as both Energy Efficiency and technical requirement are met.	M	Include automated, forced, ventilation system in all building apartments ensuring a minimum air exchange rate according to Decree no. 259/2008 Coll. and Decree no. 364/2012 Coll. The type and configuration of the ventilation system is flexible as far as both Energy Efficiency and technical requirement are met.

In general, all measures implemented as part of the Renovation Works have been developed in line with current European and national best practices. LABEEF regards best practice as complying with the Investor Confidence Project Europe (ICPEU) Protocols for developing, documenting, implementing and measuring projects, and when it is available in Latvia the use of the "Investor Ready Energy EfficiencySM" accreditation system developed by the ICPEU.		In general, all measures implemented as part of the Renovation Works have been developed in line with current European and national best practices. LABEEF regards best practice as complying with the Investor Confidence Project Europe (ICPEU) Protocols for developing, documenting, implementing and measuring projects, and when it is available in Austria the use of the "Investor Ready Energy EfficiencySM" accreditation system developed by the ICPEU.	OK		M		?		M	In general, all measures implemented as part of the Renovation Works have been developed in line with current European and national best practices. SKEEF regards best practice as complying with the Investor Confidence Project Europe (ICPEU) Protocols for developing, documenting, implementing and measuring projects, and when it is available in Slovakia the use of the "Investor Ready Energy EfficiencySM" accreditation system developed by the ICPEU.
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Public buildings must be of energy class "B" at least: (141 kWh / m² - 280 kW / m²)		In accordance to Ordinance № РД-16-347 / 02.04.2009
Multifamily buildings must be of energy class "C" at least: (191 kWh / m² - 240 kWh / m²)		Established market practice by the National Programme for Renovation of Multifamily Buildings

Table 1. Technical EE Measures EPC+

Energy Efficiency Improvement Measures (LV)	EPC+ (LV)	Energy Efficiency Improvement Measure (AT)	AUSTRIA EPC+	Energy Efficiency Improvement Measure	BULGARIA EPC+	Energy Efficiency Improvement Measure	POLAND EPC+	Energy Efficiency Improvement Measure	ROMANIA EPC+	Energy Efficiency Improvement Measure	SLOVAKIA EPC+
Thermal insulation of the exterior walls based on one of the following methods [1]: · External thermal insulation composite systems with rendering according to ETAG 004 guidelines. The finishing plaster has to be silicone based, · Ventilated facades system;	At least 15cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK; or a solution reaching at least an equivalent U-value. 'All windows exterior sills and jambs to be covered with 3-5cm thermal insulation.	Thermal insulation of the exterior walls based on OIB Directive 6 (min U-value: 0,35 W/m²K), Ventilated facades system;	Thermal insulation of the exterior walls based on OIB Directive 6 (max U-value: 0,35 W/m²K), Installation of windows and doors in exterior walls according to ÖNORM B 5320	Thermal insulation of the exterior walls	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	ok		Thermal insulation of the exterior walls based on one of the following methods [1]: · External thermal insulation composite systems with rendering according to ETAG 004 guidelines. The finishing plaster has to be silicone based, · Ventilated facades system;	At least 15cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK; or a solution reaching at least an equivalent U-value. 'All windows exterior sills and jambs to be covered with 3-5 cm thermal insulation.	Thermal insulation of the exterior walls based on one of the following methods [1]: · External thermal insulation composite systems with rendering according to ETAG 004 guidelines. The finishing plaster has to be silicone based, · Ventilated facades system;	The thickness of the thermal insulation with declared thermal conductivity of at least 0.037 W/mK has to be specified to meet the requirements of the U-value equal or less than 0.22 W/(m²K) to comply STN 73 0540-2/Z1.
Thermal insulation of the technical attics (cold roof) If there is no attic, thermal insulation of the roof deck (warm roof)	At least 30cm thermal insulation with declared thermal conductivity of at least 0.042 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low attics ceilings (cold roof).	Thermal insulation of the technical attics (cold roof) If there is no attic, thermal insulation of the roof deck (warm roof)	Thermal insulation of the technical attics (cold roof) If there is no attic, thermal insulation of the roof deck (warm roof) according to OIB Directive 6 (min 0,40 W/m²K); Installation of windows in exterior roof according to ÖNORM B 5320	Thermal insulation of the technical attics	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	ok		Thermal insulation of the technical attics (cold roof) If there is no attic, thermal insulation of the roof deck (warm roof)	At least 30cm thermal insulation with declared thermal conductivity of at least 0.042 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low attics ceilings (cold roof).	Thermal insulation of the technical attics (cold roof) If there is no attic, thermal insulation of the roof deck (warm roof)	The thickness of the thermal insulation with declared thermal conductivity of at least 0.037 W/mK has to be specified to meet the requirements of the U-value equal or less than 0.15 W/(m²K) to comply STN 73 0540-2/Z1.
Thermal insulation of the basement ceilings	At least 12cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low ceilings.	Thermal insulation of the basement ceilings	A solution reaching at least an equivalent U-value according to the OIB directive 6 (max 0,30 W/m²K) Exception only for technical limitations like low ceilings.	Thermal insulation of the basement ceilings	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	ok		Thermal insulation of the basement ceilings	At least 12cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low ceilings.	Thermal insulation of the basement ceilings	The thickness of the thermal insulation with declared thermal conductivity of at least 0.037 W/mK has to be specified to meet the requirements of the U-value equal or less than 0.85 W/(m²K) to comply STN 73 0540-2/Z1.

External thermal and hydro insulation of the plinth wall	At least 7cm of waterproof thermal insulation (like XPS or similar) for at least 0.8m down from the grade level for unheated basement and full depth of the basement wall for heated basement. Suitable cleaning of the walls, application of hydro insulation and drainage system.	External thermal and hydro insulation of the plinth wall	Thermal insulation of the exterior walls based on OIB Directive 6 (max U-value: 0,40 W/m²K)	External thermal and hydro insulation of the plinth wall	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	M	At least 8cm of water proof thermal insulation (like XPS or similar) for at least 0.8m down from the grade level for unheated basement and full depth of the basement wall for heated basement. Suitable cleaning of the walls, application of hydro insulation and drainage system. The thermal insulation from the outside should be protected with a waterproof membrane.	External thermal and hydro insulation of the plinth wall	At least 7cm of waterproof thermal insulation (like XPS or similar) for at least 0.8m down from the grade level for unheated basement and full depth of the basement wall for heated basement. Suitable cleaning of the walls, application of hydro insulation and drainage system.	External thermal and hydro insulation of the plinth wall	At least 7 cm of water proof thermal insulation (like XPS or similar) for at least 0.8 m down from the grade level for unheated basement and full depth of the basement wall for heated basement. Suitable cleaning of the walls, application of hydro insulation and drainage system.
Thermal insulation of inner walls between heated and unheated areas (like staircase inner walls on the technical attic area or staircase inner walls going to the basement, or unheated entrance halls with flats)	At least 5cm thermal insulation with thermal conductivity of at least 0.037 W/mK.	Thermal insulation of inner walls between heated and unheated areas (like staircase inner walls on the technical attic area or staircase inner walls going to the basement, or	Thermal insulation of the walls based on OIB Directive 6 (max U-value: 1,30 W/m²K)	Thermal insulation of inner walls between heated and unheated areas	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	ok	provided the fire regulations and requirements for minimum widths of escape routes permit	Thermal insulation of inner walls between heated and unheated areas (like staircase inner walls on the technical attic area or staircase inner walls going to the basement, or unheated entrance halls with flats)	At least 5cm thermal insulation with thermal conductivity of at least 0.037 W/mK.	Thermal insulation of inner walls between heated and unheated areas (like staircase inner walls on the technical attic area or staircase inner walls going to the basement, or unheated entrance halls with flats)	The thickness of the thermal insulation with declared thermal conductivity of at least 0.037 W/mK has to be specified to meet the requirements of the U-value equal or less than 1.2 W/(m²K) to comply STN 73 0540-2/Z1.
Replacement of windows	Replacement of all windows of the building to comply with LBN 002-15, except existing windows with U-value below 1.8W/m²K	Replacement of windows	Replacement of all windows of the building to comply with OIB Directive 6, except existing windows with U-value below 1.40 W/m²K	Replacement of windows	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 11	M	Replacement of all windows of the building to comply with WT2021, except existing windows with U-value below 1.8W/m²K	Replacement of windows	Replacement of all windows of the building to comply with SR EN ISO 12567-1:2011, except existing windows with U-value below 1.8W/m²K	Replacement of windows	Replacement of all windows of the building to comply with STN 73 0540-2/Z1, except existing windows with U-value equal or less than 1.0 W/(m²K).
Loggias	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. Recommended thickness of thermal insulation 15cm, lower values based on technical/geometrical limitations. Thermal conductivity of at least 0.037 W/mK Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls. U-values according to LBN 002-15	Loggias	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. U-Values based on technical/geometrical limitations. Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls. U-values according to OIB Directive 6	Loggias	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10 & 11	M	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. Recommended thickness of thermal insulation according to WT2021, lower values based on technical/geometrical limitations. Thermal conductivity of at least 0.037 W/mK Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls or full glass wall. U-values according to WT2021	Loggias	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. Recommended thickness of thermal insulation 15cm, lower values based on technical/geometrical limitations. Thermal conductivity of at least 0.037 W/mK Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich	Loggias	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. The thickness of the thermal insulation with declared thermal conductivity of at least 0.037 W/mK has to be specified to meet the requirements of the U-value equal or less than 0.22 W/(m²K)

									walls. U-values according to SR EN ISO 12567-1:2011.		to comply STN 73 0540-2/Z1. Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls. U-values equal or less than 1.0 W/(m²K) according to STN 73 0540-2/Z1
External doors	Replacement of all exterior doors of the building to comply with LBN 002-15, except existing doors with U-value below 2.2W/m²K. In this later case door sealing gasket and closing springs/mechanisms have to be checked. To be replaced or repaired if damaged, malfunctioning, or missing. All exterior door equipped with door closer springs.	External doors	Replacement of all exterior doors of the building to comply with OIB Directive 6, except existing doors with U-value below 2.2W/m²K. In this later case door sealing gasket and closing springs/mechanisms have to be checked. To be replaced or repaired if damaged, malfunctioning, or missing. All exterior door equipped with door closer springs.	External doors	In accordance to Ordinance № E-PД-04-2 / 22.01.2016; Table 10	M	Replacement of all exterior doors of the building to comply with WY2021, except existing doors with U-value below 2.2W/m²K. In this later case door sealing gasket and closing springs/mechanisms have to be checked. To be replaced or repaired if damaged, malfunctioning, or missing. All exterior door equipped with door closer springs.	External doors	Replacement of all exterior doors of the building to comply with SR EN ISO 12567-1:2011, except existing doors with U-value below 2.2W/m²K. In this later case door sealing gasket and closing springs/mechanisms have to be checked. To be replaced or repaired if damaged, malfunctioning, or missing. All exterior door equipped with door closer springs.	External doors	Replacement of all exterior doors of the building to comply with STN 73 0540-2/Z1, except existing doors with U-value below 1.0 W/(m²K). In this later case door sealing gasket and closing springs/mechanisms have to be checked. To be replaced or repaired if damaged, malfunctioning, or missing. All exterior door equipped with door closer springs.
Centralized domestic hot water system (if existing)	Minimum measures: · disconnection of the towel heaters from the domestic hot water loop and connection to the space heating loop, · installation of new centralized domestic hot water system according to LBN 221-15, · installation of a water softening system in case of hard water (>150mg/l).	Centralized domestic hot water system (if existing)	Minimum measures: · disconnection of the towel heaters from the domestic hot water loop and connection to the space heating loop, · installation of new centralized domestic hot water system according to OIB Directive 6, · Use of renewable energy sources for domestic hot water according to OIB Directive 6	Centralized domestic hot water system (if existing)	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME	M	Minimum measures: · disconnection of the towel heaters from the domestic hot water loop and connection to the space heating loop, · installation of new centralized domestic hot water system according to WT2021, · installation of a water softening system in case of hard water (>150mg/l).	Centralized domestic hot water system (if existing)	Minimum measures: · disconnection of the towel heaters from the domestic hot water loop and connection to the space heating loop, · installation of new centralized domestic hot water system according to SR EN 303-5, · installation of a water softening system in case of hard water (>150mg/l).	Centralized domestic hot water system (if existing)	Minimum measures: · installation of new centralized domestic hot water system, · installation of a water softening system in case of hard water (>150mg/l).

Space heating system	Minimum measures:· Replacement of heat distribution pipes as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to MK 382,· Technical insulation of all distribution pipes in the basement and attic of the building (unheated area),· Installation of radiator thermostatic valves on each heating element,· Replacement of heating element as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to MK 382,· Installation of balancing valves and balancing of the heating system,· An assessment for the installation of individual heat meters according to MK. 876.	Space heating system	Minimum measures:· Replacement of heat distribution pipes as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to ÖNORM EN 16247-2,· Technical insulation of all distribution pipes in the basement and attic of the building (unheated area) according to OIB Directive 6,· Installation of radiator thermostatic valves on each heating element,· Replacement of heating element as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to ÖNORM EN 16247-2,· Installation of balancing valves and balancing of the heating system,· An assessment for the installation of individual heat meters according to ÖVE/ÖNORM EN 50491-11.	Space heating system	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME	M	Minimum measures:· Replacement of heat distribution pipes as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to MK 382,· Technical insulation of all distribution pipes in the basement and attic of the building (unheated area),according to WT2021· Installation of radiator thermostatic valves on each heating element,· Replacement of heating element as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to MK 382,· Installation of balancing vertical valves and balancing of the heating system,· An assessment for the installation of individual heat meters according to MK. 876.	Space heating system	Minimum measures:· Replacement of heat distribution pipes as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5,· Technical insulation of all distribution pipes in the basement and attic of the building (unheated area),· Installation of radiator thermostatic valves on each heating element,· Replacement of heating element as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to MK 382,· Installation of balancing valves and balancing of the heating system,· An assessment for the installation of individual heat meters according to SR EN 303-5.	Space heating system	Minimum measures:· Replacement of heat distribution pipes as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems,· Technical insulation of all distribution pipes in the basement and attic of the building (unheated area),· Installation of radiator thermostatic valves on each heating element,· Replacement of heating element as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems,· Installation of balancing valves and balancing of the heating system,· An assessment for the installation of individual heat meters
Heat substation for buildings connected to a district heating system	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems according to MK 382. The substation must as minimum be: · With independent connection, · With automatic temperature compensation, · With high efficiency circulation pumps. In particular the space heating circulation pump must ensure variable speed operation, · With state of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.).	Heat substation for buildings connected to a district heating system	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems according to ÖNORM EN 16247-2. The substation must as minimum be: · With independent connection, · With automatic temperature compensation, · With high efficiency circulation pumps. In particular the space heating circulation pump must ensure variable speed operation, · With state of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.).	Heat substation for buildings connected to a district heating system	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME	M	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems according to MK 382. The substation must as minimum be: · With independent connection, · With automatic temperature compensation, · With high efficiency circulation pumps. In particular the space heating circulation pump must ensure variable speed operation, · With state of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.) according to WT2021.	Heat substation for buildings connected to a district heating system	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5. The substation must as minimum be: · With independent connection, · With automatic temperature compensation, · With high efficiency circulation pumps. In particular the space heating circulation pump must ensure variable speed operation, · With state of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.).	Heat substation for buildings connected to a district heating system	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems. The substation must as minimum be: · With independent connection, · With automatic temperature compensation, · With high efficiency circulation pumps. In particular the space heating circulation pump must ensure variable speed operation, · With state of the art technical thermal insulation of all its components

Heat source for buildings equipped with a decentralized heating system	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems according to MK 382. to ensure at least:· Compliances with all current Latvian norms and standards,· system availability and reliability to supply heat energy to the building,· system regulation to the new heat load after building renovation,· System efficiency also for the new heat load after building renovation.	Heat source for buildings equipped with a decentralized heating system	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems according to ÖNORM EN 16247-2. to ensure at least:· Compliances with all current Austrian norms and standards,· system availability and reliability to supply heat energy to the building,· system regulation to the new heat load after building renovation,· System efficiency also for the new heat load after building renovation.	Heat source for buildings equipped with a decentralized heating system	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME		Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems according to MK 382. to ensure at least:· Compliances with all current Polish norms and standards,· system availability and reliability to supply heat energy to the building,· system regulation to the new heat load after building renovation,· System efficiency also for the new heat load after building renovation.	Heat source for buildings equipped with a decentralized heating system	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5. to ensure at least:· Compliances with all current Latvian norms and standards,· system availability and reliability to supply heat energy to the building,· system regulation to the new heat load after building renovation,· System efficiency also for the new heat load after building renovation.	Heat source for buildings equipped with a decentralized heating system	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems. to ensure at least:· Compliances with all current Slovak norms and standards,· system availability and reliability to supply heat energy to the building,· system regulation to the new heat load after building renovation,· System efficiency also for the new heat load after building renovation.
Ventilation	Mechanical exhaust ventilation systems with advance control system (like for example CO ₂ control system, moisture control dumpers, etc.). Cleaning and repair of ventilation shafts.	Ventilation	Alternative: Mechanical exhaust ventilation systems with advance control system (like for example CO ₂ control system, moisture control dumpers, etc.). Cleaning and repair of ventilation shafts.			ok		Ventilation	Mechanical exhaust ventilation systems with advance control system (like for example CO ₂ control system, moisture control dumpers, etc.) according to SR EN 16798-5-1: 2018. Cleaning and repair of ventilation shafts.	Ventilation	Mechanical exhaust ventilation systems with advance control system (like for example CO ₂ control system, moisture control dumpers, etc.). Cleaning and repair of ventilation shafts.

Additional/new measures:	Other technically and economically justified improvements leading to measurable energy savings and energy costs may be used
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Table 2. Technical EE Measures EPC++

Energy Efficiency Improvement Measures (LV)	EPC++ (LV)	Energy Efficiency Improvement Measure (AT)	AUSTRIA EPC++	Energy Efficiency Improvement Measure (BG)	BULGARIA EPC++ (BG)	Energy Efficiency Improvement Measure	POLAND EPC++	Energy Efficiency Improvement Measure	ROMANIA EPC++	Energy Efficiency Improvement Measure	SLOVAKIA EPC++
Thermal insulation of the exterior walls based on one of the following methods [1]: · External thermal insulation composite systems with rendering according to ETAG 004 guidelines. The finishing plaster has to be silicone based, · Ventilated facades system;	According or exceeding LBN 002-15 and not less than 20cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK (or a solution reaching at least an equivalent U-value).	Thermal insulation of the exterior walls based on one of the following methods: · External thermal insulation composite systems with rendering according to klimaaktiv criteria or passive house standards · Ventilated facades system;	Thermal insulation of the exterior walls based on Passive House Standards (max U-value: 0,20 W/m²K) or klimaaktiv GOLD standard; Installation of windows and doors in exterior walls according to ÖNORM B 5320	Thermal insulation of the exterior walls	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	ok		Thermal insulation of the exterior walls based on one of the following methods [1]: · External thermal insulation composite systems with rendering according to ETAG 004 guidelines. The finishing plaster has to be silicone based, · Ventilated facades system;	According or exceeding SR EN ISO 10456:2008 and not less than 20cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK (or a solution reaching at least an equivalent U-value).	Thermal insulation of the exterior walls based on one of the following methods [1]: · External thermal insulation composite systems with rendering according to ETAG 004 guidelines. The finishing plaster has to be silicone based, · Ventilated facades system;	The thickness of the thermal insulation with declared thermal conductivity of at least 0.037 W/mK has to be specified to meet the requirements of the U-value equal or less than 0.22 W/(m²K) to comply STN 73 0540-2/Z1.
Thermal insulation of the technical attics (cold roof) If there is no attic, thermal insulation of the roof deck (warm roof)	At least 30cm thermal insulation with declared thermal conductivity of at least 0.042 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low attics ceilings (cold roof).	Thermal insulation of the technical attics (cold roof) If there is no attic, thermal insulation of the roof deck (warm roof)	Thermal insulation of the roof/ceiling based on Passive House Standards (max U-value: 0,15 W/m²K) or klimaaktiv GOLD standard; Installation of windows in exterior roof according to ÖNORM B 5320	Thermal insulation of the technical attics	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	ok		Thermal insulation of the technical attics (cold roof) If there is no attic, thermal insulation of the roof deck (warm roof)	At least 30cm thermal insulation with declared thermal conductivity of at least 0.042 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low attics ceilings (cold roof).	Thermal insulation of the technical attics (cold roof) If there is no attic, thermal insulation of the roof deck (warm roof)	The thickness of the thermal insulation with declared thermal conductivity of at least 0.037 W/mK has to be specified to meet the requirements of the U-value equal or less than 0.15 W/(m²K) to comply STN 73 0540-2/Z1.
Thermal insulation of the basement ceilings	According or exceeding LBN 002-15 and not less than 15cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK or a solution reaching at least an equivalent U-value. 'Exception only for technical limitations like low ceilings.	Thermal insulation of the basement ceilings	Thermal insulation of the basement ceiling based on Passive House Standards (max U-value: 0,20 W/m²K) or klimaaktiv GOLD standard. Exception only for technical limitations like low ceilings.	Thermal insulation of the basement ceilings	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	ok		Thermal insulation of the basement ceilings	According or exceeding SR EN ISO 10456:2008 and not less than 15cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK or a solution reaching at least an equivalent U-value. 'Exception only for technical limitations like low ceilings.	Thermal insulation of the basement ceilings	The thickness of the thermal insulation with declared thermal conductivity of at least 0.037 W/mK has to be specified to meet the requirements of the U-value equal or less than 0.85 W/(m²K) to comply STN 73 0540-2/Z1.
External thermal and hydro insulation of the plinth wall	According or exceeding LBN 002-15 and not less than 7cm of water proof thermal insulation (like XPS or similar) for at least 0.8m down from the grade level for unheated basement and full depth of the basement wall for heated basement. Suitable cleaning of the	External thermal and hydro insulation of the plinth wall	Thermal insulation of the plinth wall based on Passive House Standards (max U-value: 0,20 W/m²K) or klimaaktiv GOLD standard	External thermal and hydro insulation of the plinth wall	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	M	At least 8cm of water proof thermal insulation (like XPS or similar) for at least 0.8m down from the grade level for unheated basement and full depth of the basement wall for heated basement. Suitable cleaning of the walls, application of hydro	External thermal and hydro insulation of the plinth wall	According or exceeding SR EN ISO 10456:2008 and not less than 7cm of water proof thermal insulation (like XPS or similar) for at least 0.8m down from the grade level for unheated basement and full depth of the basement wall for heated basement.	External thermal and hydro insulation of the plinth wall	At least 7 cm of water proof thermal insulation (like XPS or similar) for at least 0.8 m down from the grade level for unheated basement and full depth of the basement wall for heated basement. Suitable cleaning of the walls, application of hydro insulation and drainage system.

	walls, application of hydro insulation and drainage system.						insulation and drainage system		Suitable cleaning of the walls, application of hydro insulation and drainage system.		
Thermal insulation of inner walls between heated and unheated areas (like staircase inner walls on the technical attic area or staircase inner walls going to the basement, or unheated entrance halls with flats)	At least 7cm thermal insulation with thermal conductivity of at least 0.037 W/mK.	Thermal insulation of inner walls between heated and unheated areas (like staircase inner walls on the technical attic area or staircase inner walls going to the basement, or unheated entrance halls with flats)	Thermal insulation of the walls based on OIB Directive 6 (max U-value: 1,30 W/m²K)	Thermal insulation of inner walls between heated and unheated areas	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	ok	provided the fire regulations and requirements for minimum widths of escape routes permit	Thermal insulation of inner walls between heated and unheated areas (like staircase inner walls on the technical attic area or staircase inner walls going to the basement, or unheated entrance halls with flats)	At least 7cm thermal insulation with thermal conductivity of at least 0.037 W/mK.	Thermal insulation of inner walls between heated and unheated areas (like staircase inner walls on the technical attic area or staircase inner walls going to the basement, or unheated entrance halls with flats)	The thickness of the thermal insulation with declared thermal conductivity of at least 0.037 W/mK has to be specified to meet the requirements of the U-value equal or less than 1.2 W/(m²K) to comply STN 73 0540-2/Z1.
Replacement of windows	All windows of the building to comply or exceeding LBN 002-15 and installed minimizing thermal bridges (for example embedded in the thermal insulation layer).	Replacement of windows	Replacement of the windows with Passive House windows (U-value max 0,8 W/m²K) triple glazed with highly insulating frame (e.g. 7-chamber construction with centre seal for plastic frame depending on the material or wooden/Alu window frames) constructed in the isolation level	Replacement of windows	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 11	M	Replacement of all windows of the building to comply with WT2021, except existing windows with U-value below 1.8W/m²K	Replacement of windows	All windows of the building to comply or exceeding SR EN ISO 12567-1:2011 and installed minimizing thermal bridges (for example embedded in the thermal insulation layer).	Replacement of windows	Replacement of all windows of the building to comply with STN 73 0540-2/Z1, except existing windows with U-value equal or less than 1.0 W/(m²K).
Loggias	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. Recommended thickness to comply with LBN 002-15, lower values based on technical/geometrical limitations. Thermal conductivity of at least 0.037 W/mK Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls. U-values according to LBN 002-15	Loggias	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. U-Values based on technical/geometrical limitations. Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls. U-values according to Passivehouse standards	Loggias	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10 & 11	M	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. Recommended thickness of thermal insulation according to WT2021, lower values based on technical/geometrical limitations. Thermal conductivity of at least 0.037 W/mK Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls or full glass wall. U-values according to WT2021	Loggias	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. Recommended thickness to comply with SRE EN ISO 10456:2008, lower values based on technical/geometrical limitations. Thermal conductivity of at least 0.037 W/mK Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls. U-values according to SR EN ISO 12567-1:2011	Loggias	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. The thickness of the thermal insulation with declared thermal conductivity of at least 0.037 W/mK has to be specified to meet the requirements of the U-value equal or less than 0.22 W/(m²K) to comply STN 73 0540-2/Z1. Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls. U-values equal or less than 1.0 W/(m²K) according to STN 73 0540-2/Z1

External doors	Replacement of external doors to comply or exceeding LBN 002-15All exterior door equipped with door closer springs	External doors	Replacement of the doors with Passive House windows (U-value max 0,8 W/m²K) with highly insulating frame (e.g. 7-chamber construction with centre seal for plastic frame depending on the material or wooden/Alu window frames) constructed in the isolation level	External doors	Exceeding Ordinance № E-PД-04-2 / 22.01.2016; Table 10	M	Replacement of all exterior doors of the building to comply with WY2021, except existing doors with U-value below 2.2W/m²K. In this later case door sealing gasket and closing springs/mechanisms have to be checked. To be replaced or repaired if damaged, malfunctioning, or missing.All exterior door equipped with door closer springs.	External doors	Replacement of external doors to comply or exceeding SR EN ISO 12567-1:2011All exterior door equipped with door closer springs.	External doors	Replacement of all exterior doors of the building to comply with STN 73 0540-2/Z1, except existing doors with U-value below 1.0 W/(m²K). In this later case door sealing gasket and closing springs/mechanisms have to be checked. To be replaced or repaired if damaged, malfunctioning, or missing.All exterior door equipped with door closer springs.
Space heating system	Installation of a new space heating system based on best and proved available technologies, reaching high energy efficiency level and low operational and maintenance costs. All elements of the existing space heating system are replaced, and the new heating systems is configured as a two pipe system.	Space heating system	• Replacement of heat distribution pipes as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to ÖNORM EN 16247-2, • Technical insulation of all distribution pipes in the basement and attic of the building (unheated area) according to Passive House standards, • Installation of radiator thermostatic valves on each heating element, • Replacement of heating element as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to ÖNORM EN 16247-2, • Installation of balancing valves and balancing of the heating system, • An assessment for the installation of individual heat meters according to ÖVE/ÖNORM EN 50491-11 . • Installation of a ventilation system to provide hygienic indoor air	Space heating system	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME	M	In justified cases installation of a new space heating system based on best and proved available technologies, reaching high energy efficiency level and low operational and maintenance costs. All elements of the existing space heating system are replaced and the new heating systems is configured as a two pipe system.	Space heating system	Installation of a new space heating system based on best and proved available technologies, reaching high energy efficiency level and low operational and maintenance costs. All elements of the existing space heating system are replaced, and the new heating systems is configured as a two pipe system.	Space heating system	Installation of a new space heating system based on best and proved available technologies, reaching high energy efficiency level and low operational and maintenance costs. All elements of the existing space heating system are replaced, and the new heating systems is configured as a two pipe system.
Centralized domestic hot water system (if existing)	· disconnection of the towel heaters from the domestic hot water loop and connection to the space heating loop · installation of new centralized domestic hot water system according to LBN 221-15 and based	Centralized domestic hot water system (if existing)	Minimum measures: • disconnection of the towel heaters from the domestic hot water loop and connection to the space heating loop, • installation of new centralized domestic hot water system according	Centralized domestic hot water system (if existing)	As prescribed in the Investment Grade Energy Audit; In accordance to	M	Minimum measures: · disconnection of the towel heaters from the domestic hot water loop and connection to the space heating loop, · installation of new centralized domestic hot water system according	Centralized domestic hot water system (if existing)	· disconnection of the towel heaters from the domestic hot water loop and connection to the space heating loop · installation of new centralized domestic hot water system, · installation of a water	Centralized domestic hot water system (if existing)	Minimum measures: · installation of new centralized domestic hot water system, · installation of a water softening system in case of hard water (>150mg/l).

	on a new configuration aiming at the minimization of heat circulation losses, · installation of a water softening system in case of hard water (>150mg/l).		to OIB Directive 6, • Use of renewable energy sources for domestic hot water according to OIB Directive 6		Ordinance № 15 / 22.01.2016 of MRRD & ME		to WT2021, · installation of a water softening system in case of hard water (>150mg/l?).		softening system in case of hard water (>150mg/l).		
Heat substation for buildings connected to a district heating system	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems according to MK 382. The substation must as minimum be: · With independent connection, · With automatic temperature compensation, · With high efficiency circulation pumps. In particular the space heating circulation pump must ensure variable speed operation, · With state of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.).	Heat substation for buildings connected to a district heating system	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems according to ÖNORM EN 16247-2. The substation must as minimum be: · With independent connection, · With automatic temperature compensation, · With high efficiency circulation pumps. In particular the space heating circulation pump must ensure variable speed operation, · With state of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.).	Heat substation for buildings connected to a district heating system	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME	M	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems according to MK 382. The substation must as minimum be: · With independent connection,likwidacja węzłów grupowych? - do wyjaśnienia) · With automatic temperature compensation, · With high efficiency circulation pumps. In particular the space heating circulation pump must ensure variable speed operation, · With state of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.) according to WT2021.	Heat substation for buildings connected to a district heating system	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems. The substation must as minimum be: · With independent connection, · With automatic temperature compensation, · With high efficiency circulation pumps. In particular the space heating circulation pump must ensure variable speed operation, · With state of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.).	Heat substation for buildings connected to a district heating system	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems. The substation must as minimum be: · With independent connection, · With automatic temperature compensation, · With high efficiency circulation pumps. In particular the space heating circulation pump must ensure variable speed operation, · With state of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.).

Heat source for buildings equipped with a decentralized heating system	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems according to MK 382. to ensure at least: - Compliances with all current Latvian norms and standards, - system availability and reliability to supply heat energy to the building, - system regulation to the new heat load after building renovation, - System efficiency also for the new heat load after building renovation. In case of replacement of the heat generator: - the use and integration of renewable energy systems, including an assessment for the use of solar heating system, heat pumps, wood chips and wood pellets; - the proposed solution must result an overall high energy efficiency.	Heat source for buildings equipped with a decentralized heating system	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems according to ÖNORM EN 16247-2. to ensure at least: - Compliances with all current Latvian norms and standards, - system availability and reliability to supply heat energy to the building, - system regulation to the new heat load after building renovation, - System efficiency also for the new heat load after building renovation. In case of replacement of the heat generator: - the use and integration of renewable energy systems, including an assessment for the use of solar heating system, heat pumps, wood chips and wood pellets; - the proposed solution must result an overall high energy efficiency.	Heat source for buildings equipped with a decentralized heating system	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME	M	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems according to MK 382. to ensure at least: - Compliances with all current Polish norms and standards, - system availability and reliability to supply heat energy to the building, - system regulation to the new heat load after building renovation, - System efficiency also for the new heat load after building renovation. In case of replacement of the heat generator: - the use and integration of renewable energy systems, including an assessment for the use of solar heating system, heat pumps, wood chips and wood pellets; - The proposed solution in the field of heat sources must ensure high energy efficiency in general and meet the applicable requirements related to the level of pollutant emissions.	Heat source for buildings equipped with a decentralized heating system	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems. to ensure at least: - Compliances with all current Romanian norms and standards, - system availability and reliability to supply heat energy to the building, - system regulation to the new heat load after building renovation, - System efficiency also for the new heat load after building renovation. In case of replacement of the heat generator: - the use and integration of renewable energy systems, including an assessment for the use of solar heating system, heat pumps, wood chips and wood pellets; - the proposed solution must result an overall high energy efficiency.	Heat source for buildings equipped with a decentralized heating system	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems. to ensure at least: - Compliances with all current Slovak norms and standards, - system availability and reliability to supply heat energy to the building, - system regulation to the new heat load after building renovation, - System efficiency also for the new heat load after building renovation. In case of replacement of the heat generator: - the use and integration of renewable energy systems, including an assessment for the use of solar heating system, heat pumps, wood chips and wood pellets; - the proposed solution must result an overall high energy efficiency.
Ventilation	Mechanical ventilation system with heat recovery.	Ventilation	Mechanical ventilation system with heat recovery (80-90% heat recovery).	Ventilation		ok		Ventilation	Mechanical ventilation system with heat recovery.		

Additional/new measures:	Other technically and economically justified improvements leading to measurable energy savings and energy costs may be used	Installation of renewable energy resources (e.g., solar thermal or PV plants)	Use of renewable energy resources according to the OIB Directive 6
		Balconies	Reconstruction of balconies with insulated construction e.g. Isokorb (thermally isolated from the main structure)

Table 3. Technical Additional Measures EPC+

Additional Measure (LV)	EPC+ (LV)	Additional Measure (AT)	AUSTIRA EPC+	Additional Measure	BULGARIA EPC+	Additional Measure	POLAND EPC+	Additional Measure	ROMANIA EPC+	Additional Measure	SLOVAKIA EPC+
Staircases	Cosmetic renovation of the staircases including repairs to the plaster, repainting, replacement/repair of staircase railings	Staircases	Cosmetic renovation of the staircases including repairs to the plaster, repainting, replacement/repair of staircase railings	Staircases	Cosmetic renovation of the staircases including repairs to the plaster, repainting, replacement/repair of staircase railings	ok		Staircases	Cosmetic renovation of the staircases including repairs to the plaster, repainting, replacement/repair of staircase railings	Staircases	Cosmetic renovation of the staircases including repairs to the plaster, repainting, replacement/repair of staircase railings
Staircases lighting system	Basic repairs of the staircase lighting system.	Staircases lighting system	Basic repairs of the staircase lighting system.	Staircases lighting system	Basic repairs of the staircase lighting system.	ok		Staircases lighting system	Basic repairs of the staircase lighting system.	Staircases lighting system	Basic repairs of the staircase lighting system.
Entrance halls	Cosmetic renovation of the entrance hall of the building.	Entrance halls	Cosmetic renovation of the entrance hall of the building.	Entrance halls	Cosmetic renovation of the entrance hall of the building.	ok		Entrance halls	Cosmetic renovation of the entrance hall of the building.	Entrance halls	Cosmetic renovation of the entrance hall of the building.
Trash rooms	Cleaning the trash room of the building.	Trash rooms	Cleaning the trash room of the building.	Trash rooms	Cleaning the trash room of the building.	ok		Trash rooms	Cleaning the trash room of the building.	Trash rooms	Cleaning the trash room of the building.
Cold water system	Optional: installation of a new cold-water system.	Cold water system	Optional: installation of a new cold-water system.	Cold water system	Optional: installation of a new cold-water system.	ok		Cold water system	Optional: installation of a new cold-water system.	Cold water system	Optional: installation of a new cold-water system.
Water canalization	Optional: installation of a new canalization water system	Water canalization	Optional: installation of a new canalization water system	Water canalization	Optional: installation of a new canalization water system	ok		Water canalization	Optional: installation of a new canalization water system	Water canalization	Optional: installation of a new canalization water system
Side walks	Sidewalk of the buildings are simply restored after thermal insulation of the plinth, with particular attention to rain-water drainage and rain-off water	Side walks	Sidewalk of the buildings are simply restored after thermal insulation of the plinth, with particular attention to rain-water drainage and rain-off water	Side walks	Sidewalk of the buildings are simply restored after thermal insulation of the plinth, with particular attention to rain-water drainage and rain-off water	ok		Side walks	Sidewalk of the buildings are simply restored after thermal insulation of the plinth, with particular attention to rain-water drainage and rain-off water	Side walks	Sidewalk of the buildings are simply restored after thermal insulation of the plinth, with particular attention to rain- water drainage and rain-off water
Suspended balcony	Requested structural measures and new railing / fences.	Suspended balcony	Requested structural measures and new railing / fences.	Suspended balcony	Requested structural measures and new railing / fences.	ok		Suspended balcony	Requested structural measures and new railing / fences.	Suspended balcony	Requested structural measures and new railing / fences.
Exterior lighting	Repair of the lighting system at entrance halls.	Exterior lighting	Repair of the lighting system at entrance halls.	Exterior lighting	Repair of the lighting system at entrance halls.	ok		Exterior lighting	Repair of the lighting system at entrance halls.	Exterior lighting	Repair of the lighting system at entrance halls.

Table 4. Technical Additional Measures EPC++

Additional Measure (LV)	EPC++ (LV)	Additional Measure (AT)	AUSTRIA EPC++	Additional Measure	BULGARIA EPC++	Additional Measure	POLAND EPC++	Additional Measure	ROMANIA EPC++	Additional Measure	SLOVAKIA EPC++
Staircases	The staircases are renovated including repairs to the plaster, repainting, replacement/repair of staircase railings	Staircases	The staircases are renovated including repairs to the plaster, repainting, replacement/repair of staircase railings	Staircases	The staircases are renovated including repairs to the plaster, repainting, replacement/repair of staircase railings	ok		Staircases	The staircases are renovated including repairs to the plaster, repainting, replacement/repair of staircase railings	Staircases	The staircases are renovated including repairs to the plaster, repainting, replacement/repair of staircase railings
Staircases lighting system	New high efficient staircase lighting system using LED technologies, motion and/or daylight control sensors.	Staircases lighting system	New high efficient staircase lighting system using LED technologies, motion and/or daylight control sensors.	Staircases lighting system	New high efficient staircase lighting system using LED technologies, motion and/or daylight control sensors.	ok		Staircases lighting system	New high efficient staircase lighting system using LED technologies, motion and/or daylight control sensors.	Staircases lighting system	New high efficient staircase lighting system using LED technologies, motion and/or daylight control sensors.
Entrance halls	The entrance hall of the building is renovated.	Entrance halls	The entrance hall of the building is renovated.	Entrance halls	The entrance hall of the building is renovated.	ok		Entrance halls	The entrance hall of the building is renovated.	Entrance halls	The entrance hall of the building is renovated.
Trash rooms	Cosmetic renovation of the trash room of the building	Trash rooms	Cosmetic renovation of the trash room of the building	Trash rooms	Cosmetic renovation of the trash room of the building	ok		Trash rooms	Cosmetic renovation of the trash room of the building	Trash rooms	Cosmetic renovation of the trash room of the building
Cold water system	Installation of a new cold-water system.	Cold water system	Installation of a new cold-water system.	Cold water system	Installation of a new cold water system.	ok		Cold water system	Installation of a new cold water system.	Cold water system	Installation of a new cold water system.
Water canalization	Installation of a new canalization water system	Water canalization	Installation of a new canalization water system	Water canalization	Installation of a new canalization water system	ok		Water canalization	Installation of a new canalization water system	Water canalization	Installation of a new canalization water system
Side walks	New sidewalk of the building, after thermal insulation of the plinth with particular attention to rain-water drainage and rain-off water.	Side walks	New sidewalk of the building, after thermal insulation of the plinth with particular attention to rain-water drainage and rain-off water.	Side walks	New sidewalk of the building, after thermal insulation of the plinth with particular attention to rain- water drainage and rain-off water.	ok		Side walks	New sidewalk of the building, after thermal insulation of the plinth with particular attention to rain-water drainage and rain-off water.	Side walks	New sidewalk of the building, after thermal insulation of the plinth with particular attention to rain- water drainage and rain-off water.
Suspended balcony	Requested structural measures and new railing and fences.	Suspended balcony	Requested structural measures and new railing and fences.	Suspended balcony	Requested structural measures and new railing and fences.	ok		Suspended balcony	Requested structural measures and new railing and fences.	Suspended balcony	Requested structural measures and new railing and fences.
Exterior lighting	New lighting system for entrance hall. Optional: Installation of exterior lighting system, like façade integrated LED lighting system.	Exterior lighting	New lighting system for entrance hall. Optional: Installation of exterior lighting system, like façade integrated LED lighting system.	Exterior lighting	New lighting system for entrance hall. Optional: Installation of exterior lighting system, like façade integrated LED lighting system.	ok		Exterior lighting	New lighting system for entrance hall. Optional: Installation of exterior lighting system, like façade integrated LED lighting system.	Exterior lighting	New lighting system for entrance hall. Optional: Installation of exterior lighting system, like façade integrated LED lighting system.

Additional/new measures:	
Bicycle parking	providing bicycle parking area for the tenants
Electro installation for the electric vehicles	Providing electrical connection for e-cars
Thermal comfort in summer	Installation of shutters for the windows especially for the windows facing south to protect overheating in summer
Air conditioning	Installation of central or decentral cooling devices for the summer
Smart metering	Installation of metering devices for monitoring activities or for SRI
Smart gadgets	Installation of smart devices for the apartments e.g. Locking systems, regulating room temperture
Ecology of the building material	'ecological insolation and construction material, recycling of the construction elements and material
Green building	Green roofs and walls (inside and outside)
Accessesibility	Installation of elevators, ramps
Airtightness	Blower-door tests

Table 5. Structural Measures

STRUCTURAL MEASURES	STATUS: OK, N/A, M	AUSTRIA MODIFIED MEASURE	STATUS: OK, N/A, M	BULGARIA MODIFIED MEASURE	STATUS: OK, N/A, M	POLAND MODIFIED MEASURE	STATUS: OK, N/A, M	ROMANIA MODIFIED MEASURE	STATUS: OK, N/A, M	SLOVAKIA MODIFIED MEASURE
Roof has been carefully inspected and refurbished addressing all structural problems identified during the phase of civil engineering appraisal. The roof should satisfy all aspects of LVS EN ISO 13788:2002 A, in particular for heated attic with warm deck thermal insulation. Gutters should be restored/renovated.		Roof has been carefully inspected and refurbished addressing all structural problems identified during the phase of civil engineering appraisal. The roof should satisfy all aspects of ÖNORM EN ISO 13788, in particular for heated attic with warm deck thermal insulation. Gutters should be restored/renovated.	M	In accordance to Ordinance № 15 / 28.12.2016 of MRRD	M	Roof has been carefully inspected and refurbished addressing all structural problems identified during the phase of civil engineering appraisal. The roof should satisfy all aspects of WT2021 in particular for heated attic with warm deck thermal insulation. Gutters should be restored/renovated. The roof covering should ensure full tightness ensuring protection of the thermal insulation material during the contract period.	M	Roof has been carefully inspected and refurbished addressing all structural problems identified during the phase of civil engineering appraisal. The roof should satisfy all aspects of SRN EN ISO 10456:2008, in particular for heated attic with warm deck thermal insulation. Gutters should be restored/renovated.	M	Roof has been carefully inspected and refurbished addressing all structural problems identified during the phase of civil engineering appraisal. The roof should satisfy all aspects of STN EN ISO 13788:2003-08, in particular for heated attic with warm deck thermal insulation. Gutters should be restored/renovated.
The substrate for the application of thermal insulation on the exterior wall meets the necessary air tightness and mechanical strength requirements. This means that all joints between panels and/or bricks are adequately refurbished and repaired including the application of sealing membranes, specialist plaster and mechanical reinforcement of the structures, like steel reinforcing cages. Measures to be implemented according to the civil engineering appraisal.	ok		M	In accordance to Ordinance № 15 / 28.12.2016 of MRRD	M	The substrate for the application of thermal insulation on the exterior wall meets the necessary air tightness and mechanical strength requirements. This means that all joints between panels and/or bricks are adequately refurbished and repaired including the application of sealing fillers and sealing compounds, specialist plaster and mechanical reinforcement of the structures, like steel reinforcing cages. Measures to be implemented according to the civil engineering appraisal and detailed solutions in accordance with the project documentation.	OK		OK	The substrate for the application of thermal insulation on the exterior wall meets the necessary air tightness and mechanical strength requirements. This means that all joints between panels and/or bricks are adequately refurbished and repaired including the application of sealing membranes, specialist plaster and mechanical reinforcement of the structures, like steel reinforcing cages. Measures to be implemented according to the civil engineering appraisal.
Assessment of the foundation walls and building static structure and implementation of remedies as recommended in the civil engineering appraisal.	ok		M	In accordance to Ordinance № 15 / 28.12.2016 of MRRD	ok		OK		OK	Assessment of the foundation walls and building static structure and implementation of remedies as recommended in the civil engineering appraisal.
Assessment of suspended balconies and implementation of remedies as recommended in the civil engineering appraisal.	ok		M	In accordance to Ordinance № 15 / 28.12.2016 of MRRD	ok		OK		OK	Assessment of suspended balconies and implementation of remedies as recommended in the civil engineering appraisal.
Removal of hazardous material, like asbestos, according to health and safety standards.	ok		OK		M	Removal of hazardous material, like asbestos, according to health and safety standards according to the specific provisions regarding the principles of asbestos utilization in force in Poland	OK		OK	Removal of hazardous material, like asbestos, according to health and safety standards.
Assessment of the lightning protection system of the building according with LBN 261-15.		Assessment of the lightning protection system of the building according with ÖVE/ÖNORM EN 62305-3.	M	In accordance to Ordinance № 15 / 28.12.2016 of MRRD		Assessment and relocation of the lightning protection system of the building.	M	Assessment of the lightning protection system of the building according with SR EN 60529.	M	Assessment of the lightning protection system of the building according with STN EN 62305.

Table 6. Forfeiting Criteria

FORFAITING CRITERIA (LABEEF)	STATUS: OK, N/A, M	AUSTRIA MODIFIED CRITERION	STATUS: OK, N/A, M	BULGARIA MODIFIED CRITERION	STATUS: OK, N/A, M	MODIFIED CRITERION	STATUS: OK, N/A, M	ROMANIA MODIFIED CRITERION	STATUS: OK, N/A, M	SLOVAKIA MODIFIED CRITERION
As financial ratios for LABEEF are met by pledged cashflows resulting from Energy Performance Contracts, the forfeiting transaction has to comply with the criteria and model set in Annex V of these Rules	ok		M	Subject to clarification of the legal status of Forfeiting Agreement related to receivables paid by energy savings in Bulgaria (see legal analysis)	ok		OK		N/A	Financial criteria- cannot be verified from legal point of view
Financial data and the energy data of each EPC are acquired and documented through the Platform's monitoring module system (www.sharex.lv)	ok		OK		ok		OK		N/A	Financial criteria- cannot be verified from legal point of view
Building insurance policy, which protects against the costs incurred by damage resulting from: Fire, explosions, floods and storms, other natural disasters, third party malicious damages, damage from collisions, for the full value of the renovation works valid for not less than three (3) years following the date of execution of the insurance policy and renewable for the full Energy Performance Contract period concluded under terms and conditions incorporating relevant industry standard provisions with an insurer rated minimum A+ according to relevant reputable ratings applicable to Latvia along with documents confirming payment of the insurance premium.	ok		OK		ok		N/A	We recommend the insurance for the full value of the renovation works valid for the contract period.	N/A	We recommend the insurance for the whole reconstruction period
No Ancillary Risk Transfer: LABEEF shall not assume any risk related to: - Changes in commodity or any other fuel prices. This risk, based on the provision of the Energy Performance Contract, is taken by the apartment owner; - Actual savings following the Energy Performance Contract and any payment adjustment or dispute related to it. This risk based on the Energy Performance Contract is taken by the ESCO; - Technology installed or in any other way applied. This risk, based on the provision of the Energy Performance Contract, is taken by the ESCO; - Performance risks provided by any other third party involved in the Renovation Works or in the operation and maintenance of the building as indicated in the provision of the Energy Performance Contract are taken by the ESCO; - Performance risks provided by any other third party involved in the Renovation Works or in the operation and maintenance of the building as indicated in the provision of the Energy Performance Contract are taken by the ESCO.	ok		OK		ok		OK		OK	
Execution of the Renovation Works, Operation and Maintenance of the Building, general administration, billing, is set in according to the Energy Performance Contract and Forfeiting Agreement and either managed by the ESCO or by the Manager or by the a Collecting Agent for the full duration of the Energy Performance Contract	ok		M	Subject to clarification of the legal status of Forfeiting Agreement related to receivables paid by energy savings in Bulgaria (see legal analysis)	ok		OK		OK	

Appendix II: Detailed Conclusions from the analysis of LABEEF Guidelines in the context of the legal framework of partner countries

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1. Bulgaria

1.1. Preface

This analysis has been by Econoler SA as part of FinEERGo-Dom WP4, activity 4.1 and aims to lay out the specifics of the legal framework in Bulgaria that regulates the overall energy efficiency (EE) market and specifically the Energy Performance Contracting (EPC) segment. The report consists of three parts:

- PART ONE deals with the regulatory framework in the field of energy performance contracts with the subject of implementing energy efficiency measures in residential buildings put into operation, outlining the main legislation acts at European and national level.
- PART TWO addresses issues related to the implementation of the LABEEF financial model in Bulgaria, the conclusion of cession contracts with subject receivables under ESCO contract and the analysis of relevant case law.
- The THIRD PART proposes legislative amendments aimed at facilitating the conclusion and implementation of energy performance contracts with the subject of energy saving measures in buildings.

1.2. Part One: Legal regulation of the energy performance contracts

1.2.1. Bulgarian legislation in the field of EPC

This analysis addresses the following relevant legal framework /**Legal Acts**/:

- Energy Efficiency Act /EEA/;
- Public Procurement Act /PPA/;
- Spatial Development Act /SDA/;
- Property Act /PA/;
- Condominium Ownership Management Act /COMA/

Regulations taken into account:

1. In terms of implementation of the EEA:

- Regulation No 7 of 2004 on the Energy Efficiency in Buildings;
 - Regulation No. E-ПД-04-1 of 22 January 2016 on energy efficiency audits, verification and evaluation of energy savings in buildings;
 - Regulation No. E-ПД-04-1 of 03.01.2018 on the circumstances subject to entry in the registers under the Energy Efficiency Act, the entry and receipt of information from these registers, the conditions and the procedure for acquiring qualification by energy efficiency consultants;
 - Regulation No. E-ПД-04-1 of 14.03.2019 on the conditions and procedure for carrying out energy efficiency audits of heating installations with boilers under Art. 50, para. 1 and the air-conditioning systems under Art. 51, para. 1, the conditions and the procedure for the preparation of the energy savings evaluation, as well as the conditions and the procedure for the creation, maintenance and use of the database under Art. 52 of the Energy Efficiency Act;
 - Regulation № E-ПД-04-2 of 22.01.2016 on the indicators of energy consumption and energy performance of buildings;
 - Regulation No. E-ПД-04-3 of 04.05.2016 on the eligible measures for realizing energy savings in end-user consumption, the ways of verifying the achieved energy savings, the requirements to the methods for their evaluation and the ways of confirming them;
 - Regulation on the methodologies for setting the national energy efficiency target and for setting the overall cumulative target, the introduction of a scheme for energy savings obligations, and the allocation of individual energy savings targets among obligated entities;
 - Regulation No. RD-16-347 of 2.04. 2009, on the terms and conditions for determining the amount and payment of the planned funds under energy performance contracts, leading to energy savings in state-owned and/or municipal property.
2. In terms of implementation of the SDA:
- Regulation No. 4 of 2001 on the scope and content of investment projects;
 - Regulation No. 2 of 2003 on the commissioning of the construction works in the Republic of Bulgaria and minimum warranty periods for completed construction and assembly works, facilities and construction sites;
 - Regulation No. 3 of 2003 on the drafting of acts and protocols during construction;
 - Regulation No. 5 of 2006 on Technical Passports of construction sites, rules and design Regulations.
3. In terms of the application of the COMA:
- Regulation No. RD-02-20-8 of 11.05. 2012 on the establishment and maintenance of a public register of the associations of owners of condominium buildings.

General provisions for buildings in operation

Both the DEE and the Energy Performance of Buildings Directive have been transposed into the Bulgarian legislation.

The main legislative act in the field of ESCO contracting is the Energy Efficiency Act. The EEA settles relations in connection with the conclusion and implementation of energy performance agreements. On the basis of the EEA, a regulatory framework for its implementation has been developed.

The special regulations are contained in other legislative acts that develop the legal framework in a sectoral or specific functional area, and their task is to create and / or develop the basic provisions under the Energy Efficiency Act, which have to deal with the use of the ESCO contracts as follows:

- pre-contractual relations - energy efficiency audit /EE audit/;
- construction process in implementing energy efficiency improvement measures.

Definition of an EPC

Art. 72, para. 1 of the Energy Efficiency Act introduces **the legal definition of an energy performance contract as a type of energy efficiency promotion scheme**: *Energy performance contracts (ESCO contracts) aim at implementing energy efficiency improvement measures in buildings¹¹, enterprises, industrial systems and outdoor artificial lighting systems, where the reimbursement of investments made and the payment of the contractor's remuneration due are made at the expense of realized energy savings.*

Another definition of the term is also given in Regulation No.ПД-16-347 of 02.04.2009 on the conditions and procedure for determining the amount and payment of the planned funds under ESCO -contracts leading to energy savings in buildings which are state and/or municipal property. Pursuant to paragraph 1, item 2 of the additional provisions of Regulation No. RD-16-347, an energy performance contract is a financial instrument for energy savings, whereby investments for the implementation of activities and measures for energy efficiency improvement are paid back from the agreed level of energy savings.

It is noteworthy that under **the EEA, the definition of an energy performance contract is narrower than the EED definition, and EEA definition puts additional requirements** in the following aspects:

- according to the Directive, the investments can be paid back either from a contractually guaranteed level of energy efficiency improvement, or from an agreed criterion on energy

¹¹ *Energy efficiency improvement measures are actions that lead to a verifiable, measurable or assessable increase of energy efficiency, both in the end energy consumption, as well as in the production, transmission and distribution of energy.*

Energy efficiency in buildings is the provision and maintenance of the regulatory parameters of the microclimate in buildings with minimal financial costs for energy.

performance (e.g. financial savings). According to the EEA, the investment and the contractor's remuneration are at the expense of the realized energy savings only;

- the Directive does not require or oblige the financing of the measures to be at the contractor's expense or to be provided by it. According to Art.73, para 4, the financing of the service is an obligation of the contractor - from its own funds, or by a third party ensured by the contractor. This creates a legal barrier for the Guaranteed savings ESCO model to be implemented in Bulgaria.

Contractual Parties

According to the provisions of the EEA, parties under ESCO contracts can be end customers, and contractors – energy service providers. Contractors are persons – commercial companies within the meaning of the Bulgarian Commercial Act, or within the meaning of the legislation of another Member State of the European Union or of another State party to the Agreement on the European Economic Area or of the Swiss Confederation - with a scope of activity involving energy performance contract services. The law does not introduce a permit or licensing regime regarding the contractors. It is sufficient for the contractor to be a commercial company with a scope of activity providing services under ESCO contracts. The only restriction imposed by the EEA is derived from Art. 72, para. 3, namely the contractors may not carry out energy efficiency audit and energy efficiency certification activities for the facility site contracted.

EPC content

The DEE introduces minimum content requirements only for guaranteed energy savings performance contracts concluded with **public sector** institutions or in related tender documents. The EEA imperatively indicates the form for validity of the contract – a written form, as well as its minimum content, regardless of the parties to it. Thus, in order for a contract to meet the definition of an energy performance contract, it must contain the following elements, according to the EEA (*mandatory content*):

1. the normalized energy consumption identified by an EE audit;
2. a list of the performance measures to be implemented, including the steps to be taken to implement the measures and, where appropriate, the costs involved;
3. the guaranteed energy savings, the procedure and deadlines for their realization after the implementation of the contractual measures, as well as provisions for measuring and verifying the achieved energy savings, the achieved guaranteed savings, quality checks and guarantees;
4. an obligation to fully implement the measures defined in the contract, and to document all changes made during the project;
5. a description of the financial structure of the project and the distribution of the achieved financial savings between the contract parties;
6. method of financing;
7. method of payment of the remuneration;

8. other clauses, incl. provisions relating to changes in the framework conditions regarding the content and outcome of the contract, the inclusion of equivalent requirements for each subcontract with third parties, as well as detailed information on the obligations of each of the contracting parties and penalties for breach thereof.

In addition, the services under the ESCO contract ensure the achievement of the statutory class of energy demand for the contracted building.

1.2.2. Energy Efficiency Audit - a mandatory pre-contractual element.

Mandatory pre-contractual element and commitment of the client in accordance with Art. 73 of the EEA, is to provide the contractor with a summary and a report from an energy efficiency audit of the building.

According to item 19, paragraph 1 of the additional provisions of the EEA, the energy audit is a process based on a systematic method for determining and evaluating the energy flows and costs in buildings, enterprises, industrial systems and external artificial lighting systems, defining the scope of techno - economic parameters of energy efficiency improvement measures. Therefore, **the audit is the basis on which the energy efficiency improvement measures applicable to the specific contract are defined, as well as the subsequent verification methodology of the energy savings is designed.**

The EE audit identifies the **energy performance features** of buildings in operation. The EE audit aims to: **i) determine the level of energy consumption, ii) to identify the specific options for reducing it, and iii) to recommend measures to improve energy efficiency.**

The legal framework regulating the rules and procedures for conducting energy efficiency audit of a building, industrial system or public lighting system includes:

1. **The EEA-** audit and verification for energy efficiency of buildings are envisaged as energy efficiency improvement activities.
2. **Regulation № E-PД-04-1 of 03.01.2018 on the circumstances subject to recording in the registers under the Energy Efficiency Act, the recording and receipt of information from these registers, the conditions and procedures for energy efficiency consultants qualification** regulates the activities of the companies or individuals allowed to carry out energy efficiency audits, verification of buildings, preparation of conformity assessments of investment projects and preparation of energy savings evaluation reports.
3. **Regulation № E-PД-04-1 of 22.01.2016 for energy efficiency audits, verification and evaluation of energy savings in buildings** determines the conditions and procedures for:
 - issuance of certificates for energy performance features;

- conducting energy efficiency audits for buildings and parts of buildings in operation, including the preparation of audit reports;
- issuance of certificates for energy performance features of buildings and parts of buildings in operation;
- preparing of an evaluation of the energy savings in buildings or parts thereof.
- The energy efficiency audit of a building in operation establishes the **normalized (basic) energy consumption** in its existing state at the time of the audit, determines the specific possibilities for reducing the normalized energy consumption while maintaining the minimum required microclimate, health and safety parameters. The EE audit report does also evaluate the proposed energy efficiency improvement measures from technical and economic perspective.

The EE audit in buildings is aimed at:

- identification of the building envelope structures and elements and systems for providing the microclimate
- measuring and calculating the energy performance features, analyzing and determining the potential for reducing the energy consumption;
- identification of measures for energy efficiency improvement;
- preparation of technical and economic evaluation of the energy efficiency improvement measures and the cost-benefit ratio;
- an assessment of the CO₂ emissions reduction potential as a result of implementation of the proposed energy efficiency improvement measures;
- analysis of the possibilities for use of energy from renewable sources and their technical and economic feasibility;

The building audit covers:

- the means for measuring and controlling the energy flows in the building;
- the systems for combustion of fuel and conversion of energy inputs into the building, incl. from renewable sources;
- heat transfer systems - water, steam- condensate, air;
- power supply systems;
- lighting systems;
- microclimate ensuring systems;
- domestic hot water systems;
- building surrounding constructions and elements.

The EE audit report, upon its completion, is being submitted to and recorded in the registers kept by the Sustainable energy development Agency /SEDA/.

The EE audit goes through several stages:

- Preparatory stage;
- Determination of energy characteristics;
- Development of measures to improve EE;
- The final report preparation stage.

Upon completion of the audit, the results are being laid out in a report and summarized. The report and the summary are following a statutory content structure (Articles 13 and 14 of Regulation No. E-ПД-04-1).

When auditing buildings in operation, the auditing experts need to also follow the rules of Regulation No.E-ПД-04-1 of 14.03.2019 on the conditions and procedures for carrying out energy efficiency audits of heating installations with boilers and air-conditioning systems.

1.2.3. Types of buildings mandatory for EE auditing

According to the provisions of the EEA, following buildings types **are subject to mandatory EE audit**:

Public buildings with a total built-up area of more than 250 square meters, and all private buildings in operation except for:

- temples and prayer facilities of all legally recognized religious denominations;
- temporary buildings with a planned use period of up to two years;
- low energy use non-residential buildings used for agricultural activity;
- production buildings and parts of production buildings;
- residential buildings which are used as intended for up to 4 months per year, or alternatively for a limited period of time per year, and which have an estimated energy consumption of less than 25 per cent of that expected for year-round use;
- detached buildings with total built up area of up to 50 square meters.
- In conclusion, EE audit is a significant stage that precedes the signing of the EPC, but is highly relevant to determining the subject and value of the contract.

1.2.4. Other relevant by-laws on the implementation of EEA

As already mentioned, the DEE sets forth a common framework of measures to promote energy efficiency across the European Union with a view to ensuring that the energy efficiency improvement target is achieved. Concurrently, the DEE gives the Member States the freedom to set their indicative national energy efficiency targets for 2020 through different metrics - for example, primary energy consumption, final energy consumption, energy savings in primary and final energy consumption, energy intensity. The indicative energy efficiency targets for Bulgaria for 2020 are set out in the **National Energy Efficiency Action Plan 2014-2020**, developed by the Ministry of Energy.

The main factor for the achieving of the national energy efficiency target is the fulfillment of individual energy savings targets, delegated to several groups of obliged persons according to

Art. 14, para 4 of the EEA, namely:

- end suppliers, suppliers of last resort, traders licensed for the activity "electricity trading", that are selling electricity to end customers in quantities exceeding 20 GWh per year;
- heat transmission companies and heat suppliers that are selling heat to end customers for over 20 GWh per year;
- end suppliers and natural gas traders selling to end customers more than 1 million cubic meters per year;
- liquid fuel traders selling to end customers more than 6.5 thousand tons of liquid fuel per year, except for transport fuels;
- solid fuel dealers who sell to end customers more than 13 thousand tons of solid fuels per year.

The methodologies for determining the national EE target and the overall cumulative energy savings target, the modalities for implementing the energy savings obligation scheme, including the allocation of individual energy savings targets to the obliged persons, and taking into account the effects of the energy savings targets achieved through implemented alternative measures are set out in a designated **Regulation act**.

In order to meet their individual energy saving targets, obliged persons may:

- offer energy efficient services to end users at competitive prices through an energy service provider;
- make contributions to the Energy Efficiency and Renewable Sources Fund or other financial intermediaries to finance EE activities and EE measures to the amount of the investments necessary for achieving their individual targets;
- enter into agreements with providers of EE services or other parties for transfer of energy savings through the mechanism of energy saving certificates.

Energy savings certificates are intended to prove the contribution of their holder to the implementation of energy efficiency improvement measures. Energy Savings Certificates are issued by SEDA following the procedure described in **Regulation No. E-PД-04-3 of 04.05.2016 on the eligible measures for realizing energy savings in end-user consumption, the ways for verification of the achieved energy savings**.

Energy savings certificates can be transferred from:

- obliged person to another obliged person under Art. 14, para. 4 of the EEA when the first obliged person is in excess of its individual energy savings target,
- a non-obliged person to an obliged person under Art. 14, para. 4 of the EEA.

Same Regulation / Regulation № E-PД-04-3 of 04.05.2016 / determines also:

- eligible measures for achieving energy savings in final energy consumption;
- the means of verifying the energy savings achieved;
- the requirements for the methodology of estimating energy savings;

Eligible energy saving measures for end-user energy consumption are measures that lead to a verifiable, measurable or assessable improvement in energy efficiency for energy end-users.

The eligible measures for the implementation of energy savings should lead to:

- energy savings in end-user energy consumption;
- savings of primary energy, including fuels;
- reducing greenhouse gas emissions;
- improving or maintaining the quality of the environment;
- improving or maintaining safety and sanitary standards.

Verification of achieved energy savings shall be carried out after the implementation of energy saving measures / activities for end customers in two alternative ways:

1. energy efficiency audit of buildings, carried out in accordance with the Regulation № E-PД-04-1 of 22.01.2016, not earlier than one year after the implementation of the energy saving measure (s), or through
2. application of methodologies developed under the conditions and rules of Chapter Four of Regulation No. E-PД-04-3 of 04.05.2016.

The verification of the achieved energy savings is carried out by the certified entities (companies or individuals) enlisted in the register under Art.44, para.1 and/or under Art.60, para.1 of the EEA, i.e. by entities qualified to perform energy efficiency audits.

Regulation No 7 of 2004 on the energy performance of buildings sets out the requirements for the energy efficiency level in buildings.

These requirements apply to any investment project for:

- construction of a new building;
- reconstruction of an existing building that changes its energy characteristics;
- reconstruction, major renovation or major overhaul of a building, when it covers more than 25 percent of the total building envelope area whereby its energy characteristics change.

This by-law regulates:

- the minimum energy efficiency requirements for residential and public buildings;
- the methodology for calculating energy consumption indicators and energy performance features of buildings;
- the reference limits of the integrated energy indicator "specific annual primary energy consumption" in kWh / m², determined by the scale of energy consumption classes;
- the reference values of the coefficient of thermal transmittance through the building envelope elements;
- the requirements for moisture resistance, air permeability, water resistance and sun protection during the summer period;
- the technical requirements regarding the efficiency of heat / cold generators in buildings, including decentralized renewable energy systems;
- the requirements for energy consumption assessment in investment projects;

Regulation № E-ПД-04-2 of 22.01.2016 on the indicators for energy consumption and energy characteristics of buildings controls:

- the conditions for determining energy consumption indicators and the energy performance of buildings;
- a unified methodology for calculating energy consumption indicators and energy performance of buildings;
- the scale parameters of the energy consumption class of different building categories;
- the numerical ceiling values of the integrated energy indicator "specific annual primary energy consumption" in kWh / m², determined by the scale of energy consumption classes for different categories of buildings.

1.2.5. Construction process in energy performance contracts with implementation of energy efficiency measures

Most EE improvement measures include construction. It is in most cases being carried out under the requirements and in accordance with the regulations of the Spatial Development Act (SDA).

The SDA implementation is underpinned through a number of bylaws, including:

- Regulation No. 4 of 2001 on the scope and content of investment projects;
- Regulation No. 2 of 2003 on the commissioning of construction works in the Republic of Bulgaria and minimum warranty periods for completed construction and assembly works, facilities and construction sites;
- Regulation No. 3 of 2003 on drawing up acts and protocols during construction;

- Regulation No. 5 of 2006 on the technical passports of construction works, rules and norms for designing;
- Regulation No. 1 of 30.07.2003 on the nomenclature of the types of construction.

In all cases where the EE improvement measures require the execution of construction and assembly works (CAW), which require issuing a building permit, the procedures for **permitting and executing the construction** in the Republic of Bulgaria have to be strictly obeyed and followed. Construction works can be carried out only if they are approved in accordance with the SDA. Art. 151 of the Spatial Development Act regulates the cases in which a building permit is not required.

Only CAW that are within the scope of the building permit can be performed. These CAW include energy-saving measures, but may also include non-energy-saving construction and assembly works needed for the implementation of the EE measures.

As a participant in the construction and investment process, the ESCO company has the rights of the following construction process participants (as defined under SDA): i) a *consultant* within the meaning of Art. 166 of the SDA regarding the activities related to pre-investment research, preparation of the design process; ii) *designer* within the meaning of Art.162 of the SDA; iii) *supplier* of the technological and installation equipment of the construction within the meaning of Art.165 of the SDA; iv) *constructor* within the meaning of Art.163 of the SDA. These activities can be bundled together under the common title "engineering".

Designer is a natural or legal person, that possesses the necessary design competency. The prescriptions of the designer, related to its copyright, for the exact observance of the investment project developed by it, shall be entered in the Order book, and shall be obligatory for the other participants in the construction process. In the context of the implementation of an ESCO contract, the design is a process that provides specific technical solutions for implementation of the energy-saving measures identified in the energy efficiency audit.

Generally, all investment projects are completed in three distinct phases:

1. conceptual design;
2. technical design;
3. working design (working drawings and details).

Depending on the specifics of the project, the client necessarily assigns development of these parts of the investment project, on the basis of which an assessment can be made for compliance with the requirements of Art. 169, para. 1 and 3 of the Spatial Development Act, and which are fundamental to execute the construction. This assessment shall be carried out within **the scope of the construction permit** and shall include verification of compliance with the requirements for:

- mechanical resistance and sustainability;
- fire safety;
- hygiene, health and environment;
- accessibility and safety during operation;
- noise protection;
- energy saving and heat storage;
- sustainable use of natural resources.

The conformity assessment under Art.169, para.1, item 6 (energy saving and heat storage) of the investment projects in phases of technical and work design shall be carried out under a separate contract of the client with natural and legal persons who meet the requirements of the Energy Efficiency Act and is entered in the public register under Art.44, para.1, kept by SEDA.

Detailed rules for investment projects are contained in **Regulation No. 4 of 21.05.2001 on the scope and content of investment projects.**

A Bill of quantities shall be drawn up for the technical solutions developed under the ESCO contract.

Upon completion of the construction, the client, the designer (it may be the ESCO company), the builder (the ESCO company), and the person performing the construction supervision, draw up a Protocol form 15, which certifies that the construction has been completed in accordance with the approved investment projects, the certified executive documentation, the requirements for the construction works under art.169, para.1 and 3 and the terms of the concluded contract. To this Protocol form 15, further protocols for the successful completion of single tests of machinery and equipment (if any) shall also be annexed. This act certifies the passing of the accomplished construction site from the contractor to the assignor. Where the site is of a production or other specific purpose, depending on what is agreed upon in the contract, completion of the construction shall be further proven by passing successful acceptance tests.

Regulation No. 3 of 31.07.2003 on the acts and protocols during construction, regulates the terms and procedures for preparing protocols for preparation, opening of a construction site and determining the construction line and level, and for the acceptance of completed construction works during the execution of the construction process. This can be done in separate stages or even parts thereof.

After the complete implementation of the energy saving measures and the accompanying construction works, the project site is being commissioned in accordance with the SDA procedures.

Different types of projects (depending on the type and height of the building, total floor area, intended use of building, etc.) are being commissioned through different procedures.

The construction works of first, second and third categories shall be put into operation on the basis of an use permit issued by the bodies of the Directorate for National Construction Control, under the conditions and in the order specified in **Regulation No. 2 of 2003**. The fourth and fifth category construction works shall be put into operation on the basis of a certificate of commissioning by the authority which has issued the construction permit, under the conditions and in the order specified in the same regulation. Sixth category construction sites shall not be subject to commissioning.

1.2.6. Financing of measures, pay-back of the investment

In accordance with the provisions of the EEA, ESCO companies provide the service, in whole or in part, with their own funds and / or undertake to secure a third party financing.

The client has no obligation to finance the EE measures. Contractors shall bear the financial risk as well as the technical and commercial risk for the implementation of the activities and measures envisaged in the EPC as well as for achieving the energy performance level guaranteed by the contract. The payment of the investment and the remuneration of the ESCO company ***is only at the expense at and from the realized energy savings*** (see also the case study analysis in part two).

1.2.7. State-owned /municipal-owned buildings subject to EPC

According to Art. 73, para. 7 of the EEA for buildings - state and / or municipal property, subject to EPC, in the budgets of the state bodies and municipalities, funds are planned and provided that correspond to the normalized energy consumption of these buildings for the duration of the contract. The conditions and procedures for budgeting the EPC repayment funds, as well as the conditions and the order for their payment are set forth in **Regulation № ПД-16-347 of 02.04.2009 on the conditions and procedure for determining the amount and payment of the planned funds under ESCO contracts leading to energy savings in state/municipality owned buildings (Regulation No 16)**.

This by-law regulates as follows:

- the conditions and the procedures for determining the amount and payment of the funds budgeted for first class administration units for ESCO contracts in buildings-state and / or municipal property;
- the procedure for repayment of investments and payment of remunerations under energy performance contracts.

The calculation of the budgeted appropriations of first-class budgetary units for ESCO contracts in state-owned and / or municipal property is made on the basis of an energy efficiency audit,

where the amount of the planned funds corresponds to the financial value of the normalized energy consumption.

The planned payments for investment recovery to the contractors should not exceed the difference between the normalized energy consumption and the energy consumption after the implementation of the EE activities and measures subject to the contract. The computation of the funds amount under the energy performance contract is based on the monetary equivalent of the guaranteed energy savings, valued at the current energy price. Guaranteed energy saving is defined as the difference between the normalized energy consumption calculated before the implementation of the EE improvement measures provided for in the contract and the guaranteed energy consumption in the building after their implementation.

The payment of funds under EPCs in state-owned and / or municipal-owned buildings is made when the energy consumption level of the buildings specified in the EPC is reached in order to certify the buildings in the required energy class.

The reimbursement of the investment made by the ESCO company for the implementation of EE activities and measures, as well as the payment of the remuneration due under the EPC shall be made for the duration of the contract at the expense of the realized energy savings, verified as a result of monitoring and issuance of reporting statement (this Statement shall be described in more details hereunder).

The Regulation 16 also introduces further requirements to EPC (in addition to performance of energy savings by the contractor), which shall be subject to financing under this regulatory act:

1. energy efficiency improvement activities and measures must ensure the achievement of energy savings and the issuance of an energy performance certificate for the building that meets at least the requirements for Energy Class B;
2. the EE improvement measures envisaged to be applied must be implemented with materials that comply with the requirements of the Product Technical Requirements Act;
3. the term of repayment of the investment for the energy savings stipulated in the energy performance contract shall be no more than 10 years.
4. the guaranteed energy savings volume is defined as a numerical indicator that is assessable, measurable and verifiable by the unified methodology for determining energy characteristics for energy consumption and energy performance of buildings. A definition of guaranteed energy savings has also been introduced - the total amount of energy saved, determined by measuring before and after the implementation of one or more EE measures, taking into account external weather conditions and internal building factors that jointly affect its energy consumption;
5. the annual guaranteed performance shall be accounted for by a bilaterally signed monitoring and reporting statement, which shall be drawn up once a year, starting from the date of

commissioning of the site, on the basis of an achieved result reporting methodology, which is an integral part of the energy performance contract;

6. a staging of EPC has been introduced - 1) a preliminary study (feasibility study) stage, 2) an implementation stage and 3) a contract servicing stage.
7. The preliminary stage includes an analysis of the results of the energy efficiency audit.
8. The implementation stage of the energy performance contract includes:
 - preparation of an investment project, which will serve as a basis for issuance of a building permit (for projects and building types that require compliance with the requirements of the SDA and the existing by-laws for design of systems, installations and equipment);
 - actual implementation of the investment project in compliance with the requirements of the Spatial Development Act and the existing by-laws.

The stage of servicing the energy performance contract includes:

- ongoing and periodic monitoring, measurement and reporting of achieved results;
- reimbursement of the investment made by the ESCO contractor and payment of the due remuneration at the expense of the measured and verified energy savings;
- determining the terms and conditions for the operation of the building in order to achieve the energy savings stipulated in the energy performance contract.

Art. 19 of Regulation 16 introduces **additional requirements for the content of the EPC at publicly owned buildings**.

The guaranteed energy savings volume shall be determined through a methodology for measuring and /or estimating consumption before and after implementation of the EE measures. Technical data adjustment methods are applicable to take account of the effects that external conditions and additional factors may cause on the energy consumption of the respective building. The energy savings assessed, measured and verified by the ESCO contractors are evaluated annually in the order laid down in the methodology for reporting the performance. The ESCO contractor annually submits to the owner of the building a report on the monitoring and systematization of the achieved performance. In case the reported energy savings reflected in the monitoring and reporting statement are higher than the guaranteed value, the monetary equivalent of the excess shall not be returned to the budget but will be used to early repay the EPC installment due for the following year. In case the reported energy savings are less than guaranteed, the financial risk is borne by the ESCO contractor.

Public procurement act (PPA)

When buildings, subject to EPC, are owned by the state or municipality, the provisions of the Public Procurement Act (PPA) apply and have to be taken into consideration when implementing an EE project. PPA regulates the conditions and procedure for awarding of publicly funded contracts for construction, supplies or services and for conducting public procurement tenders. The EPC, when the subject is a publicly owned building can only be entered into after a PPA

procedure. The term of the contract, awarded under PPA procedure may not exceed 5 years. Longer term PPA contracts are possible in exceptional cases when this is due to the nature of the contractual subject or because of a technical reason. However, for EPCs entered into based on public procurement procedures the maximum term of 10 years under Regulation 16 shall be observed. It is not allowed to conclude public procurement contracts with no pre-determined duration or contracts whose term is automatically extended.

Owners of public buildings are required to also implement and manage energy efficiency activities. Energy efficiency management shall be done through:

1. organizing the implementation of energy efficiency programs under Art. 12, para. 2 of the EEA, as well as other measures that lead to energy savings and the fulfillment of the goals set in the National Energy Efficiency Action Plans, the National Plan for close to zero energy consumption buildings, the National plan for improving energy performance of state-owned heated and / or cooled buildings used by the state administration, the National long-term investment promotion program to implement measures to improve the energy performance of buildings from public and private national housing and commercial buildings fund;
2. annual development of analysis of energy consumption.

Taking into consideration all above information, **the following conclusions can be drawn about EPC:**

- An EPC is a specific commercial agreement;
- there is a legal definition of an EPC - Art. 72 of the EEA;
- the subject of the EPC is legally determined - the implementation of energy efficiency improvement measures;
- energy efficiency audit is a condition precedent for entering into an EPC.

An important feature when concluding an ESCO contract is that the client provides the contractor with a summary and a report of the EE audit of the building. An important feature of financing the measures is that according to Art. 73, para. 4 of the EEA, **contractors under energy performance contracts ensure the provision of the services, in whole or in part, with their own funds, and / or commit to secure their financing by a third party. The pay back of the contractor's investment is at the expense of the energy savings.** The contractor bears the financial risk. The subject of the EPC, the contractor's obligation to fully implement the measures guarantee the savings lead to the contractor's carrying out also the technical and commercial risk of the project.

1.2.8. Condominium buildings subject to EPC

Legal acts reviewed for the present analysis:

1. Ownership Act /OA/,
2. Condominium Ownership Management Act /COMA/,
3. by-laws for the implementation of COMA.

The legal framework of public relations related to condominium ownership poses a number of legal problems, by itself, and also in terms with disputes of other nature – such as for partition, reconstruction, problems of the planning of the territory and many others. This is one of the reasons why condominium ownership in Bulgaria is currently facing serious difficulties, even with the most basic problems that need to be resolved in the common interest.

According to the decision of the Supreme Court of Cassation No 47 of 27.03.2014 on the civil case No 7403/2013, the term "condominium ownership" is used to mean:

1. a building that includes separate residential and non-residential units subject to separate exclusive property rights, and common parts subject to joint ownership between the same persons who own these separate units, and to indicate
2. a complex of legal relations of individual ownership on separate independent units and joint ownership of the common parts in a building.

The Condominium ownership does not represent a separate legal entity, i.e. there is no legal personality (one exception is the owners' association as a form of management, which we have detailed below). **It represents a modification of the property right, a special combination of exclusive ownership of separate units in a building and indivisible co-ownership of the common parts.**

Ownership Act – OA

According to the provisions of Art.38 et seq. of OA, in buildings where floors or parts of floors belong to different owners, **common to all owners** are: i) the land on which the building is constructed; ii) the yard; iii) the foundations; iv) the outer walls, the internal dividing walls between the individual parts, the internal supporting walls, columns, girders, slabs, joists, stairs, platforms, roofs, v) walls between the attic and basement rooms of individual owners; vi) chimneys; vii) exterior entrance doors of the building and doors to common attic and basement rooms, main lines of all types of installations and their central units, lifts, gutters, concierge's dwelling and everything else which, by its nature or purpose, is intended for common use.

The **following conclusion** is drawn from the analysis of the provisions:

The common parts in the condominium ownership are divided into two groups - common parts by nature and common parts by purpose. By their nature, common parts are those without which a building cannot exist as a building - for example walls, facades, columns, girders, slabs, joists,

etc. By purpose, common parts are those without which the building can exist as a building, but are intended to serve for the common use by all owners of separate objects - for example, the concierge's dwelling, laundry rooms, drying rooms, etc. According to Art.140, para 3 of the Energy Act, the building installations for heating and hot water supply are a common condominium ownership.

Some of the EE improvement measures envisaged for implementation through EPC may include replacement of installations, thermal insulation of the exterior walls of the building, insulation of the roof etc., which relate to the common parts of the building.

Some of the measures will not affect the common parts of the building, but will concern the individual apartments / sites located in the residential building.

Each owner of a site in the building shall be obliged to participate in the expenses necessary for the maintenance or restoration of the common parts, and in the useful expenses¹² for which a decision of the general owners assembly has been made, in proportion to his/her share in the common parts. Both the necessary and the useful costs are borne by the owners¹³.

Detailed regulation of condominium ownership is provided in the **COMA**.

The COMA regulates the public relations regarding the management of the common parts of condominium buildings, as well as the rights and obligations of the owners, users and inhabitants of separate units or parts of them.

The law does not apply to the management of the common parts of condominium buildings in which the separate units are up to three and belong to more than one owner.

¹² Understanding the legal doctrine and practice regarding necessary and useful expenses is one-way in the sense that the necessary expenses are related to urgent / emergency / repair activities for the maintenance and / or restoration of common parts caused by an unforeseen, unexpected event / flood, fire, etc./, or associated with the need for ongoing or major repairs required by the wear out and deterioration of the building, with the aim of bringing the common parts in a condition fit for their intended use. Useful costs are those that add value to the building and represent improvements.

¹³ The role of the decision of the general meeting on the need to incur useful expenses does not affect the obligation of each owner of a condominium ownership to assume the relevant part of its obligation, but this decision of the general meeting is important on a legal basis on the ground of which the amount of the monetary liability incurred should be determined. A claim for the allocation of costs between individual owners concerns the hypothesis of a manager of foreign work /gestor/, acted not only for the benefit of another's interest, but also for the benefit of one's own interest. If there is approval from the person in whose interest the work was undertaken / in advance by a decision of the General Meeting or subsequently /, the relations shall be settled in accordance with Art.62 of the Obligations and Contracts Act. If the improvements have been made without a decision taken by the General Meeting, in accordance with the provision of Art.61 (2) of the OCA, the gestor may claim from the other owners of condominiums only the relevant part of the expenses incurred, up to the amount of the enrichment, and only if the work / the construction works performed / has been undertaken appropriately. If the common parts are improved against the will of the other co-owners, the liability of the latter may be claimed only under the provisions of Art.59 of OCA, which coincide with those under Art.61, para 3 of the OCA.

According to COMA, owners are obliged to pay the cost of repair, reconstruction¹⁴, remodeling¹⁵, major overhaul¹⁶ and major renovation¹⁷ of the common parts of the building, replacement of common installations or equipment, and installments designated for the Repair and Renovation Fund commensurate with the ideal parts owned. The owners must keep the common parts of the building and their separate object in a technical condition, meeting the basic requirements of Art.169, para.1 of the SDA.

Owners of individual sites have the right to use the common parts and participate in the management. The management covers the rules and control over the use and maintenance of the common parts and the observance of the internal order in a condominium building, as well as the control over the fulfillment of the obligations of owners, users and inhabitants.

According to the COMA, the legally acceptable forms of condominium management are the general assembly of owners and / or an association of the owners.

The General assembly of owners as a form of management

The Management Bodies are as follows:

1. the General assembly /GA/,
2. the Management Board (Manager).

Concerning the maintenance, reconstruction and repair of the common parts, the General assembly decides on:

1. adopts the annual budget for revenue and expenditure and approves the annual accounts of the Management Board (Manager) and the Supervisory Board (Controller);
2. determines the amount of financial contributions for the costs of managing and maintaining the common parts of the building;

¹⁴ Reconstruction is a restoration, replacement of structural elements, major parts, facilities or installations and the implementation of new ones, which increase the load-bearing capacity, stability and durability of the constructions.

¹⁵ Remodeling of a common part of the building is an activity in which the purpose of the site can be changed with or without the execution of construction and assembly works.

¹⁶ A major overhaul is the partial restoration and / or partial replacement of structural elements, major parts, facilities, or installations of the site, as well as the construction and installation work through which initially installed but worn-out materials, structures, and structural elements are replaced by new types of work to restore their serviceability, thus improving or extending their service life.

¹⁷ A major renovation is a complex of construction and assembly works related to the fulfillment of the basic requirements under Art. 169, para.1 and 3 of the Spatial Development Act, which are carried out during the operation and affect the structural elements of the construction, including the surrounding structures and elements of buildings, facilities and elements of the technical infrastructure - heating, ventilation, air conditioning, electrical, water supply, sewerage and other installations.

3. determines the amount of cash contributions to the Repair and Renovation Fund;
4. adopts a plan for carrying out repairs, reconstructions, remodeling and other activities in the common parts of the building, including the implementation of the prescribed measures in the technical passport or other prescriptions of the competent authorities, and approves the annual report of the Management Board (the Manager) for its implementation;
5. adopts amendments to the plan for carrying out repairs when unforeseen costs are required;
6. incurring expenses that are necessary or urgently needed¹⁸ for the maintenance or restoration of the common parts, for the carrying out of useful expenses¹⁹, as well as for determining the amount of the expenses for the implementation of the instructions in the technical passport;
7. major repair and / or major renovation of the building;
8. the cases when this is stipulated in legislative acts in connection with water supply, electricity supply, heat supply, gas supply, sanitary and hygiene norms and provision of other services;
9. connection of the building to the heat and gas supply network and for termination of the heating and gas supply in the condominium ownership²⁰;
10. make a decision for assigning activities for the maintenance of the common parts of the building to a legal or natural person against remuneration, specifying also specific powers of the management board (the manager), which may be assigned for execution to this person;
11. make a decision to manage the common parts to receive:
 - loans for necessary or urgent repairs;
 - loans for useful costs;

¹⁸ Necessary repair is an activity to bring the building, common parts, installations or parts of them in compliance with the regulatory requirements for the technical suitability of the building and installations, including the roofs, in order to remove obstacles or inconveniences for the normal use of the building and the independent premises in it. Urgent repair is an activity to prevent the demolition of the building, its structural elements, common parts, installations or parts thereof, as well as to remedy significant damages and deformations that endanger the life and health of owners, users, inhabitants and other persons, or to damages of the environment and nearby buildings.

¹⁹ Useful costs are the costs that increase the value of a building during the remodeling and repair of common parts. They are not statutory and are beyond the cost of necessary and urgent repairs and major renovation.

²⁰ Art. 133, para 2 of the Energy Act stipulates that the connection of the installations of the clients in a condominium ownership building is carried out with the written consent of the owners, who own at least two thirds of the ownership in the condominium building.

- grants and subsidies;
- 12. may authorize the Management Board (the Manager) to adopt a decision to carry out urgent repairs or expenses that do not allow delay;
- 13. within the statutory deadlines for drawing up the technical passport, adopts a decision to assign the drawing up of a technical passport for the existing buildings, and approves the contract with the contractor, adopts the report on the performed audit and the executed assessments of the technical characteristics and the drawn up technical passport of the building.
- 14. Procuring a certified entity to carry out energy audit.
- 15. In all the above cases, a decision of the General assembly is required.
- 16. The COMA sets out the rules for convening and holding the General assembly meeting (Articles 12, 13 and 14 of the COMA). Compliance with these rules is essential for the validity of decisions of the General assembly. The law provides for a quorum requirement, and rules for the conduct of the General assembly in case of a falling quorum. At the general assembly, the owners have the right to vote corresponding to their share in the common parts of the building.

Majorities:

The General assembly of the owners adopts decisions as follows:

1. to undertake actions for upgrading and adding parts of building, for establishing the right of use or the right of construction and for changing the purpose of the common parts - with 100 percent ideal parts of the common parts;
2. for carrying out useful expenses and obtaining credits - by a majority of not less than 75 percent of ideal parts of the common parts;
3. for major renovation, major overhaul and adoption of EU funds and / or the state or municipal budget, grants and subsidies and / or own funds or other sources of funding - by a majority of not less than 67 percent of ideal parts of common areas;
4. for placement of advertising or technical facilities on the building, for connection of the building to the heat, water, electricity and gas supply network and for termination of the heating and gas supply in the condominium ownership- by a majority of more than 50 per cent of ideal parts of the common parts.
5. for assigning the powers or a part of them to the management board (the manager), as well as for assigning activities for the maintenance of the common parts of the building to legal entities or natural persons, which are not owners - by a majority of more than 67 percent of ideal parts of the common parts of the condominium.

The remaining decisions are taken by a majority, more than 50 percent of the presented ideal parts of the common parts of condominium ownership.

Management Board (Manager) as a governing body

The executive body of the condominium ownership is a management board (manager).

The Management Board (the Manager):

1. organizes the implementation of the decisions of the General assembly;
2. monitors the observance of the internal order in the condominium ownership;
3. prepares the annual budget for the management, maintenance and use of the common parts of the condominium and the annual plan for carrying out repairs, reconstructions, remodeling and other activities in the building, as well as reports on their implementation;
4. represents condominium ownership in its relations with local authorities and other legal entities;
5. upon request, issues to the owners a document on the presence or absence of obligations to the condominium property;
6. exercises other powers conferred on him by the General Meeting.

The chairman of the management board (the manager) represents the owners in carrying out all activities related to the ordinary management of condominium ownership. For actions to establish the right to use, build, upgrade, modify or change the purpose of common parts, he represents the owners, if authorized by the General Meeting.

The chairman of the management board (the manager) represents the owners in court on the claims brought against them in connection with the common parts, and on the claims brought against owner, user or occupant who does not fulfill the decision of the general meeting or its obligations. In claims against third parties in connection with the common parts, the chairman of the management board (the manager) represents the owners, if authorized by the general meeting.

According to the above stated, and due to the lack of legal personality of the condominium ownership, the ESCO contract should be concluded by all owners when envisaging measures to increase EE concerning the common parts of the building. The conclusion of the ESCO contract should be preceded by a decision of the General assembly - it is necessary to make decision to carry out the measures for improving the EE, as well as for all other essential elements of the contract - value, manner and term for payment of the amounts due, implementation of monitoring etc. Owners may be represented by the manager in their relations with the ESCO company, but for this purpose the manager should be explicitly authorized, and a decision for this should be made at a general meeting.

Owners Association as a form of management

To utilize European Union funds and / or funds from the state or municipal budget, grants and subsidies and / or use of their own funds for major repairs and / or major renovation of condominium buildings, owners may establish an association.

The association may carry out also other activities related to the management of the common parts of the condominium ownership, including the utilization of funds from sources of financing

other than the ones mentioned in the preceding sentence. Management should be understood as the volume of rights under Art. 8 of COMA, namely the order and control over the use and maintenance of the common parts, observance of the internal order and control over the fulfillment of the obligations of the owners, users and occupants. The funds shall be utilized after the decision of the general meeting of the association, and when the association does not include all the owners of independent units in the building or entrance, the decision of the general meeting of the association shall be submitted for adoption by the general meeting of the owners.

The association is a legal entity and has its own legal personality. However, the association is established only for the purposes described, and is entered both in a special register in the respective municipality at the location of the building and in the BULSTAT register. The order for keeping, access and the pattern of the public register of the associations of owners in buildings in condominium ownership is regulated by **Regulation № ПД-02-20-8 of 11 May 2012 on the creation and maintenance of a public register of the associations of owners in condominium ownership buildings.**

The Association may not carry out any activity other than that those under Art.25, para 1 and para 2 of COMA. At this point, the question should be asked whether the services contracted under the ESCO contract concerning the common parts of the building fall under the definition of major repair and / or major renovation. If they fall under this definition, the association would be a suitable party as an assignor under an EPC. However, it is necessary to comply with another condition - the payment of the sums due to the ESCO company should be by a source of own funds, which in turn raises the question whether the monetary equivalence of the realized energy savings represents own funds of the association. As we have already pointed out, the investment of the ESCO company is paid back at the expense of and from the energy savings. As a rule, own funds are opposed to borrowed / attracted from third party / financing. Own funds would be the cash of the association (for example, in the Fund for Repair and Renovation, or received as a rental price from rented common parts, etc.). One part of the achieved energy savings will be made use of by the individual apartment owners, in that sense their cash equivalent would be their own funds, and another part of the realized savings will be made use of by the condominium community. The monetary equivalence of the savings used by the individual owners will not be the association's own funds. Actually, the savings will be performed mainly in the units.

In addition, Art. 25, para 2 allows the association to perform other activities in connection with the management of the common parts. As already stated, management in this case is the scope of rights under Article 8 of the COMA, and the assignment of services under an ESCO contract would hardly fall under the definition of managing common areas.

Thus, the owners' association has limited legal personality granted to it only in connection with activities mentioned in Art.25 of the COMA. The association has a legally defined subject, which limits its activities. *The foregoing undermines the firmness of the conclusion that the association may be a party to the EPC. Under the current legislation the association rather would not be an eligible party to an ESCO contract.*

It should be noted that there is no accumulated practice on these issues, including judicial. Therefore, it is impossible to give a clear answer to the questions raised.

Art. 25 of COMA provides for the procedure for establishing the association - a constituent meeting of the owners of independent sites in the building shall be held, representing not less than 67 percent of ideal parts of the common parts. The constituent assembly adopts a resolution for founding the association, defines the name of the association, adopts an agreement²¹ for the establishment of the association, and elects a management board (manager) and a supervisory board (controller).

In case of change of ownership of an independent site, the membership in the association is transferred to the new owner, whereby the obligations to the association, which became due before the change of ownership, remain the responsibility of the old owner, unless otherwise agreed during the change of ownership. The owner cannot terminate its membership in the association in an approved condominium project for utilization of funds from the European Union and / or from the state or municipal budget, grants and subsidies **or from own funds for major repair and / or major renovation of the building or parts of it. The membership can be terminated after the expiry of the warranty period for the completed construction and installation work on the project, but not earlier than 5 years after their completion.**

The bodies of the Association are the General Meeting, the Management Board (Manager) and the Supervisory Board (Controller). The Association is represented in its relations with the local authorities and with other legal entities by the Management Board (Manager).

Particular interest deserves the question about the relation between the powers of the general meeting of the owners and the general meeting of the association. The owners' association is envisaged as a form of managing the condominium ownership, along with the general meeting of the owners. It is possible that the association does not include all owners, since for its establishment it is necessary to make a decision by owners representing not less than 67 percent of ideal parts of the common parts of condominium ownership – Art.25, para.3 of the COMA.

The General Meeting of the owners is the main body for managing the condominium ownership, and it has the power to take decisions on all matters related to the management and order of the condominium ownership.

According to the law, both the owners' association and the general meeting of the owners have the task to perform activities related to the management of the common parts of the condominium. In cases where the association is not established by all owners of the separate units in the building or entrance, **the general meeting of the association does not have**

²¹ Samples of documents have been approved with separate orders by the Minister for Regional Development and Public Works - for example, a book of the CO, draft model of internal rules, an association agreement draft.

the powers of the general meeting of the owners on the argument of art.33, para.5 of the COMA. In order to protect the rights of all owners in the course of utilization of the funds for carrying out the subject of activity of the association (referred to in Article 25, Paragraphs 1 and 2 of the COMA), in cases where not all the owners of independent sites in the building belong to the association, Art. 25, para.7 stipulates that the utilization can be carried out only after the submission of the relevant decisions for adoption at the General Meeting of the Owners in accordance with Art. 33, para. 4 of COMA. Thus, the law gives priority to **the general meeting of the owners, as a decision-making body binding all owners, except in cases where the association is formed by all owners of independent sites in the building.** By adopting the decision of the owners' association by the general meeting of the owners of the independent premises in a building, it becomes a decision of the general meeting of the owners, and is binding on all c owners, including the new ones, users and occupants of independent objects in the condominium (Art. 11, para 4 of COMA).

In other words, if the members of the association are not all owners of separate units in the building, the decisions of the general meeting of the association shall be submitted for adoption by the general meeting of owners when they concern issues of the powers of the GM of the owners. If the association is established by all owners of independent sites in the building, then the general meeting of the association has the powers of the GM of the owners.

Since the most part of the services assigned to an ESCO contractor fall within the powers of the general meeting of the owners, there should be a resolution of the GM of the association and a resolution of the GM of the owners when not all the owners are members of the association.

In addition, COMA provides for the regulation of relations in terms to vicious decisions of the governing bodies - annulment of decisions of the GM and annulment of the decisions of the management board/manager. Deadlines are envisaged for submission of the application for cancellation. The decision of the relevant authority becomes stable only after the expiry of the deadlines for applying for its cancellation. Therefore, it is advisable to conclude an EPC after the expiry of the deadlines for submitting an application for revocation of the decisions of the General Meeting of the owners / association regarding the conclusion and implementation of the EPC.

Termination of the association

The owners' association shall be terminated:

1. by a decision of the General Meeting;
2. when the building is destroyed;
3. upon expiration of the term for which it was established;
4. when the share of the presented ideal parts falls below the required one under Art.25, para.3 or 4 of COMA.

When a project for utilization of funds under Art. 25, para.1 of COMA has been approved, the association may be terminated by a decision of the general meeting **after the expiry of the**

warranty periods under the project for the completed construction and assembly works, but not earlier than 5 years after their completion.

Maintenance, repair and renovation of common parts

The Law sets out separate rules for the maintenance, repair and major renovation of the common parts. Repair, major renovation, reconstruction and remodeling of common parts or replacement of common installations and equipment shall be carried out by **decision of the General Meeting of owners.**

Expenses for repair, major renovation, reconstruction and remodeling of the common parts, for which the General Meeting of Owners has taken decision, are distributed among the owners of independent premises in proportion to their ideal parts of the common parts of the building. The General Meeting of the Owners or of the Association establishes and maintains a Repair and Renovation Fund. The funds in this fund are raised in a special purpose account, which is opened in the name of the chairman of the management board (manager) or of the association. The funds in the Fund are spent for: 1. performing the activities of repair, major renovation, reconstruction and remodeling of the common parts or replacement of common installations and equipment, urgent repair and equipment; 2. implementation of the measures and instructions from the technical passport of the building; 3. other expenses determined by a decision of the General meeting.

With regard to ESCO contracts with subject EE measures in common parts in condominium buildings following issues can be summarized:

If no owner's association has been registered

The entering into an EPC should be preceded by an explicit decision of the General assembly of the owners, containing a decision on all essential elements of the contract. **The decision should be taken unanimously by all owners of sites in the condominium building.**

Most EPCs have a long duration due to the nature of the EE measures and their long pay-back period. ESCO's investment and remuneration are paid over a long period of time, and at the expense of energy savings. The guaranteed energy performance concerns the entire building subject to the contract, and not the individual premises in it. At the same time, some of the measures will relate to the common areas while others will concern the individual sites. The savings will be performed mainly in the private units of the owners.

Parties in an EPC (when EE measures concern common parts) shall be all the owners of units, who may be represented by the manager if explicitly authorized by the GA. These persons also pay the amounts due to the ESCO company, which means that the share of each of the individual unit owners in the payment must be properly calculated and specified. This share should also take into account cases where measures are implemented in the unit of the owner. It is possible to provide for joint and several liability of all owners for the entire amount owed to the ESCO company, and the share of each of them to be subject to their internal relations.

In order to avoid future disputes, it is advisable the decisions to be recorded in a protocol (meeting minutes) with notarized signature of all owners.

If the owner's association is registered and it is assumed that, despite the limited subject of activity, the association could be a party to the EPC.

The entering into an EPC should be again preceded by an explicit decision of the general assembly of owners and the general meeting of the association / respectively of the GM of the association, if all the owners are members, please see above explained /, which has to be again **unanimous**. The decision must include a ruling on all material elements of the contract. Insofar as the association does not have assets that are enforceable (with the exception of cash in the Repair and Renovation Fund, which in most cases are insignificant, and they also have a special purpose, which justifies the assumption that they will be difficult to enforce) it is advisable to provide for joint and several liability of individual owners to a certain amount corresponding to their share in the payment to the ESCO. Joint and several liability would arise under a written agreement with the contractor (ESCO company) as part of the EPC, so that here, too, should be an agreement of all owners to conclude and execute an EPC and establish a joint and several liability, whereby the owners should be party to the ESCO contract. Again, the share of each of the owners in the payment of the amounts due to the contractor must be properly calculated and specified. This share should also take into account cases where measures are implemented in a separate dwelling unit. At the same time, with regard to the measures to be implemented in the separate residential units, the parties to the EPC must also be the owners. If the association does not consist of all the condominium members, then it must be taken into consideration that a possible EPC party should be both the association and each of the owners that are not members of the association. **Therefore, it is advisable that all condominium owners are made members to the association.**

In order to avoid further disputes, the decisions here should also be objectified in a notarized protocol (minutes of meeting) of the signatures of all owners.

If one deems that due to its limited legal capacity, **the association cannot be a party to the EPC, then the contract should be signed by all condominium owners separately.**

As seen from the above stated, the condominium ownership institute is rather complex, and raises more questions than the answers provided by the COMA. In subsequent amendments to the COMA, the lawmakers should consider possibility of expanding the scope of activity of the associations, and providing for the possibility to enter into commercial contracts for the purpose of repair, reconstruction and renovation of the building, and to consider using other sources of financing, including borrowing from third parties.

1.3. Part Two: Financing of energy saving measures in multifamily residential buildings: LABEEF financial model analysis

1.3.1. Financing of measures in multifamily residential buildings

There are various sources of energy efficiency improvement projects funding²² :

- European Union Operational Programs for Energy Efficiency Projects with Grant financing;
- Specialized funds and programs;
- Preferential bank loans, or third-party financing combined with grant financing.

All of these sources provide opportunities for utilization of grant financing and, to a lesser extent, bank loans.

Concerning multifamily residential buildings in Bulgaria, the National Energy Efficiency Program for Multifamily Residential Buildings²³ is of particular interest.

The program was approved with Decree No. 18 of the Council of Ministers of 02.02.2015, and is aimed at renovation of multifamily residential buildings. Its main purpose is by implementing energy efficiency measures to provide better living conditions for citizens, thermal comfort and higher quality of life. The Program Coordinator is the Ministry of Regional Development and Public Works. The right to a receive financing is provided to owners' associations as a form of condominium ownership management.

Associations incorporated for the purpose and pursuing other activities than those under Art. 25, para1, including art.25, para.2 of COMA, including economic activities, such as rental of common areas, shall not be eligible to receive funding.

Eligible funding activities are:

1. structural restoration /reinforcement/ overhaul activities, depending on the damage that occurred during the operation of multifamily residential buildings, which are prescribed as mandatory for the building in the technical audit;
2. renovation of the common parts of multifamily residential buildings (roof, facade, staircase, etc.);

²² <https://seea.government.bg/bg/finansirane>

²³ Residential building is a building designated for permanent residence, and consisting of one or more dormitories, which occupy at least 60 percent of the built-up area.

3. implementation of energy efficiency measures, which are prescribed as mandatory for the building in the energy efficiency audit:
 - On the building envelope: replacement of joinery (windows, doors, storefronts, etc.); thermal insulation of external enclosures (exterior walls, roofs, floors, etc.).
 - On the microclimate maintenance systems: major overhaul, modernization or replacement of local heat sources / boiler rooms or their associated facilities, owned by the owner of an independent site in the building, including replacement of the fuel base, with proven energy-saving and environmental impact; construction of systems for utilization of energy from renewable sources for the energy needs of the building; repair or replacement of depreciated common parts of the building's heating, cooling and ventilation systems to improve their energy efficiency; reconstruction of a vertical heating system into a horizontal one, providing individual accounting of heat consumption for each owner of a separate unit in the building; repair or replacement of the electrical installation in the common parts of the building and implementation of energy saving lighting in the common parts; installation of a system for automated centralized lighting control in the common parts of a residential building; gasification of buildings - installation of a gas boiler and connection to an urban gas distribution network, when available near the building; measures to improve the energy efficiency of lifts.
 - Supporting construction and installation work related to the implementation of energy efficiency measures and the corresponding restoration of the common parts of the building as a result of the implemented energy saving measures. The supporting construction and assembly work is only related to the restoration of the original condition, which was impaired as a result of the renovation of the common parts and the replacement of the joinery in the separate site. The program finances the most cost-effective energy saving package for the building for achieving an energy class "C".

The public relations that arise and develop in connection with the Program are detailed in Decree No. 18 of the Council of Ministers, *which contains samples of documents related to the incorporation of an association of owners and decision-making by the general meeting.*

Another form of incentivizing the implementation of EE measures is the exemption from a local real estate tax of a certain category of buildings, namely:

1. buildings put into operation before 1 January 2005 and having received certificates for energy class "B", and buildings put into operation before 1 January 1990 and having received certificates with energy class "C" are exempt from local real estate tax as follows:
 - for a period of 7 years - from the year following the year of issue of the certificate;
 - for a period of 10 years - from the year following the year of issue of the certificate if they also apply measures for the use of renewable energy sources to meet the needs of the building;
2. buildings put into operation after 1 January 1990 and before 1 January 2005 and having received certificates for energy class "C", and buildings put into operation before 1 January

1990 and received certificates with energy class "D" are exempt from local real estate tax as follows:

- for a period of three years - from the year following the year of issue of the certificate;
- for a period of 5 years - from the year following the year of issue of the certificate, if they also apply measures for the use of renewable energy sources to meet the needs of the building.

The tax exemption does not apply in cases where the building has received a certificate with a class of energy consumption **as a result of energy efficiency measures financed by public funds**.

Other EE finance sources in Bulgaria

Currently, in Bulgaria there is a number of capital providers that can finance EPC implementation. Refundable financing can be procured from the Energy Efficiency and Renewable Sources Fund (EERSF) and commercial banks.

Energy Efficiency and Renewable Sources Fund / EERSF / ²⁴

The Fund was established under Article 78 of the EEA as a legal entity, financing the implementation of activities and measures for energy efficiency improvement and promoting the activities of production and consumption of renewable energy, with the exception of those financed by the state budget.

Pursuant to Article 82 of EEA, the funds of EERSF shall be spent for:

1. Debt financing of energy efficiency improvement projects;
2. Debt financing of activities and projects for the production of renewable sources energy (when for own consumption only);
3. Guaranteeing loans from financial and credit institutions, granted for implementation of EE and RE investment projects;
4. Priority debt financing of projects for:
 - implementation of energy efficiency improvement measures for final energy consumption;
 - the use of energy from renewable sources in final energy consumption;
5. maintenance of the Fund in accordance with the annual revenue and expenditure budget, approved by the Management Board and the General Meeting of Donors.

²⁴ <https://www.bgeef.com/bg/>

The EERSF finances EPC projects in two ways²⁵ :

- Direct financing to the contractor;
- Purchase of receivables under energy performance contracts, in which case the funds provided by EERSF represent a cession (forfeiting) price.

The EERSF provides two more financial instruments:

- Issuance of credit guarantees as a collateral for bank financing;
- Issuance of portfolio guarantees.

Detailed information on the application form and documents is available on the Fund's website: <https://www.bgeef.com/en> .

The EERSF supports the following types of investment projects (in the field of increasing the EE of buildings)²⁶ :

Renovation of buildings such as public, commercial, multifamily, single family homes. Renovation should be aimed at improving energy efficiency through the following activities:

- Modernization of substations using heat exchangers;
- Thermal insulation, including the installation of heat-insulated doors and windows, roof, ceiling and wall insulation;
- Sun protection of windows and devices for passive utilization of solar energy;
- Improvements in heating, ventilation and air-conditioning installations through the installation of control devices and energy management systems;
- Improve indoor and outdoor lighting by replacing existing luminaires with energy-efficient ones, installing automatic lighting control devices (motion sensors or timers).

1.3.2. LABEEF financial model analysis

In general, the financial model offered by LABEEF includes:

1. entering into an EPC contract in accordance with a sample, provided by LABEEF
2. a subsequent assignment of the contractor's receivables from the client in favor of LABEEF.

²⁵ <https://www.bgeef.com/bg/financial-products/loans/>

²⁶ https://seea.government.bg/documents/BGEEF-Companies_Mar2017_update.pdf

General issues on the cession (forfeiting) agreement (assignment agreement):

Legal framework related to LABEEF model replication in Bulgaria:

- Obligations and Contracts Act / OCA /.

In accordance with the provisions of Art.99 and Art.100 of the OCA, the creditor may transfer its receivables, unless it is forbidden by law, the contract, or the nature of the receivable. The parties to the assignment agreement are the transferor/ assignor (the one who is transferring the receivables) and the transferee/assignee (the new creditor). The receivables are transferred to the new creditor with the privileges, collaterals and other accessories, including expired interests, unless otherwise agreed. The previous creditor is obliged to inform the debtor, and to submit to the new creditor the documents certifying the validity of the receivables, as well as to confirm the transfer in writing. The transfer shall have effect to third parties and for the debtor from the day on which the debtor is notified by the previous creditor. If the transfer of receivables is made against payment, the old creditor shall be liable for the existence of the receivables at the time of the transfer. The old creditor shall not be liable for the debtor's solvency unless he has undertaken to do so in written, and only to the extent of the amount has received in return for the transfer.

In addition, pursuant to Art.103, para 3 of the OCA, if the debtor has agreed to the transfer of the receivables, he may not offset his obligation against existing receivables from the previous creditor.

Following **conclusions** may be drawn:

The cession is a legal way of transfer of rights (receivables), by virtue of which a change in the parties occurs - the transferee becomes creditor. The assignment contract changes the holder of the transferable receivables - the creditor. The debtor does not participate and does not express consent to the cession contract. The debtor is not a party to the assignment agreement. Both monetary receivables and other rights, the transferability of which is permissible by law and follows by their nature, may be ceded (transferred). The cession contract may have **modalities**-condition or term.

The Bulgarian court practice rather revolves around the conclusion that future receivables cannot be transferred by virtue of a cession contract, and if an assignment agreement has been concluded, it is void. According to Article 99, paragraph 2 of the COA the receivables are transferred to the assignee to the extent in which the assignor has held them. This means that subject of a cession transaction **cannot be future receivables**, i.e. their existence is a condition sine qua non of the agreements. Regardless of the variety of grounds on which the cession is performed (sale, donation, datio in solutum, etc.), certainty, respectively the determinability of the claim is a requirement for the validity. The assignment contract always presupposes an existing receivable arising on another legal ground. If the amount of the transferred receivables depends on a counter performance of the contractor (the transferor), respectively by its acceptance by the debtor (e.g. construction and its acceptance by the client by signing the relevant acts and protocols), i. e. from the actions of third parties, then these receivables should

be indefinable at the time of concluding the assignment agreement. The non-definability of the transferred future receivables results in the voidance of the cession contract due to the invalidity of the sale on the basis of which it was made. This understanding was adopted in Decision No. 32 of 09.09.2010, case No. 438/2009 of the Supreme Court of Cassation, and also in other court acts. If the transferred receivable does not exist at the date of entering into the assignment contract, it shall be null and void due to an impossible (or missing) subject matter within the meaning of Article 26, para.2, prop. first by the COA. However, an exception to this rule is the factoring contract (decision No 94 of 10.07.2014 under case No 3643/2013 of the Supreme Court of Cassation).

At the same time, a distinction should be made between a non-mature receivable and a future receivable. Provided that a receivable is non-mature, this should not be an obstacle for its transfer. Voidance of the cession contract would only be caused by transfer of a future, non-existing receivable.

In conclusion, in all cases of transfer of receivables, the determinacy of the receivable must be examined. If it is determinable, then in a dispute the assignment agreement should be considered valid. However, if the receivable is indeterminable, in the event of a court dispute between the parties, the cession may be declared or considered void.

Cession under EPC

Regarding an assignment agreement under an EPC signed after a public procurement procedure, the following legal case study on the repealed Public Procurement Act, effective until 16.02.2016, can be reviewed:

In the old version of PPA /repealed, effective until 16.02.2016/, the provision of art.43, para 1 prohibited the parties from amending signed public procurement contracts. The exceptions to this rule were regulated under art.43, para 2, whereby the amendment could only refer to the term, subject or price of the contract, under hypotheses explicitly stipulated in the law. The change of the parties was not provided for in the exceptions under Article 43, paragraph 2. Therefore, the legal prohibition under Art. 43, paragraph 1 of the PPA was effective for this type of amendments of contracts under the PPA. As mentioned, the debtor is not a party to the assignment agreement, but once the debtor is notified for the transfer of receivables, he is obliged to pay the receivables to the new creditor. After notification of the transfer pursuant to Art.99, para 4 of the OCA, the old creditor shall be considered replaced by the new one. For this reason, by decision № 162 of 28.01.2013 the Supreme Court of Cassation accepted that the modification of a public procurement contract is prohibited by the special law not only if the replacement of one of the parties was effected by a contract, but also if through another legal transaction the same result is achieved, as in the case of the transfer of the receivables of the contractor through a cession contract. In this sense, according to the Supreme Court of Cassation, the provision of Art.43, para 1 of the PPA /repealed/ does not allow transfer of receivables of the contractor to third party. The prohibition for amending the public procurement contract creates a non-transferability of the receivable. Non-transferability is governed by a mandatory stipulation of law, and according to

Article 99, Paragraph 1, Item 1 of the OCA, the subject of the cession contract is a receivable whose transfer is not allowed by the law²⁷.

This conclusion of the Court is currently abandoned due to the existence of an explicit provision in the new PPA, in force since 15.04.2016, which stipulates that monetary receivables under public procurement and subcontracting contracts are transferable, they can also be pledged, and they may be enforced.

Relevant case study on cession issues in EPC

The following case study shall be highlighted in matters relating contractor's receivables arising from the EPC, and the subsequent transfer of receivables.

A. Decision No. 64 of 19.06. 2017, commercial case No. 139/2016 of the District Court in Pazardzhik , upheld by Decision No. 208 of 06.07.2018, commercial case No. 487/2017 of the Court of Appeal - Plovdiv, the latter not admitted for cassation control by Order Nr.224 of 07.05. 2019, case No. 2639/2018 of the Supreme Court of Cassation.

The following facts²⁸ were proven before the court:

1. As a result of an open public procurement procedure, a Contract for the implementation of engineering for energy efficiency performance activities²⁹ has been concluded with the following content:

The parties have agreed that

- the contractor will finance the project with the own funds;
- the investment provided by the contractor will be repaid by the client with budgeted funds, and the financial equivalent of the annual energy savings of the building performance achieved during the payment period should also be involved in the payment of the investment;
- the payment of the amounts due to the contractor should be made through monthly installments;
- annual payments adjustments depending on the monetary equivalence of the annual energy consumption achieved for the respective monitoring year will be made;

²⁷ Decision №162 as of 28.01.2013, case № 453/2012

²⁸ The factual situation adopted by the court is the one that led to its conclusions and is described in the relevant court act. The parties may also refer to other facts and arguments beyond those analyzed in the court decisions. Since the access through the various legal systems is available only to judicial acts (rulings, orders, decisions), but not to the submitted documents, requests, opinions, arguments, etc. provided by the parties, this analysis will address only to court decisions.

²⁹ The District Court in Pazardzhik has qualified the contract as an EPC. In another legal dispute between the same parties regarding the same contract, the Plovdiv Court of Appeal under case No 11/2019 has concluded that this contract is not an ESCO contract but an engineering contract.

2. Based on the evidences in the particular case (including the hearing of experts), the court accepted that the energy performance reference parameters prior to the implementation of the measures specified in the contract were different from those pointed by the contractor himself in the EE audit carried out by him, and thus the achieved results could not be compared with the guaranteed results. The achieved result reporting methodology does not allow the verification of the guaranteed energy savings in a numerical indicator that is assessable, measurable and verifiable;
3. Contractor's receivables have been transferred to the plaintiff;
4. Stage 1 of the EPC contract (implementation of EE measures) has been completed, and stage 2 - monitoring and repayment of the investment has started.

Based on the established facts, the District Court in Pazardzhik ruled the following:

- Qualifying the contract between the parties as an EPC, the court found that under the provisions of the EEA 2008. / rep./ the client must "reimburse" the investments made in accordance with the procedure provided for in Art. 48, para. 1³⁰ of the law - depending on the realized energy savings, and not through regular repayment installments. Payment of installments contradicted directly to Art. 48, para. 1 of the EEA from 2008 (rep.), in view of which the Court considered the contract null and void. The voidance of the contract results in a lack of receivables in favor of the contractor, whereby the assignment agreements under which non-existent receivables were transferred appear also null and void due to lack of subject matter;

The court also referred to additional reasons for the voidance of the cession contracts.

According to Art. 99, para. 2 of the OCA, the receivable is transferred to the assignee to the extent in which the assignor has held them, and thus subject of the cession transaction cannot be future but only existing receivables, i.e. their existence is a condition for the validity of the cession agreement. The indeterminacy of the transferred future receivables leads to the voidance of the cession due to the invalidity of the sale on the basis of which it was made. The cession contract is void because of lack of subject matter - Art.26, para.2 of the OCA. In the present case the cost of the investment and the remuneration of the contractor are paid out from the possible future savings, as a result of reaching the guaranteed performance. Payment for the services provided is based on the achieved level of energy efficiency improvement. Therefore, the contractor is not owed a price as long as the purpose of the contract has not been achieved. In this case, the cession contracts transferred receivables that, although formally incurred (as a monthly installment payments), are not due (definitively determined and demandable), as their determination is conditioned by the possible positive financial value of the difference between the guaranteed and the achieved annual energy consumption, which was not proven not in this case;

- The plaintiff's claim was rejected.

³⁰ Art. 48, paragraph 1 from the repealed EEA is analogous to Art. 72, para. 1 of the EEA

Additional legal conclusions in the court decision under case Nr.487/2017 of the Court of Appeal – Plovdiv

- The objective of the EPC is to invest in energy-saving measures and activities, with the investment paid out at 100% of the performance savings, and the investment risk being borne by the ESCO company;
- The remuneration of the ESCO company is determined by the efficiency of performance;
- The consideration due by the client is a function of the guaranteed performance. Therefore, if the energy saving measures and activities carried out do not achieve the guaranteed energy savings, the costs remain at the expense of the contractor, even if the work related to the implementation of those measures and activities is recognized and accepted by the client;
- The rules of Regulation No 16 shall be applicable, whereby the agreed mechanism for determining the monetary obligation of the client and the method of payment contradicts also the provisions of the Regulation;
- In both court decisions, conclusions were drawn about the unfoundedness of the claims because the guaranteed result was not achieved.

A number of court cases have been initiated in connection with the same contract, some of which are described in i. B and i. C.

B. Decision No. 196 of 13.07.2018, case No. 128/2017 of the District Court in Pazardzhik, overturned by Decision No. 95 of 15.03.2019 of the Court of Appeal - Plovdiv, case No. 11/2019, currently, there is no decision of the Supreme Court of Cassation

The District Court again rejected the claims with arguments similar to those already stated. However, the decision of the Plovdiv Court of Appeal is of a particular interest.

The court of Appeal gave another legal qualification on the same contract - an engineering contract (instead of an EPS or ESCO contract). The provisions of Regulation No 16 do not apply in this case. The contract is a simple commercial agreement between equal parties - two commercial companies. Analyzing the terms of the contract, the court found that the parties' will, when entering into the contract, was to entrust the contractor with the activities, including those not directly related to improving energy efficiency, by financing the investment himself, and then the investment to be paid by the client within a specified period in the manner agreed in the contract. The contract also does not contain stipulations exempting the client from its obligation to pay the contractor the investment, if there are no savings. The Court of Appeal has accepted that the legal definition of ESCO contracts does not oblige equal commercial companies such as the parties to enter into contracts which stipulate the payment of the full amount of the investment and the contractor's remuneration to be made solely at the expense of performed energy savings. As a final result, the Court of Appeal upheld the claims, and ordered the client to pay the amounts due under the contract to the plaintiff.

Currently, there is a cassation appeal against the decision, but no decision of the Supreme Court of Cassation yet.

C. Cases in which the client is a plaintiff and claims returning of the sums already paid by him in accordance with Art. 55³¹ of the OCA:

1. Decision No. 1188 as of 28.06. 2019, case No. 3052/2017, Sofia City Court currently appealed, without a ruling of the Sofia Court of Appeal;

2. Decision № 1788 as of 31.08. 2018, case No. 2456/2017, Sofia City Court, currently appealed without a ruling of the Sofia Court of Appeal.

In both cases, the court concluded that in an EPC the contractor provides the service, wholly or partially with its own funds, and / or undertakes to secure its financing by a third party, and the client is obliged to recover the investments made depending on energy savings achieved. However, the costs shall be borne by the contractor if the implementation of the energy saving activities and measures does not achieve the guaranteed energy savings, even if the implementation of the activities and measures is accepted by the client.

In the contract, the payment of the investment by the client has not been bound on the guaranteed result, and the payment had to be done in equal monthly installments, regardless of the energy savings performed. The agreed manner of payment by monthly installments contradicts the imperative provision of Art.48 of the EEA. Furthermore, according to the expert witnesses, it was not possible to calculate the annual electricity consumption, neither the annual energy consumption of the sites could be determined, which in turn implies that its monetary equivalent cannot be determined as well. The Sofia City Court concluded that the contract suffers from the most serious defect – it is null and void, because of a contradiction with an imperative rule of law. Because of its voidance, the contract did not have legal effect, and thus the defendant did not have any receivables from the plaintiff. The final conclusion of the court is that the amounts paid by the client shall be repaid by the assignee.

Remarks on the judicial acts described above

All the described court decisions do not take into account the provision under Art.4, para 2 of Regulation No 16 for the possibility payment of the remuneration due to be made on a quarterly basis, whereby at the end of the year the parties of an EPC make an adjustment installment under the contract. In the event that quarterly payments exceed the amount of energy savings verified, the excess shall be considered as an advance payment for the following year. Advance payments shall be deducted in proportion from the payments for the respective quarters of the following year. This regulation allows for payments to be made before verifying energy savings.

³¹ Any person who has received something without grounds, or in view of an unfulfilled or dropped reason is obliged to return it.

In addition, the decisions misinterpret 1) the budget planning rules and procedures for first class administration units with budget credit funds for the performance of ESCO services in state-owned and / or municipal property, and 2) the rules and procedures to recover investments and payment of contractual remunerations.

In order to better protect the rights of the ESCO Company in the case of the application of Regulation No 16, in the EPC provisions should be laid down for the recovery of the investments made and the payment of the contractor's remuneration due after realization and verification of the energy savings performed. Only then, the receivables can be transferred.

To the extent that the Regulation applies to the cases explicitly provided for in it, its provisions are irrelevant to the relations between private entities where the principle of contract freedom applies.

D. On the other hand, by **Decision No. 93 of 28.02.2018 for case No. 60268/2016 of the Supreme Court of Cassation**, the contractor under an energy performance Contract for construction and installation works and debtor of the transferred receivables (in this case the municipality) was ordered to pay to the transferee certain amounts - unpaid equal monthly installments due to the contractor. The Supreme Court of Cassation did not consider as justified the objection for the lack of the required receivable of the contractor due to the fact that no savings in electricity and heat have been achieved in the building subject to the construction and installation works.

In other cases, involving receivables under ESCO contracts / referred to by the parties as Engineering Performance Contracts, Engineering Contracts for Energy Efficient Performance, Contracts for construction and installation performance works etc. / in which the parties have agreed the client to pay to the contractor monthly installments, the court came to a conclusion on the validity of the cession contracts, as well as on the validity of the EPC - **Decision of 15.02.2013 for case No.130/2012 of the Regional Court – Targovishte, which entered into force; Decision No. 30, case No. 81/2016 of the District Court - Targovishte, upheld by decision №252 / 28.11.2017 of the Court of Appeal Varna; Decision № 178 of 13.06.2018 on case № 65/2018 of the District Court - Vratsa- entered into force and final.**

In the last case, the Vratsa District Court considered as groundless the allegation that the cession contracts were null and void because of an impossible subject matter since there were no realized savings of electricity and heat at the contract sites. The question of the contractor's performance (whether or not savings were achieved), according to the district court, is a matter of substance of the legal dispute, because on it depends the right of claim for this receivable, which will also determine the merits of the claim.

Decision No. 941 of 24.04.2017 on case No. 2518/2015 of the Court of Appeal - Sofia - not admitted to cassation appeal and entered into force³² - the client under EPC is a municipality, monthly installments are due for payment to the contractor. There is a cession of receivables. Here, too, the defendant argued that the plaintiff had not verified realized electricity and heat savings at the site. In the case, the implementation of the first stage has been established. A protocol was presented in which the parties accepted that the contractor had fulfilled the contract performance because the site did not exceed the guaranteed annual energy consumption, and the efficiency coefficient was equal to one, no annual compensation should be paid for the 2007-2008 monitoring period. *After that, an annex was concluded stipulating, in view of the changed purpose of the building, that the parties terminate the monitoring of the performed result, whereby the client will continue to pay back the investment under the terms of the contract - by monthly installments.*

The contract does not entitle the client to refuse to pay the installments within the agreed period in the case of unperformed energy saving. In this case, the penalty for the contractor for each one-year monitoring period is the obligation to compensate the client by paying the difference between (the multiplication of the efficiency coefficient and the value of the annual energy consumption guaranteed) and (the value of the annual building energy consumption guaranteed). Therefore, if the guaranteed result is not achieved, the client will be entitled to claim this compensation (respectively, to deduct it from the amounts due), but not to refuse to pay its obligation. Based on these findings, the court ruled in favor of the plaintiff.

Decision No. 14 of 03.01.2019 on case Nr. 3752/2018 of the Sofia Court of Appeal, currently there is no ruling by the Supreme Court of Cassation.

The assignor is a municipality, contractor- an ESCO company. A contract for implementation of engineering with performance of energy efficiency measures and repair and restoration works for several sites owned by the municipality has been concluded.

An assignment agreement has been signed.

The Court of Appeal concluded that the method of repayment of the investment and the remuneration **of the ESCO company by** monthly installments was null and void, because of contradiction with the law, on the grounds of Art.26, para.1, item 1 of the OCA. In accordance with the EEA and Regulation No 16, the investments and remunerations for energy efficient services are reimbursed, respectively paid back, at the expense of the realized savings, while the financial and commercial risk is borne by the contractor. Contrary to these specific imperative rules, the parties have agreed on payment of the obligation, with vaguely defined energy efficiency criteria and a compensation mechanism for the client, if the result is not achieved.

³² In a similar factual situation, the same is the ruling in Decision No. 330 of 06.11.2018 on case No. 342/2018 of the District Court - Vratsa, entered into force, as well as in Decision No. 101 of 13.10.2016 on case No. 97/2015, Vratsa District Court, upheld by decision No. 1394 of June 16, 2017 on case No. 6091/2016 of the Court of Appeal - Sofia, not admitted to cassation appeal.

According to Sofia Court of Appeal the stipulations of Art. 26, para 4 of the OCA, shall apply, namely: the voidance of a separate part of the contract does not entail its voidance as a whole, but should be substituted by the mandatory provision of the law.

As the receivables have been transferred, the assignee has to verify that the works performed under the contract have been energy efficient. The result must be proven in order the obligation of the client to pay the investments and remunerations to become due. And since the plaintiff have not proved the realized savings, the claims have been rejected.

There are different legal conclusions of the Court in similar factual situations³³.

In some court rulings it is considered that the energy performance contracts, which include periodic payment of installments, are null and void, while in other cases the null and void clauses are replaced by mandatory provisions of the law, further examining whether the savings have been realized or not is made. Part of the case law considers that the cessions of receivables under the ESCO contract, after the completion of stage 1 and commencing of stage 2 and before verifying the savings³⁴, are null and void due to the indeterminacy of the receivables, whilst the other part of the court decisions in a similar factual situation order the client to pay to the assignee the sums due.

In order to avoid disputes between the parties, especially in the cases where Regulation No 16 applies, the EPC should stipulate, that investments and contractor's remuneration are due after realizing and proving the performed energy savings in the manner envisaged in the contract, the EEA and the Regulation. Thereafter, the determined receivables arising from verified savings could be transferred.

Regarding the specific receivables to be transferred to LABEEF

As we have already stated, subject of the assignment agreements may only be existing receivables. Future receivables, as well as receivables, the amount of which depends on the fulfillment of additional conditions, could not be transferred.

Fees (receivables), which are fixed in advance and are determined by their amount, and do not depend on the actions of the parties or third parties, such as the renovation fee (the fixed component, not the floating component) as a sum whose amount can be determined at the time of implementation of the measures - after finalizing the first stage of the contract and signing the acceptance protocol, could be transferred after the protocol is signed.

This conclusion is valid only if this fee is not payable at the expense of and from the realized energy savings. That is, if it is a fee (remuneration) for performing works that do not lead to

³³ There are several other court rulings with subject receivables under energy performance contracts.

³⁴ The cession of receivables under the ESCO contract made prior to the completion of stage 1 i.e. implementation of the measures and commissioning, and start of stage 2 - monitoring and payment of amounts to the contractor, would be invalid due to the indeterminacy of the receivable

energy savings, for example, it is for construction works that do not have a direct energy-saving effect, but without which the measures for increasing EE could not be implemented.

In the context of the case studies discussed, declaring the voidance of transfer of future receivables, all other receivables whose amount will be determined after the realization of the energy savings should be transferred only after the savings have been realized and confirmed. Receivables that relate to actual energy consumption should also be transferred only after they have been determined after energy consumption.

Apparently, the financial model cannot be fully and literally replicated in Republic of Bulgaria. The differences will be taken into account when implementing the samples of contract.

1.4. Part Three: Proposed changes in the national legislation

1.4.1. Amendments in the EEA

1. Expansion of sources for recovery of investments made and payment of remuneration due to the contractor under the EPC.

According to Art.72, para.1 of the Energy Efficiency Act, the only source for recovering the investment made and paying the contractor's due remuneration are energy savings.

In Part One, we pointed out that the EPC definition under the DEE provides for two groups of sources of investment payback - by

- valuing a contractually performed level of energy efficiency improvement, or
- using another contractual criterion related to energy performance (e.g. financial savings).

Proposal for a new revision of Art.72, para 1 of the EEA

Art. 72. (1) The Energy Performance Contracts (ESCO Contracts) shall be aimed at implementing energy efficiency measures in buildings, enterprises, industrial systems and systems for external artificial lighting, whereby the investments made by the contractor shall be repaid, and the contractor's remuneration due shall be paid in terms of a contractually guaranteed level of energy efficiency improvement or other contractual criterion related to energy performance, e.g. financial savings.

2. Option for participation of the client in financing the services - Art. 73, para. 4 of the EEA.

The following will be achieved:

- Expanding the opportunities for the client to use its own and / or attracted financial resources when concluding an energy performance contracts;

- Achievement of a multiplier effect during the use of free / specialized low-interest EU financial instruments and private financial resources by the client.

According to Art.73, para 4 of the EEA, the contractors shall provide the service, in whole or in part, with their own funds and / or undertake to secure its financing by a third party.

Proposal for amendment in Art.73, para. 4 of the EEA:

The contractors and / or clients under Art.72, para. 2 provide the service with their own funds and / or undertake to secure its financing by a third party.

3. Provision for the possibility for the ESCO company to carry out an energy efficiency audit when implementing the measures proposed under the ESCO contract.

Under the stipulations of the EEA, the audit is carried out by a third party, namely, a company registered in the register of SEDA. The client shall submit a summary of the report of the energy efficiency audit carried out. Before concluding an ESCO contract, the assignor shall have entered into a contract for conducting an energy audit with a company entered in the SEDA register. Contractors may not carry out energy efficiency audits for the contracted site.

Part of the content of the ESCO contract are:

- the normalized energy consumption established by an energy efficiency audit;
- draft of the proposed performance measures to be implemented, including the steps to be taken and, where applicable, the costs involved.

Normalized energy consumption and a list of energy efficiency measures are included in the audit. The subject of the ESCO are the measures proposed in the audit. The audits carried out by a company external to the ESCO company include often incorrectly selected or over-ambitious indicator in terms of energy performance and evaluation methodologies leading to follow-up disputes in monitoring and reporting; underestimating or overestimating the energy savings and / or the additional benefits of ESCO projects; total inability to achieve the pre-estimated performance savings. According to the current legal requirements, the ESCO company has no opportunity to pre-control and verify the technical and economic parameters of the measures specified in the audit, **but it carries all the risk under the contract, and must guarantee the achievement of savings from implementation of the measures from the audit.**

The suggested amendment in the EEA is fully consistent with the requirements of the DEE, according to which, when energy audits are carried out by **internal experts**, the need for independence would require **those experts not to participate directly in the audited activity**. The amendment provides an opportunity for the ESCO company to perform energy efficiency audits in the implementation of an energy performance contract. In order to comply with the applicable regulatory framework, the ESCO company must be entered in the registers of the SEDA under Article 44 or Article 60 of the EEA, depending on the scope of the energy performance contract.

1.4.2. Amendment in the COMA

To expand the scope of activity of the Associations under Art.25 of COMA, and to provide for an explicit possibility for them to conclude commercial contracts, to absorb funds from various sources of financing in the repair and / or renovation of the building.

The change is necessary to avoid disputes as to whether the associations can be a party to the EPC with subject buildings in condominium ownership, in view of the restricted subject of activity under Art.25, para 1, para 2 and para 5 of COMA.

Proposal for a new revision of Art. 25

Art.25 (1) For absorption of funds from European Union funds and / or from the state or municipal budget, grants and subsidies, other sources of financing and / or use of own funds for the major repair and / or major renovation of condominium buildings, owners can establish an association. The Association is a legal entity established by the order of this law.

Other possible amendments / additions to COMA

- Option for opening and maintenance of a designated bank account for managing the funds of the Condominium (instead of the possibility to open a bank account just for Repair & Renovation purposes as is the case at present).
- Expansion of the authorities and the discretion of the General assembly and the Manager (Board) of the building with regards to making EE investment decisions;
- Improved legal description and regulation of the activities of the “professional condominium facility managers”, as opposed to the rather limited regulation of Art.19, para.8 of COMA now;
- Introduction and development of a centralized condominiums register, where each multi-family building will be mandatorily recorded upon commissioning. Each such building should be receiving a unique identification number which would serve as means for legal personalization and identification of the condominium;

In conclusion, the regulatory framework and the case studies laid out above present a number of challenges and problems for the EPC model in Bulgaria, including for condominium buildings. One possible reason for this is the fact that the EPC is weakly known as a financial instrument in multi family buildings, which is largely due to grant financing under national and European programs.

Some of the challenges can be managed through appropriate legislative changes, and the other through the accumulation of new court ruling practices based on a thorough knowledge of the ESCO mechanism.

1.5. General eligibility criteria

Beneficiaries

All the owners of independent units in Multifamily Residential Buildings together, whereby the following requirements are met:

- Valid decision of the general assembly of the owners taken unanimously by all owners of sites, including consent of the owners on all important elements of the contract;
- Notarization of signatures of the owners in the protocol (minutes of meeting) of General assembly meeting;
- Conducted EE Audit by certified entity, duly registered at the register kept with SEDA

ESCOs

An ESCO may be eligible to enter into a Forfeiting Agreement if it meets the following requirements:

- Notwithstanding the below eligibility criteria, eligibility is subject to secure financing from a commercial bank(s) acceptable to financing authority,
- It operates in compliance with all applicable legislation of Bulgaria,
- Has adopted and strictly abides to the European Code of Conduct for Energy Performance Contracting as uploaded on https://www.seea.government.bg/documents/Code_of_Conduct_EPC.pdf and it duly adheres and strictly executes its provisions,
- It is financially viable and does not have any unsettled public obligations or taxes being due and executable forthwith,
- Financial accounts for the last two years preceding the date of signing the Forfeiting Agreement demonstrating sound and prudent management. For start-up companies subject to an additional review of the authorized body of the financial institution.
- Meets usual credit and ethics criteria.

Forfeiting transaction

The forfeiting transaction between financing institution and an ESCO is eligible if:

- The Renovation Works have been implemented based on the template of Energy Performance Contract;
- It is based on the template of Forfeiting Agreement;
- The baseline for the Energy Performance Contract has been determined according to the provisions under EEA and relevant by-laws;
- The receivables are existing and valid, based on verification of the guaranteed level of energy saving;
- It is based on the projected cash flow of the Energy Performance Contract being financed on arm's length market terms with a discount rate calculated for each Forfeiting Agreement using the instructions included in Annex V of the LABEEF Guidelines;
- It provides sufficient protection for LABEEF by a satisfactory and European market standard regulation of termination events, representations and warranties, as well as first-loss-piece insurance policy for an insured amount of EUR 50,000 (fifty thousand euro);
- The Guaranteed Energy Savings provided in the Energy Performance Agreement is met and verified for at least one settlement period based on the instructions for Measurement and Verification included in Annex VI of the LABEEF Guidelines;
- The value of the transaction does not exceed EUR 500,000 (equivalent in BGN), unless expressly decided otherwise by LABEEF Supervisory Board;
- The maximum aggregate value resulting from multiple forfeiting transaction with an ESCO shall not exceed EUR two (2) million (or equivalent in BGN) on an annual basis;
- The ESCO has obtained credit appraisals for pre-financing the Renovation Works by a Financial Institution or a commercial banks' or LABEEF;
- The ESCO has fully paid all costs for the implementation of the Renovation Works to the respective contractor and subcontractors (if any);
- The ESCO complies with all applicable Laws and Standards effective and applicable in Bulgaria;
- The Renovation Works complies with all applicable Laws and Standards effect in Bulgaria including by ensuring a valid construction permit is held prior to implementing building renovation works and the commissioning and exploitation protocol is signed by the respective authority prior commissioning the renovated building.

Additional requirements in State-owned /municipal-owned buildings subject to EPC

The requirements of Regulation No 16 are met, regarding content of the EPC and manner of payment of the investment of the contractor – at expense of the realized energy savings only, which were verified according to the provisions of the Regulation and EEA

1.6. Technical criteria

General targets

The Guaranteed Energy Savings for space heating and domestic hot water circulation losses are based on Investment Grade Energy Audit and reached with Measurements and Verification for at least a period of 12 months (one settlement period). Guaranteed Energy Savings, Investment Grade Audit and Measurement and Verification are parts of the Energy Performance Contract

Public buildings must be of energy class "B" at least: (141 kWh / m² - 280 kWh / m²), in accordance to Ordinance № ПД-16-347 / 02.04.2009

Multifamily buildings are preferred to be of energy class "C" at least: (191 kWh / m² - 240 kWh / m²), per the established market practice by the National Programme for Renovation of Multifamily Buildings

Energy Efficiency Improvement Measures

The Renovation Works can follow one of the following packages, each of one including the following minimum Energy Efficiency Improvement Measures:

Table 7 Energy Efficiency Improvement Measures - Bulgaria

Energy Efficiency Improvement Measure	EPC+	EPC++
Thermal insulation of the exterior walls	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10
Thermal insulation of the technical attics	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10
Thermal insulation of the basement ceilings	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10

External thermal and hydro insulation of the plinth wall	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10
Thermal insulation of inner walls between heated and unheated areas	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10
Replacement of windows	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 11	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 11
Loggias	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10 & 11	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10 & 11
External doors	In accordance to Ordinance № E-ПД-04-2 / 22.01.2016; Table 10	Exceeding Ordinance № E-ПД-04-2 / 22.01.2016; Table 10
Space heating system	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME
Centralized domestic hot water system (if existing)	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME

Heat substation for buildings connected to a district heating systems	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME
Heat source for buildings equipped with a decentralized heating system	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME	As prescribed in the Investment Grade Energy Audit; In accordance to Ordinance № 15 / 22.01.2016 of MRRD & ME

Additional measures

Table 8 Technical eligibility: Additional measures, Bulgaria

Additional Measure	EPC+	EPC++
Staircases	Cosmetic renovation of the staircases including repairs to the plaster, repainting, replacement/repair of staircase railings	The staircases are renovated including repairs to the plaster, repainting, replacement/repair of staircase railings
Staircases lighting system	Basic repairs of the staircase lighting system.	New high efficient staircase lighting system using LED technologies, motion and/or daylight control sensors.
Entrance halls	Cosmetic renovation of the entrance hall of the building.	The entrance hall of the building is renovated.
Trash rooms	Cleaning the trash room of the building.	Cosmetic renovation of the trash room of the building
Cold water system	Optional: installation of a new cold water system.	Installation of a new cold water system.
Water canalization	Optional: installation of a new canalization water system	Installation of a new canalization water system

Side walks	Side walk of the buildings are simply restored after thermal insulation of the plinth, with particular attention to rain water drainage and rain-off water	New side walk of the building, after thermal insulation of the plinth with particular attention to rain water drainage and rain-off water.
Suspended balcony	Requested structural measures and new railing / fences.	Requested structural measures and new railing and fences.
Exterior lighting	Repair of the lighting system at entrance halls.	New lighting system for entrance hall. Optional: Installation of exterior lighting system, like façade integrated LED lighting system.

Structural measures

The Renovation Works, independently from the selected package have to include structural measures as prescribed in the technical audit, conducted in accordance to Ordinance N° 15 / 28.12.2016 of MRRD.

1.7. Forfeiting criteria

- As financial ratios for LABEEF are met by pledged cashflows resulting from Energy Performance Contracts, the forfeiting transaction has to comply with the criteria and model set in Annex V to the LABEEF Guidelines;
- Financial data and the energy data of each EPC are acquired and documented through the Platform's monitoring module system (www.sharex.lv);
- Building insurance policy, which protects against the costs incurred by damage resulting from:
 - Fire, explosions, floods and storms, other natural disasters, third party malicious damages, damage from collisions, for the full value of the renovation works valid for not less than three (3) years following the date of execution of the insurance policy and renewable for the full Energy Performance Contract period concluded under terms and conditions incorporating relevant industry

standard provisions with an insurer acceptable for LABEEF along with documents confirming payment of the insurance premium.

- No Ancillary Risk Transfer: financing institution shall not assume any risk related to:
 - Changes in commodity or any other fuel prices. This risk, based on the provision of the Energy Performance Contract, is taken by the apartment owner;
 - Actual savings following the Energy Performance Contract and any payment adjustment or dispute related to it. This risk based on the Energy Performance Contract is taken by the ESCO;
 - Technology installed or in any other way applied. This risk, based on the provision of the Energy Performance Contract, is taken by the ESCO;
 - Performance risks provided by any other third party involved in the Renovation Works or in the operation and maintenance of the building as indicated in the provision of the Energy Performance Contract are taken by the ESCO;
- Execution of the Renovation Works, Operation and Maintenance of the Building, general administration, billing, is set in according to the Energy Performance Contract and Forfeiting Agreement and either managed by the ESCO or by the Manager or by the a Collecting Agent for the full duration of the Energy Performance Contract.

1.8. Projects not eligible to receive funding

A Forfeiting Agreement may NOT be entered into any person or entity that have engaged in:

- a coercive practice which means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of a third party to influence improperly the actions of such a third party;
- a collusive practice which means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- a corrupt practice which means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party; and
- a fraudulent practice which means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; or
- are subject to a Third-Party Funding for the purpose of refinancing the following:

- production and/or trade of arms or military equipment;
 - financial institutions or financial services companies;
 - insurance business;
 - production or export of tobacco or hard liquor;
 - sale of tobacco or hard liquor (other than where the sale of tobacco or hard liquor is ancillary to the entity's primary business activity);
 - casinos or other gambling activities;
 - speculative investments in property or currencies or any other speculative investment activities;
 - investments in securities of any kind, including investments in share capital of other companies.
- for the purpose of refinancing:
 - investments in new production ('greenfield investments')
 - working capital requirements
 - investments in new buildings that are already compliant with national energy efficiency standards
 - purchase of land
 - investments in real estate solely with the aim of making short or medium- term profit on sales
 - refinancing (or other type of replacement/consolidation) of any existing term loan or credit operations to the Beneficiary

1.9. Procedure for amending the rules

The competent corporate body may propose any changes to these Rules after analysis of the existing portfolio and the market. The authorized persons /bodies shall vote on the proposed changes. Changes and amendments to this Guideline shall only become effective after their valid adoption.

2. Austria

The latest Austrian climate and energy strategy was published in September 2018 by the Federal Ministries of "Sustainability and Tourism" and "Transport, Innovation and Technology" in a document called³⁵: **#mission2030**

In this document the key objectives of the strategy is defined:

...The key objective of the Federal Government's climate policy is to reduce greenhouse gas emissions. Austria intends to reduce its greenhouse gas emissions by 2030 by 36% compared to 2005...

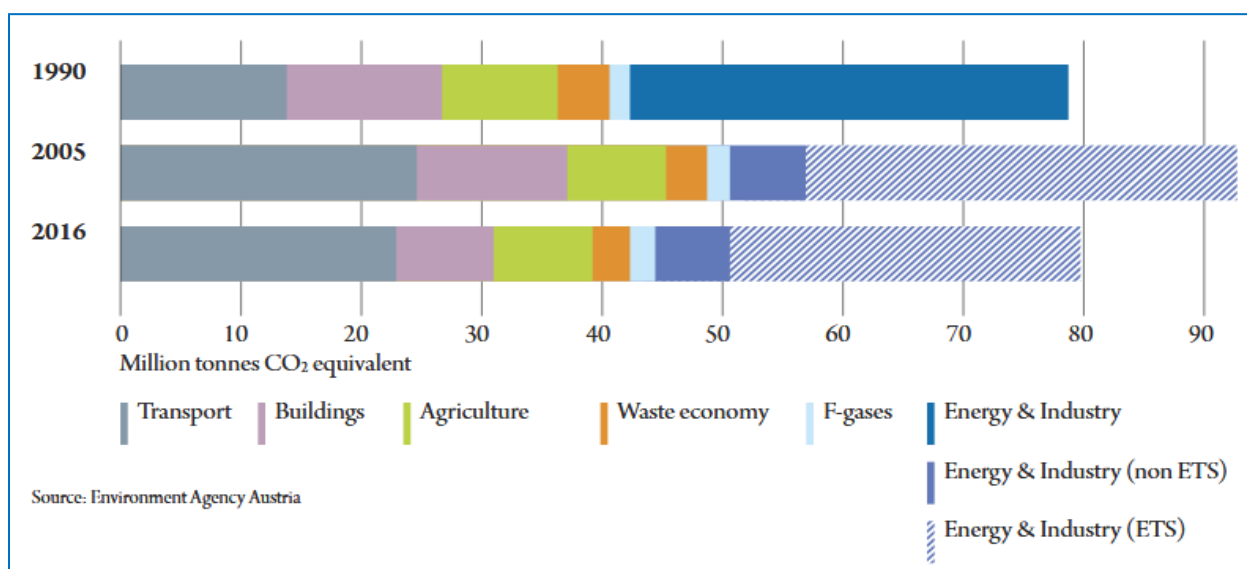


Figure 1: Development of Green House Gas Emissions in Austria since 1990

In relation to the building sector, the greenhouse gas emissions in 2030 should be reduced by 35% comparing to 2005. This is mainly as a result of thermal renovation and conversion to renewable energy sources of the heating system. The main focus lies on the building stock built in the period between 1950s to 1980s. One of the main challenges is to get funding for the renovation of these properties. It is becoming harder and harder, due in part to ownership structures and conflicts of interests between owners and tenants. In order to achieve the goal to reduce the greenhouse gas emissions, coordinated funding, a building regulation reform and changes to civil law are needed.

³⁵ Source: https://mission2030.info/wp-content/uploads/2018/10/Klima-Energiestrategie_en.pdf

Planned measures in the strategy for the building sector are:

- Consistent implementation of the requirements of the EU Buildings Directive in connection with building renovation
- Funding for thermal renovation of residential buildings through housing grant funds
- Add-on funding for projects following the requirements for "federal renovation check" for best renovation practices (klimaaktiv³⁶ gold standard, ecologically sustainable building materials, energy reservoirs, conversion of heating system to renewable energy sources)
- Simplified application procedure for funding and incentive schemes
- Bespoke renovation funding for commercial buildings through federal funding schemes
- Amendments to housing law to simplify renovation measures.

The instruments to achieve the goals are:

- Funding instruments for environmental measures on site, "renovation check"³⁷ and housing funding³⁸
- Design and implementation of instruments for relevant changes of to legal framework

There have been a number of measures to reduce the GHG emissions, especially in the building sector, e.g.:

- Tightening the requirements for the new buildings
- Providing subsidies for energy efficiency and implementing renewable energy sources
- Information campaigns
- Energy consulting

Energy contracting or energy services in the broader sense - are a proven instrument for implementing energy efficiency measures in the areas of lighting, HVAC, heating and even the refurbishment of buildings.

There is an urgent need to meet the climate protection goals and here the energy service contracting could play an important role. There are two models: energy saving contracting and energy supply contracting. Even though energy saving contracting can provide a win-win situation for the ESCo and the building owner, the market penetration seems to be difficult. The energy supply contracting is easier to implement but the scope of performance is limited.

Energy contracting has a long tradition in Austria. In 2005, the renowned Austrian contracting providers formed the umbrella organization DECA "Dachverband Energie-Contracting Austria". At the end of 2012, the corporate platform was also formed as a separate legal entity (association) under the new name "Dienstleister Energieeffizienz und Contracting Austria" (Service Provider

³⁶ Austrian concept for energy efficient buildings

³⁷ Sanierungsscheck

³⁸ Wohnbauförderung

Energy Efficiency and Contracting Austria) - this addresses all companies offering high-quality services for increasing energy efficiency and the increased use of renewable energy in Austria.

In Austria there are several initiatives to establish quality criteria on the market:

- Since 2003, the Austrian Eco-label for Energy Contracting has been in force.
- In 2013 the DECA (Service Provider Energy Efficiency and Contracting Austria) was founded with the aim of quality assurance on the Austrian energy service market.
- The Graz Energy Agency has developed the "Thermoprofit" brand, which offers together with business partners ESCO services in the Austrian provinces.

Contracting providers mostly come from the fields of building technology and automation, control and regulation technology, energy supply and civil engineering offices. They have to have the necessary planning, energy technology and interdisciplinary know-how to act as a general contractor and ensure comprehensive energy (and, if necessary, structural) refurbishment of the building to a high standard of quality.

The most common measures that have been carried out are replacement of boilers and optimisation of heating control systems, energy-efficient lighting, optimization of ventilation and cooling, heat recovery, optimization of room temperature, tariff optimisation, thermal insulation of facades, top and bottom story ceilings and use of renewable energy (e.g. solar power or solar heat).

Many public buildings, such as schools and kindergartens have been optimised and renovated through energy contracting (<http://contracting-portal.at>). While many public buildings have been renovated through energy contracting, the number of renovated residential buildings is low.

Most of the renovated buildings are social buildings which have the provinces as owners. In the private sector the situation is different because of the ownership structure. In these cases, the renovation is generally done if only it is "danger in delay" (if water is penetrating, or other constructional necessities) and there is enough budget to carry out the renovation.

2.1. General eligibility criteria

The beneficiaries are mainly the multifamily houses, public and communities' buildings. Generally, all the contracts should follow consumer protection law (Konsumentenschutzgesetz – KSchG BGBl. Nr. 140/1979) and Federal Act on Special Provisions of Civil Law for Enterprises (Unternehmensgesetzbuch – UGB BGBl. I Nr. 114/1997).

2.2. Technical criteria

The technical requirements of the building regarding the energy efficiency in Austria is defined in the OIB Guidelines number 6³⁹ (last version was published in April 2019). In this document the requirements for the building envelop (U-Values of the building elements, energy efficiency indicators for the new buildings and major renovations, avoiding overheating in summer, air-tightness, heating system, etc.) and energy carriers are defined. These requirements are implemented in the building regulations of the Austrian provinces their own juridical specifications.

The technical criteria are based on the Austrian Standards or ÖNORMs (regarding: air- and wind-tightness: B 9972, Climate model and usage profiles: B 8110-5, Heating and cooling requirements: B 8110-6-1, Ventilation technology - energy requirements: H 5057-1, Energy performance factor and final energy requirements based on reference equipment as well as primary energy demand and carbon dioxide emissions: H 5050-1, Heating energy demand and humidification energy demand: H 5056-1, cooling energy requirement: H 5058-1, Lighting energy requirements: H 5059-1) and the requirements for the nearly zero-energy buildings (national plan) for residential and non-residential buildings (renovation or new building).

2.3. Forfeiting criteria

In Austria most of the contracts are signed between two parties (building owner/ manager and the ESCO). Therefore, a forfeiting agreement in the sense of LABEEF has not established itself until now. Due to this reason the developed forfeiting criteria of LABEEF can serve as a template for forfeiting criteria in Austria.

2.4. Projects not eligible to receive funding

A Forfeiting Agreement may not be entered into any person or entity that was engaged in a coercive, collusive, corrupt and fraudulent practice or for the purpose of refinancing. The person or entity should provide references and all usual requirements for ordinary business activities.

2.5. Procedure for amending the rules

The Board of Directors proposes changes to all active parties within Austria. All active parties can take position to the amendments in a given period of time and the Board of Directors decides based on the feedback of the active parties about the scope and implementation of the amendments.

³⁹ <https://www.oib.or.at/de/oib-richtlinien/richtlinien/2019> & https://www.oib.or.at/sites/default/files/richtlinie_6_12.04.19_1.pdf

2.6. Energy Performance Contract

Here the content of the contract for the planning and implementation of energy saving measures are highlighted. This example contract was commissioned by the Federal Ministry of Science, Research and the Economy and compiled by the Austrian Society for Environment and Technology (ÖGUT) and is meant to support the contractual partner in minimizing the effort in implementing the efficiency measures.

The EPC includes: the general parts regarding the contract partners, service of the contractor and its quality, length of the contract, guarantees, cooperation of the contract partners in the course of the project, description of the work, terms and conditions of the payment, backstopping management, and general provisions on the implementation, system and signatures.

The complete EPC (including explanations) is attached to this document as an Annex.

2.7. Forfeiting contract

In Austria the financing concept of a forfeiting agreement in the sense of LABEEF is not established yet. But if the contract applies to the Austrian law – or any other law on which the contracting parties have agreed upon – it can be tried to establish the forfeiting contract in Austria. In general, the contractors mutually agree that at the time when the contract is signed not every detail is regulated by the contract. Therefore, it is mandatory that all contract partners collaborate closely and in a trustingly manner. Furthermore, this financing concept should focus on projects where the number of debtors is small and with a good history of payment practices.

2.8. Maintenance Agreement

The contractor shoulders the warranty for his deliveries and services for compliance with the contractually warranted characteristics, completeness, quality and performance and will have an active role in the maintenance of the building during the contract time. If the contract parties agree, the contractor could perform similar role after the project term. The Maintenance Agreement should follow or refer to the implementing provisions or to an implementing agreement.

3. Slovakia

Renovation and thermal insulation of apartment buildings in Slovakia reaches an above-average pace in Europe. Most of the residential buildings have been renovated. This is due, among other things, to the long-term activities of building societies, commercial banks and, last but not least, the State Housing Development Fund, but also to a typologically suitable pool of apartment buildings. Thus, the market in renovating residential buildings is saturated.

In public buildings, the situation is different. Renovation of public buildings is highly dependent on the support provided by the EU funds, and since 2014 also by the Environmental Fund. Insufficient amount of subsidy budgets leads to the slow pace of renovation. Pursuant to Article 5 of Directive 2012/27/EU, from 1st January 2014, each Member State shall ensure that buildings owned and used by the Central Government are restored at 3% of the total floor area of heated or cooled buildings per year, in order to achieve at least the minimum energy performance requirements for buildings set by the Member State pursuant to Article 4 of Directive 2010/31/EU. The total floor area of the central government body of 445 791 m² implies that every year 3% need to be renewed, i.e. 13 374 m², or a saving of 52.17 GWh / year should be achieved.

Also, since January this year, Slovakia has modified legislation according to the new Eurostat rules, which allows investments in energy savings and reconstruction of public buildings not to be included in public debt. Therefore, why we should mainly focus on the public buildings.

On the basis of the analysis of the submitted documentation, it should be noted that the assessed documents of the Guidelines relate to a specific project implemented in Latvia and have been prepared in accordance with both European and Latvian legislation.

In relation to the above, it should be noted that the Basic Contractual Documentation is not prepared in accordance with the legislation of the Slovak Republic, i.e. it is unsatisfactory for projects to be implemented in the Slovak Republic. All documentation should be prepared in accordance to Act. Nr. 321/2014 Coll. on Energy Efficiency, as amended and Concept of the Development of Guaranteed Energy Services in Public Sector of the Slovak Republic approved by the Government of the Slovak Republic on 11 July 2018 (the "Concept").

If the subject of the renovation also includes the reconstruction of the building that is not intended to achieve energy savings, the rights and obligations of the parties to the contract need to be regulated in a separate agreement. In terms of Slovak legislation, it is a Contract for Work concluded in accordance with Act No. 513/1991 Coll., the Commercial Code, as amended. Regarding the legal justification of the separation of works and investments, this follows from the Concept. The Concept stipulates it is not excluded that the public administration body will proceed to a more complex renovation of the building, which will also include other investments, however their primary objective is not to achieve energy savings. These parts need to be contractually separated from the GES contract so that it is clear that only the part of the renewal which was primarily built for this purpose is reimbursed from energy savings. For the sake of completeness,

we also state that measures leading only to relatively low savings can be counted as energy measures, as all energy measures will be assessed in summary within the project.

Measures not related to energy savings should therefore be separated from the GES. This means that the measures that are necessary, or important, but cannot be funded by future energy savings, will not be able to be part of the GES contract.

The recommendation in Concept is supported by the fact, that the existing public procurements are separating the „no-energy reconstructions” in separately contracts.

if we are interested to put all reconstruction works in one contract, we propose to submit the request for a binding opinion to the Ministry of finance and Ministry of Economy of SR with the question, if it is possible to put all reconstruction works in one Contract and if yes, under what conditions.

3.1. General eligibility criteria

In all documents, LABEEF should be changed to SKEEF, when established in Slovakia.

1. should be changed to: The beneficiaries are Multifamily Residential Buildings and Public Buildings as the beneficiary of Guaranteed Energy Savings.
2. The concrete specification of the beneficiary depends on the characteristic of the Project

3.2. Technical criteria

2.1.2 should be changed to: For buildings with a centralized domestic hot water system, energy consumption for space heating and domestic hot water circulation losses is reduced to less than 85 kWh/m² year for building below 1,600m² conditioned area and to less than 80 kWh/m² year for building over 1,600m² conditioned area. Energy consumption shall be determined according with the Measurements and Verification instruction given in Annex VI this Rules for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to STN EN ISO52016-1 considering indoor air temperature of 20.0° C and outdoor temperature measured in the nearest hydrometeorological station.

3.3. Forfeiting criteria

For the purpose of the assignment of receivables, the Forfeiting Agreement is in the Annex II. From the point of view of the Slovak legislation, it is the so-called agreement to assign receivables concluded in accordance with the provisions of Section 524 et seq. of the Civil Code. Therefore, it is necessary to modify the agreement in line with relevant provisions according to the comments in 2.3.7. Forfeiting.

To be eligible to receive financing, the Forfeiting Agreement should meet the following criteria:

- be on arm's length market terms with a discount rate calculated for each Forfeiting Agreement;
- be based on the projected cash flow of the Project being financed, complying with the Fund's standardized General Terms and Conditions and the EPC Preparation Guidelines and
- be in compliance with all applicable laws, including the environment, public consultation, health, safety and employment regulations and standards in effect in Slovakia and provide sufficient protection by a satisfactory and European market standard regulation of termination events, representations and warranties, as well as first-loss-piece mechanism;
- availability of at least one calendar year of continuous utility bill payment history for the respective Project;
- comply with EBRD's "Environmental and Social Procedures for Micro and Small Loans";
- leads to increases in the energy efficiency and as such achieves reduction in primary energy consumption, CO2 emissions, reduced final consumption of electricity or fuels.

3.4. Projects not eligible to receive funding

A Forfeiting Agreement may NOT be entered into:

- with any person or entity that is included on EBRD's list of persons or entities ineligible to be awarded an EBRD-financed contract or for EBRD funding, as such list may be found on the EBRD website.
- for the purpose of refinancing the following:
 - production and/or trade of arms or military equipment;
 - financial institutions or financial services companies;
 - insurance business;
 - production or export of tobacco or hard liquor;
 - sale of tobacco or hard liquor (other than where the sale of tobacco or hard liquor is ancillary to the entity's primary business activity);
 - casinos or other gambling facilities;
 - speculative investments in property or currencies or any other speculative investment activities;

- investments in securities of any kind, including investments in share capital of other companies;
- any activities appearing on the EBRD Environmental and Social Exclusion List contained in the e-Manual; or
- for the purpose of refinancing: [refinancing (or other type of replacement/consolidation) of any existing term loan or credit operations to the Beneficiary]

3.5. Procedure for amending the rules

The SKEEF's Board of Directors and/or Investment Committee may propose any changes to these Rules in the last quarter of every year after analysis of the existing portfolio and the market and consultations with its Supervisory Board. The Investment Committee shall vote on the proposed changes within the first quarter of the following year. Changes and amendments to these Guidelines shall only become effective after their valid adoption with a majority of the votes of the Investment Committee and upon publication on the SKEEF online platform – www.sharex.lv.

Notwithstanding the above, the Board of Directors must consult the Investment Committee should any case arise where the application of these Guidelines may materially affect the results of the Fund.

3.6. Energy Performance Contract

Regarding the point 4.6 of the Annex I: In accordance to EPC Template could be submitted as guarantor's statement by the parent company or bank guarantee (point 6.13 of EPC Contract)

In relation to the principles set out in the GES (Guaranteed Energy Savings, the term used in Slovakia instead of EPC) Concept, we would like to point out the basic rules of financing, in the sense of which it holds that the GES provider is obliged to construct the energy improvement of the building at his own expense. The rules of the project financing must be directly enshrined in the EPC, and it must be justified that the way in which the guaranteed energy service is financed will not have an impact on the government debt using the common methodology applicable to the European Union.

However, it is not excluded that the public administration entity will proceed to a more comprehensive renovation of the building, which will also include investments whose primary objective is not to achieve energy savings. These aspects will need to be contractually separated from the GES contract so that it is clear that only the part of the renovation to be primarily carried out for the purpose to achieve energy savings will be reimbursed from energy savings. For the sake of completeness, we also state that measures leading only to relatively low savings can be counted as energy measures, as all energy measures will be assessed in summary within the project. Other measures of a purely non-energy nature must be managed separately, most

preferably in a separate contract (e.g. in a contract for work prepared according to the Commercial Code).

The Eurostat user guide allows public administration entities to participate in the financing of the investment. The financing is possible from several sources, e.g. from the European Structural and Investment Funds in the form of a grant or a loan which is neutral in terms of its impact on public finances, or from other sources. It also holds that financing, which can be considered as governmental in terms of its nature, must in no case exceed 50% of the capital expenditure on the energy improvement. Potential sources of financing can include other than the energy savings (e.g. savings of the salaries of technical personnel, etc.).

Since the submitted documents have been prepared for a specific project in Latvia, it is not possible to adequately modify the above mentioned documents to the projects to be implemented in the territory of the Slovak Republic due to the fact that, in accordance with the EE Act and the GES Concept, the Ministry of Economy of the Slovak Republic in cooperation with the Ministry of Finance of the Slovak Republic has prepared the so-called EPC template that serves as a basic template for entering into future contractual relationships for GES projects to be implemented for the public sector. With regards to the specific provisions of the above-mentioned regulations, we recommend to base the preparation of the documents on the given template and to adapt the mentioned documents to the specific project that will be implemented in the territory of the Slovak Republic.

The Energy Performance Contract (hereinafter referred to as the "EPC") must be drawn up in accordance with the essential content requirements defined in the provisions of Sections 17 and 18 of the EE Act. For this purpose, the Ministry of Economy of the Slovak Republic in cooperation with the Ministry of Finance of the Slovak Republic has prepared the so-called EPC template that serves as a basic template for entering into future contractual relationships for GES projects to be implemented for the public sector. Enclosed is the EPC template in the English language.

Accordingly, the EPC must take into account the following periods:

- a) Preparation Period → a period beginning on the date of signing of the EPC and ending on the date of commencement of the reconstruction, during which the provider shall carry out and elaborate
 - a detailed analysis of the Infrastructure energy system and the use / operation of the Infrastructure to the extent required by the provider (hereinafter referred to as the "Analysis"); and
 - the project documentation necessary for the implementation of the Renovation (which includes, in particular, the building permit project if the building permit and the implementation project are required for the implementation of the Renovation), a proposal for organizational measures and a proposal for changes to the working procedures applicable to the Guarantee Period (hereinafter referred to as the "Proposal").
- b) Reconstruction Period → period of execution of works and supplies according to the project documentation included in the Proposal, beginning on the date of the takeover of the building and ending on the date of the handover of the installed equipment to the GES receiver in his

ownership or for administration; the date of acquisition of the installed equipment must be agreed no later than the day of its commissioning.

- c) Guarantee Period, the so-called Operating Period → in which the provider guarantees to the receiver the achievement of guaranteed annual savings, beginning on the first day of the first calendar month following the end of the Reconstruction Period and ending on the date of termination of the EPC (the EPC must be concluded for at least 8 years).

It follows that it is not possible to “separate” the contractual relationships and conclude two independent contracts for the Reconstruction Period and the subsequent Operating Period, as foreseen in the submitted Basic Contractual Documentation.

The subject of the EPC must be, inter alia:

- a) elaboration of an energy analysis and implementation of measures proposed in the energy analysis;
- b) elaboration of an energy audit and implementation of measures proposed in the energy audit;
- c) designing and preparing a comprehensive energy efficiency project, including in particular:
 - an existing situation analysis;
 - a proposal for measures;
 - designing and implementation of measures, installation of the project and trial operation;
 - ensuring and demonstrating the achievement of guaranteed savings;
 - project financing;
- d) operation and maintenance of energy equipment, including user training, monitoring and operation of the system;
- e) monitoring and evaluating energy consumption after taking energy efficiency improvement measures;
- f) the provision of fuels and energy for the purpose of providing performance, in particular as regards indoor climate quality in buildings, lighting and operation of energy-consuming equipment;
- g) the supply of energy equipment; or
- h) the long-term guarantee of the operation of the installed new equipment and the savings to be achieved.

If the GES receiver is a public entity, the EPC must, inter alia, include the following essentials:

- a) contractually determined energy efficiency improvement values;
- b) security for the guaranteed energy savings during the term of the contract or the date on which the contractually determined value of the energy efficiency improvement is to be achieved;
- c) the reference energy consumption in energy and financial terms;
- d) recalculation of the guaranteed energy savings if input parameters change compared to the reference energy consumption;
- e) the obligations of the parties to the contract if the contractually determined values of the energy efficiency improvement are not achieved;

- f) the obligations of the parties to the contract if the contractually determined energy efficiency improvement values are exceeded, and the method of using the monetary difference;
- g) an obligation of the guaranteed energy service provider to provide the guaranteed energy service receiver with a report on the evaluation of the contractually determined energy efficiency improvement values at least once a year;
- h) the obligation of the guaranteed energy service receiver to pay the price of the guaranteed energy service within a specified deadline, and the method of payment;
- i) the manner and form of payments for services, savings and investments;
- j) the method of financing the guaranteed energy service, which has no impact on the general government debt using a common methodology applicable to the European Union;
- k) the responsibility of the guaranteed energy service provider for the correctness of the project and for the implementation of the proposed energy efficiency improvement measures;
- l) the obligation of the guaranteed energy service receiver to ensure conditions for the implementation of the energy efficiency improvement measures;
- m) the obligation of the guaranteed energy service receiver to ensure the correct operation of the supplied technology, equipment or building;
- n) the duration of the implementation of the energy efficiency improvement measures;
- o) the extent and conditions of providing the property owned or administered by the guaranteed energy service receiver to the guaranteed energy service provider;
- p) the manner and date of acquisition of the ownership or administration of the installed equipment by the guaranteed energy service receiver; the date of acquisition of the installed equipment must be agreed no later than the date of its commissioning;
- q) the duration of the contract;
- r) provisions on measuring and verifying the guaranteed energy savings achieved;
- s) quality control provisions;
- t) provisions incorporating equivalent requirements in all subcontracts with third parties;
- u) the obligation to document any changes made during the project;
- v) the conditions of withdrawal from the contract and the notice period if the contract was of indefinite duration; the notice period may not exceed one year from the date of delivery of the termination notice and shall commence on the first day of the month following the month in which the termination notice is delivered;
- w) a description of the condition in which the property owned or administered by the guaranteed energy service receiver is to be on the date of termination of the energy efficiency contract for the public sector.

The EE Act allows GES providers to perform guaranteed energy services upon subcontracts. However, GES providers are obliged to incorporate equivalent requirements as set out in the EPC in all subcontracts with third parties.

As regards the above-mentioned essentials, it is important to maintain in the EPC that the risk of not achieving energy savings shall be fully borne by the GES provider. The GES provider is entitled to at least 2/3 of the savings above the guaranteed level. The GES provider is allowed to combine the savings with the production of energy from renewable sources and also sell such energy.

If the public administration entity fails to pay for the GES in the cases when the GES provider is entitled to such payments, the GES provider shall not be allowed to dismantle the energy improvement from the building or in any way prevent the public administration entity from using it and he shall only be allowed to recover unpaid payments and related financial sanctions from the public administration entity. For this reason, it is not possible to establish a right of pledge over the energy improvement or settle the GES provider's receivable by exercising the right of pledge. In the light of the above, it is recommended considering the establishment of the right of pledge over any other property value possessed by the public entity or the stipulation a contractual penalty.

As regards the above, we propose to use the EPC template in the next stage of preparing documents for the GES projects to be implemented in the territory of the Slovak Republic in order to include the other rights and obligations of the parties to the contract regarding security.

Fee(s): EPC Template regulates only the total Fee for GES and, in the contract, it is necessary to determine the value and method of calculating guaranteed energy savings (depending on the nature of the measure implemented, which should form annex to the EPC contract).

To this end, reference energy consumption shall be established in energy and financial terms, i.e. energy consumption in physical units and energy costs.

The method of calculating the guaranteed energy savings shall be determined if the input parameters change compared to the reference energy consumption (e.g. the way of using the building will change resulting in a higher number of operating hours, etc.). Therefore, it is recommended using a single fee for GES in the contract, as set out in the applicable regulations and the EPC Template, in which case the method of itemizing shall form annex to the contract.

Regarding the point 4.7 of the Annex I: The EPC Template doesn't regulate the guarantee for the period after Renovation Period.

Regarding the point 5.3 of the Annex I (The Contractor shall inform the Client of the provisional Commencement Date, not later than within 20 Business days after the signing of this Agreement) - This obligation is not included in EPC Template.

Regarding the point 5.3 of the Annex I: This obligation is not included in EPC Template. From our point of view should be part of EPC Template

Regarding the point 5.7 of the Annex I: This obligation is not included in EPC Template.

Regarding the point 5.10 of the Annex I: This obligation is not included in EPC Template. We recommend stipulating of such an obligation depending on whether the Receiver provides the provider with an empty building or a building with potential lessees.

Regarding the point 5.13 of the Annex I: In accordance with the EPC Template the Contractor is obliged to perform Detailed Analysis and prepare the Design in accordance with the Relevant Regulations and deliver the prepared Design to the Beneficiary for its approval.

Regarding the point 5.15 of the Annex I: This obligation is not included in EPC Template, facultative.

Regarding the point 5.16 of the Annex I: In accordance with the EPC Template: The Provider shall ensure that, no later than at the moment of the performance of the Contract, the Subcontractors meet the requirements pursuant to Section 32(1) of the Public Procurement Act and submit the documents pursuant to Section 32(2) of the Public Procurement Act, and shall further ensure that the Subcontractors contractually commit to the same obligation in relation to their direct or indirect subcontractors so that the requirements pursuant to Section 32(1) of the Public Procurement Act are met and the documents pursuant to Section 32(2) of the Public Procurement Act are submitted in respect of the entire chain of subcontractors no later than at the moment of the performance of the Contract. The list of Subcontractors is attached as Schedule 7 hereto. The list of Subcontractors shall include the scope of performance by each Subcontractor and information regarding the person authorized to act on behalf of the Subcontractor, such as the name and surname, residence address, and date of birth. If during the performance of the Contract the Provider wishes to change or supplement its Subcontractors, each such Subcontractor must be able to perform the relevant part of the Contract in the same quality as the original Subcontractor. No Subcontractor can be changed or supplemented without the Beneficiary's consent, such consent not to be unreasonably withheld by the Beneficiary; the reason for withholding such consent includes (without limitation) the failure to meet the terms and conditions hereof in respect of the proposed Subcontractor. For the avoidance of doubt, the Parties have agreed that no amendment hereto is required in order to change or supplement the Subcontractors if the procedure pursuant to this Clause is followed. (Point 3.6 of EPC Template). In accordance to EPC Template: The Contractor is obliged to ensure all supplies and works and pay its Subcontractors or third parties in due time all costs for the works, materials, equipment and devices required for the proper implementation and completion of the Renovation

Regarding the point 5.17 of the Annex I: The possibility of modification of Energy Savings Guarantee is not included in EPC Template and is not regulated by the Relevant Regulations.

Regarding the point 6.1 of the Annex I: This obligation is not included in EPC Template, facultative.

Regarding the point 6.6 of the Annex I: According the EPC Template: The issuance of the confirmation or any other approval or consent of the Beneficiary in respect of any activities of the Provider hereunder does not release the Provider from any liability, especially not the liability for the achievement of the Guaranteed Annual Savings.

Regarding the point 6.17, 6.18, 6.19, 6.20, 6.21 of the Annex I: All should be a part of Operating Rules

Regarding the point 7.1 of the Annex I: Could by monthly, quarterly – depending on agreement of the Parties.

Regarding the point 8 of the Annex I: The Term of the Agreement should be minimal for 8 years.

Regarding the point 3.3 in the Annex I: This provision is not included in the EPC Template. We suggest including any instructions for customers in the Operating Rules with which the customers will have to acquaint themselves after the renovation period. Should a customer provably fail to comply with the instructions, the Provider shall not be responsible for the indoor temperature levels. In this respect, however, it is not objectively possible to verify whether a customer had windows open for a period of time longer than determined due to which the temperature level has changed.

3.7. Forfeiting contract

In accordance with the EE Act, the GES provider shall be entitled to transfer his right to collect GES payments to a third party, but most often to a financial institution within factoring. However, it is necessary to maintain all the conditions of payments for GES by the public entity, and the GES provider is not allowed to shift the risk of not achieving guaranteed savings to the public entity.

The name should be changed as follows:

FORFAITING AGREEMENT

(BEING, FOR THE PURPOSES OF THE SLOVAK REPUBLIC LAW, AGREEMENT ON THE ASSIGNMENT OF RECEIVABLES)

The Contractor shall be entitled to assign, in favour of a third person,

- I. part of his claim to the partial payment for the GES according to the EPC, however always in the amount of 80% of the Partial Payments for the GES paid by the Forfeiting Assignee according to the relevant provisions and under the conditions stipulated by the EPC and
- II. the claim for compensation in case of early termination of the EPC.

Such assignment of part of the Contractor's claim for the Partial Payments for the GES or the claim for compensation shall in no way impair the Forfeiting Assignee's position under this Agreement in relation to the remainder of the Parties' rights and obligations under this Agreement.

Point 3. in the Preamble should be changed to: Operation and Maintenance fee: the amount due for the Operation and Maintenance Expenses and subject to annual indexation with the applicable Slovak Republic Consumer Price Index for the respective year as published by Štatistický úrad SR (Statistical Office of the Slovak Republic).

2.1.2 should be changed to: the Receivables exist with a defined and calculable value, are subject to contractual indexation, are in a legally executable and in enforceable form, according to the law of the Slovak Republic, are subject to the jurisdiction of the courts of the Slovak Republic,

and are without caveat, recourse, right for appeal, counterclaim, offsetting, charging or other rights of third parties;

2.2.1 should be changed to: the Project is developed pursuant to the Forfeiting Assignee's Energy Performance Contract template and fully satisfy (●);

2.2.4 should be changed to: there will be duly sent notice of assignment of Receivables in the format provided for in Annex 1 to this Agreement;

2.2.5 should be changed to: there is in place a validly concluded and effective insurance policy for the full value of the Building after its renovation with a minimum insurance coverage against fire, earthquake, flood, water damage, any other natural disasters having an impact on the Building, structural damage caused by subsidence and fallen trees, evidenced through the provision of a certified copy of the relevant policy or other conclusive documents confirming payment of the insurance premium. The insurance policy should be valid for not less than 3 years following the date of its execution and be concluded under terms and conditions incorporating relevant industry standard provisions and concluded with an insurer rated minimum A+ according to relevant reputable ratings applicable to the Slovak Republic;

3.2 should be changed to: The transfer of Receivables under this Agreement represents a cession of rights to all claims to which the Assignor is entitled against the Assignor's Client in relation to Receivables. For the avoidance of doubt, the assignment of all claims which the Assignor has against the Assignor's Client entitles the Forfeiting Assignee to undertake alone or through the use of third parties all due factual and legal activities for the enforcement of all such claims against each of the Apartment Owners separately or collectively as the Assignor's Client. Without prejudice to the above, the Assignor hereby consents and unconditionally agrees to notice any of its obligations due under the Energy Performance Contract to the Forfeiting Assignee or any of its designees not later than within 5 Business days from the date of receipt of the relevant request from the Forfeiting Assignee.

Regarding the point 1.1 of the "GENERAL TERMS AND CONDITIONS OF THIS AGREEMENT": The EPC should be presented before signing the Forfeiting Agreement

2.6 should be changed to: The Assignor warrants that all Renovation Works have been developed in line with (●). Additionally the Assignor warrants that all Renovation Works have been developed taking into account the European and national best practices complying with the Investor Confidence Project Europe (ICPEU - <http://europe.eepperformance.org/>) Protocols for developing, documenting, implementing and measuring projects as all legal requirements in accordance with applicable laws and regulations effective in the Slovak Republic. Separately, the Assignor has strictly abided by and is bound by the provisions of the European Code of Conduct for Energy Performance Contracting as uploaded on www.transparens.eu at the time of signing of the Energy Performance Contract as the legal requirements in accordance with the Act. Nr. 321/2014 Coll. on Energy Efficiency and other applicable laws and regulations effective in the Slovak Republic and shall ensure its due implementation in the course of this Agreement.

8.2 should be deleted.

10.1.1 should be changed to: the Parties are not able to predict and influence it and the emergency situation was caused by the circumstances, they cannot be considered as the act of any of the Party and

10.1.3 should be changed to: it cannot be qualified as an error or negligence made or any act by any of the Parties;

11.8 should be changed to: If a party to this agreement receiving Confidential Information is required to disclose such Confidential Information in accordance with laws and regulations or resolutions effective in the Slovak Republic (or any laws to which it is subject) then: (i) such party shall be permitted to make such disclosure; and (ii) a notice about the fact of disclosure shall be promptly given to the disclosing party, unless otherwise stipulated by the laws and regulations of applicable law.

12.2 should be changed to: Authorized representatives of the Parties are authorized to represent the respective party with respect to settling all legal affairs under this Agreement under the laws and regulations effective in the Slovak Republic or, in the case of a party incorporated outside of the Slovak Republic, in the jurisdiction in which such party is incorporated.

13.2 should be deleted.

14.5 should be changed to: If during the validity period of this Agreement, amendments to the laws and regulations of the Slovak Republic come into effect that render fulfilment of any obligations under this Agreement completely or partially impossible or change conditions for performance of the duties by any of the parties it shall not affect the validity of the remaining obligations under this Agreement, and the parties shall resolve on introducing necessary amendments to this Agreement which shall best effect the original intent and purpose and economic impact of this Agreement.

13.3 should be changed to: If the Parties fail to reach mutual agreement the dispute shall be resolved by a competent court of the Slovak Republic in accordance with applicable laws and regulations effective in the Slovak Republic, e.g. in accordance to Civil Procedure Code.

Annex 5 – Definitions:

Business day: An official working day that is not pronounced as an official holiday or an official workday off as determined under the Slovak Republic law.

LABEEF: Should be changed to SKEEF, when established in Slovakia

Regulator: The Public Utilities Commission or another applicable authority established in the laws and regulations effective in the Slovak Republic which approves tariffs for trading thermal energy in the respective local government where the Building is situated.

VAT: The value added tax payable in accordance with laws and regulations effective in the Slovak Republic and provisions of the Agreement.

3.8. Maintenance Agreement

In coherence with the Concept it is not possible to “separate” the contractual relationships and conclude two independent contracts for the Reconstruction Period and the subsequent Operating Period, as foreseen in the submitted Basic Contractual Documentation.

4. Romania

On 18 July 2014, the Parliament of Romania adopted Law No 121/2014 on energy efficiency, as subsequently amended and supplemented, which was published in the Official Gazette, Part I No 574 of 1 August 2014. The law transposes Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC, as published in the Official Journal of the European Union, series L No 315 of 14 November 2012.

The law provides that the improvement of energy efficiency is a strategic objective of the national energy policy due to its major contribution to achieving food safety with energy, sustainable development and competitiveness, to saving primary energy resources and to reducing greenhouse gas emissions.

The policy measures in the field of energy efficiency are applied throughout the entire chain: primary resources, production, distribution, supply, transport and final consumption.

An indicative target of reducing energy consumption by 19 % is set to be achieved by 2020 at national level.

In accordance with Article 3(2)(e) of Law No 121/2014 on energy efficiency, the Department for Energy Efficiency from ANRE has the following responsibility: "to send to the Government, by 30 April each year, as from 2015, for the purpose of informing the European Commission, a report on the progress achieved in the fulfilment of the national energy efficiency objectives, which is prepared in accordance with Annex 11, Part 1".

The provisions of Annex 11 to the law: The general reporting framework, Part I: The general framework for annual reporting is set out in Annex 1. This annual report is the third report prepared in accordance with the law and includes the information requested in Annex 11, Part I(a), (b), (c), (d) and (e) to Law No 121/2014 on energy efficiency. It is specified that Article 3(2)(e) and Annex 11 to Law No 121/2014 on energy efficiency transpose into Romanian law the provisions of Article 24(1) and of Annex 14 to Directive 2012/27/EU.

ANRE received information from the European Commission on how to prepare annual reports. Moreover, meetings were held at European level under the project "Concerted Action - Energy Efficiency Directive", in which participate the competent authorities of the EU Member States. During these meetings, the DG ENER representatives provided detailed information about the preparation of annual reports. Among other things were presented the definitions and method of calculation of the specific reporting indicators, which cannot be found explicitly in the statistical reports of the authorised institutions (INS at national level, EUROSTAT at European level). Moreover, the significance of indicators where multiple interpretations were possible was clarified. This report was prepared in accordance with the information and specifications received.

ANRE is part of the Energy Efficiency Committee in Brussels (the EED Committee) from DG Energy Unit C3, Energy Efficiency, of the EC, which is mandated to assist the European Commission by

adopting measures implementing Directive 2012/27/EU, and to support it in its assessment and evaluation activity. This Committee serves as a forum for information and good practices exchange at EU level for the purpose of preparing working documents explaining the key provisions of Directive 2012/27/EU.

In the communications sent to the Energy Efficiency Department of ANRE, DG ENER requested that the annual reports also include other indicators, which are not listed in Part I, point a of Annex 14, adding the note that this inclusion is voluntary. Account has been taken of this request insofar as possible.

In the last Report on the Progress Achieved in the Fulfilment on National Energy Efficiency Objectives of the National Energy Regulatory Authority, which was published on 24 April 2019, are mentioned following measures:

The work for the implementation of the Integrated Information System software platform of ANRE (MIS)

In order to facilitate the collection and, particularly, the processing of the reporting data from energy consumers monitored in the industry, the online reporting procedure was initiated in 2015 based on the MIS information software of ANRE, which was extended with a component pertaining to energy efficiency problems.

In 2017, Decision No 860 of 13 June 2017 introduced the obligation of energy managers to upload the data to the (MIS) Integrated Information System software platform of ANRE for the collection of accurate data and the automated preparation of the summary report on the stage of implementation of the energy efficiency programmes by economic operators.

A number of 198 passwords were allocated in 2018 and, in the end, 1 300 economic operators received the password and uploaded the documents to the ANRE's Integrated Information System software platform (MIS).

The monitoring of localities with over 5 000 inhabitants

In accordance with Law No 121/2014 on energy efficiency, as subsequently amended and supplemented, the local public administration authorities with a population count of more than 5 000 inhabitants must prepare energy efficiency improvement programmes, which include short-term and 3- to 6-year measures.

Moreover, local public administration authorities in the localities with a population count of more than 20 000 inhabitants must prepare energy efficiency improvement programmes including short-term and 3- to 6-year measures and appoint an energy manager certified under the law in force, or to conclude an energy management contract with an authorised natural person certified under the law, or with a legal person which provides energy services and which is approved under the law.

These energy efficiency improvement programmes are prepared in accordance with the model approved under ANRE Decision No 7/2015 and are submitted by 30 September of the year when they were prepared, and updated tables are to be reported annually in the approved template.

In 2018, ANRE initiated the procedure for updating the model for the preparation of the Energy Efficiency Improvement Programme (EEIP) for the localities with a population count above 5 000 inhabitants following the proposals received from OER (Orașe Energie în România) to improve the collection of technical data required for such preparation. These proposals were discussed among the OER members during regional consultations held in 2018 and during the bilateral meetings with the energy distributors.

Moreover, a significant contribution to the model updating was brought by the Society of Auditors and Energy Managers in Romania (Societatea Auditorilor și Managerilor Energetici din România - SAMER).

Having regard to these proposals, the updated model for the preparation of the Energy Efficiency Improvement Programme for the localities with a population count over 5 000 inhabitants was posted on 22 October 2018 on the website of the institution under the section of Energy efficiency/legislation/EE discussion documents (Eficiență Energetică / Legislație / Documente de discuție EE).

On 29 November 2018, OER organised the event entitled "Club of Mayors for Sustainable Climate and Energy" (Clubul primarilor pentru climă și energie durabilă) at Belvedere Hotel in Brasov, where presentations and discussions revolved around the results of the OER-ANRE bilateral meetings and where the updated model was presented.

On 15 October 2018, only 33 local public authorities with a population count over 5 000 inhabitants submitted EEIPs/tables/letters to ANRE, more specifically: Cugir Town, Sebeș Municipality, Arad Municipality, Pitești Municipality, Nicolae Bălcescu Commune, Botoșani Municipality, Brașov Municipality, Brăila Municipality, Buzău Municipality, Caransebeș Municipality, Cluj-Napoca Municipality, Turda Municipality, Sfântu Gheorghe Municipality, Târgoviște Municipality, Craiova Municipality, Sadova Commune, Hunedoara Municipality, Slobozia Municipality, Cornetu Commune, Drobeta-Turnu Severin Municipality, Reghin Municipality, Târnăveni Municipality, Piatra Neamț Municipality, Roman Municipality, Ploiești Municipality, Boldești-Scăeni Town, Rafov Commune, Sibiu Municipality, Mediaș Municipality, Verești Municipality, Zvoriștea Commune, Babadag Town, Sector 6 of Bucharest Municipality.

Considering that the number of local authorities with a population count over 5 000 inhabitants, which complied with the legal provisions [Article 9(20), (21), and (22) of Law No 121/2014 on energy efficiency, as subsequently amended and supplemented], was very low and due to the fact that Law No 121/2014 on energy efficiency, as subsequently amended and supplemented, does not provide for penalties for non-compliance, ANRE initiated the following actions:

- On 27 October 2018, ANRE attended, as a speaker, the event entitled "Integrated approach of energy efficiency actions" (Abordarea integrată a acțiunilor de eficiență

energetică), which was organised by the Society of Auditors and Energy Managers in Romania (SAMER) in Predeal. The event brought together auditors and energy managers who are authorised and certified by ANRE and who are members of SAMER.

- In 2018, under the energynomics.ro campaign entitled "Energy efficiency for results that matter" (Eficiență energetică pentru rezultate care contează), ANRE attended, as a speaker, the events dedicated to Energy Efficiency: "Innovation and verified solutions for energy efficiency" (Inovație și soluții verificate pentru eficiență energetică) in the following localities: Constanța, Craiova, Iași, and Timișoara. The event proposed to raise awareness and the level of understanding of the meaning of energy efficiency and of how energy efficiency can be improved, bringing together decision-makers among the public authorities in Romania and companies, from start-ups and SMEs to the largest undertakings, and energy experts.
- Letter No 82621/29 October 2018 was sent to the local public administration authorities with a population count between 5 000 and 20 000 inhabitants, but they failed to comply with the legal provisions;
- Letter No 82622/29/10/2019 was sent to the local public administration authorities with a population count over 20 000 inhabitants, but they failed to comply with the legal provisions; 27 149 local public authorities replied to these letters, however not all the replies were reflected in the submission of the EEIPs or updated tables.

Energy efficiency in government buildings

In order to apply Article 5(1) of Directive 2012/27/EU on energy efficiency, the inventory of the buildings with areas above 250 square meters was updated, also including relevant energy data about them, as referred to in Order No 3466/2013 of MDRAP, published in Official Gazette of Romania, Part I, No 778/2013 and Order No 263/2015 of MDRAP, published in Official Gazette of Romania, Part I, No 490/2015 and posted on the website of MDRAP under the section of Constructions/Energy performance of buildings (Construcții/Performanța energetică a clădirilor).

- In order to achieve the 3 % annual renovation rate for this category of buildings, as calculated with reference to the total useful area of the heated and/or cooled buildings, which are held and occupied by the central public administration, the following actions were carried out:
- the technical expertise on the resistance structure of buildings;
- the preparation of the energy audit, including the preparation and the posting of the energy performance certificate for inventoried buildings;
- the preparation of the energy efficiency plan, with specific objectives and actions on major renovation/thermal rehabilitation of inventoried buildings and the estimated energy saving;
- the replacement of the existing exterior joinery with energy efficient joinery;
- the partial thermal insulation of certain envelope elements of the building;
- the replacement of the incandescent/fluorescent filament lighting fixtures with economic and highly efficient lighting fixtures;

- the maintenance/repair works to the interior heating installations, including replacing the central heating plant with high performance units;
- complex energy performance increase works (major rehabilitation).

Compared to the energy saving achieved from the implementation of the energy efficiency measures in the period 2015-2017, more specifically 36 103 MWh, in 2018 an additional saving of 4 818 753.88 kWh (415 toe) was achieved following the execution of the abovementioned energy efficiency works.

Conclusions:

1. In the national targets under the Europa 2020, as claimed by Romania regarding the Energy and climate changes under the 2018 National Reform Programme (NRP), the increase in energy efficiency is one of the three national priorities, alongside the reduction in the greenhouse gas emissions and the increase in the rate of energy produced from renewable sources in the gross final consumption of energy.
2. Romania has recorded good performances on energy from renewable sources and energy efficiency, the 24 % target for energy from renewable sources for 2020 being already exceeded, considering that in 2017, according to Eurostat, the rate was 24.5 %.
3. According to the European Commission's Fourth Report on the State of the Energy Union, which includes the 2018 assessment of the progress made by Member States towards the national energy efficiency targets for 2020 and towards the implementation of the Energy Efficiency Directive as required by Article 24(3) of the Energy Efficiency Directive 2012/27/EU, in 2017 primary energy consumption increased in 20 Member States compared to the previous year, including in Romania.
4. At the end of 2018, the statement of energy efficiency certificates/authorisations was the following: - 413 energy manager certificates - 176 authorisations for energy auditors as natural persons - 60 authorisations for energy auditors as legal persons, of which 12 energy auditors as PFA - 68 approved energy service companies (of which 19 PFAs).
5. The Ministry of Regional Development and Public Administration published, as from 7 November 2018, the "Inventory of heated and/or cooled buildings with useful areas ranging between 250 m² and 500 m² held and occupied by the central public administration" and the "Inventory of heated and/or cooled buildings with useful areas of over 500 m² held and occupied by the central public administration" at the following link: <http://mdrap.ro/constructii/metodologia-de-calcul-al-performantei-energetice-a-cladirilor>, including information received from authorities.
6. ANRE, through its Energy Efficiency Department, promotes constructive dialogue with all the stakeholders in order to achieve the national targets on the increase of energy efficiency and, in the context of the approved Government Decision No 203/2019 published in Official Gazette Nos 273 and 273 bis/10 April 2019 approving the National Energy Efficiency Action Plan - NEEAP IV, sustained measures are required to promote and finance energy savings from the institutions involved in the implementation of Law No 121/2014 on energy efficiency, with all its subsequent amendments and supplements.

4.1. General eligibility criteria

Beneficiaries

In Romania, Law No 121/2014 on energy efficiency, transposes Directive 2012/27/EU of the European Parliament and of the Council of 25 October 2012 on energy efficiency, amending Directives 2009/125/EC and 2010/30/EU and repealing Directives 2004/8/EC and 2006/32/EC, as published in Official Journal of the European Union, series L No 315 of 14 November 2012.

The law provides that energy efficiency improvement is a strategic objective of the national energy policy due to its major contribution to achieving food safety with energy, sustainable development and competitiveness, to saving primary energy resources and to reducing greenhouse gas emissions.

The policy measures in the field of energy efficiency are applied throughout the entire chain: primary resources, production, distribution, supply, transport and final consumption. In accordance with Article 1(3) of Law No 121/2014 on energy efficiency, as subsequently amended and supplemented, an indicative national target.

According to the provisions of the Energy Efficiency Law no. 121/2014:

- Art 9 (12) For municipalities with more than 5000 inhabitants it is obligatory to have: Energy efficiency programs;
- Art 9 (13) For municipalities with more than 20000 inhabitants it is obligatory to have: Energy efficiency programs and Energy manager.

The beneficiaries are Multifamily Residential Buildings or Public Buildings (governmental buildings or buildings of the local authorities) registered in the Real Estate Cadaster information system of Romania.

The beneficiary is eligible if it meets the following requirements (condition to be agreed):

- Maximum cumulative annual Default Rate of the residents living in the Building for heating and house maintenance bills is less than 5%, whereas default rates shall include all payment delays by more than 90 days for the period of the 3 years preceding the renovation works,
- Outstanding debt for heating and house maintenance bills, construction works and similar is less than 15%,
- Validly adopted decision of the homeowners' association for implementation of the renovation works using the template of Energy Performance Contract included as Annex I of these Rules with a quorum of at least 50% and 1 person.

ESCOs

An ESCO may be eligible to enter into a Forfeiting Agreement with LABEEF if it meets the following requirements:

- Notwithstanding the below eligibility criteria, eligibility is subject to secure financing from a commercial bank(s) acceptable to LABEEF,
- It operates in compliance with all applicable legislation of Romania,
- Has adopted and strictly abides to the European Code of Conduct for Energy Performance Contracting as uploaded on www.transparens.eu and it duly adheres and strictly executes its provisions,
- Maximum cumulative value of any legal dispute of the ESCO is not higher than 5% of the amount invested under the Energy Performance Contract,
- It is financially viable and does not have any unsettled public obligations or taxes being due and executable forthwith,
- Financial accounts for the last two years preceding the date of signing the Forfeiting Agreement demonstrating sound and prudent management. For start-up companies subject to a review of management and shareholders.
- Meets usual credit and ethics criteria.

Forfeiting transaction

The forfeiting transaction between LABEEF and an ESCO is eligible if:

- The Renovation Works have been implemented based on the template of Energy Performance Contract included as Annex I of these Rules;
- It is based on the template of Forfeiting Agreement included in Annex II of these Rules;
- There is a Maintenance Agreement, based on the template included in Annex III of these Rules, between LABEEF, the ESCO and the Manager;
- The baseline for the Energy Performance Contract has been determined according to the instructions included in Annex IV of these Rules;
- It is based on the projected cash flow of the Energy Performance Contract being financed on arm's length market terms with a discount rate calculated for each Forfeiting Agreement using the instructions included in Annex V of this Rules;
- It provides sufficient protection for LABEEF by a satisfactory and European market standard regulation of termination events, representations and warranties, as well as first loss-piece insurance policy for an insured amount of EUR 50.000 (fifty thousand euro) – the amount must be agrees;
- The Guaranteed Energy Savings provided in the Energy Performance Agreement is meet and verified for at least one settlement period based on the instructions for Measurement and Verification included in Annex VI of this Rules;

- The value of the transaction does not exceed EUR 500.000 (the amount must be agreed) unless expressly decided otherwise by LABEEF Supervisory Board;
- The maximum aggregate value resulting from multiple forfailing transaction with an ESCO on an annual basis must be decided by LABEEF Supervisory Board;
- The ESCO has obtained credit appraisals for pre-financing the Renovation Works by a Financial Institution or a commercial banks' or LABEEF;
- The ESCO has fully paid all costs for the implementation of the Renovation Works to the respective contractor and subcontractors (if any);
- The ESCO complies with all applicable Laws and Standards effective and applicable in Romania;
- The Renovation Works complies with all applicable Laws and Standards effect in Latvia including by ensuring a valid construction permit is held prior to implementing building renovation works and the commissioning and exploitation protocol is signed by the respective authority prior commissioning the renovated building.

4.2. Technical criteria

General targets

The Guaranteed Energy Savings for space heating and domestic hot water circulation losses indicated in the Energy Performance Contract is reached with Measurements and Verification for at least a period of 12 months (one settlement period). Measurement and Verification according to Annex VI of this Guideline;

For buildings with a centralized domestic hot water system, energy consumption for space heating and domestic hot water circulation losses is reduced to less than 85 kWh/m² year for building below 1,600m² conditioned area and to less than 80 kWh/m² year for building over 1,600m² conditioned area. Energy consumption shall be determined according with the Measurements and Verification instruction given in Annex VI this Rules for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to SR EN ISO 12567-1:2011 considering indoor air temperature of 20.0° C and outdoor temperature measured in the nearest hydrometeorological station;

For buildings without a centralized domestic hot water system, energy consumption for space heating is reduced 75 kWh/m² year for building below 1,600m² conditioned area and to less than 70 kWh/m² year for building over 1600m² conditioned area with Measurements and Verification for at least a period of 12 months (one settlement period). Energy consumption shall be determined according with the Measurements and Verification instruction given in Annex VI this Rules for at least a period of 12 months (one settlement period). Measured energy consumption has to be normalized according to SR EN ISO 12657-1:2011 considering indoor air temperature of 21.5° C and outdoor temperature measured in the nearest hydrometeorological station;

Indoor climate is suitable in terms of temperature, humidity, concentration of carbon dioxide, odour and comply with SR EN 16798-5-1: 2018;

Building's airtightness complies with SR EN ISO 10456:2008 and determined in accordance with SR EN 16798-5-1:2018 or a similar norm;

Include automated, forced, ventilation system in all building apartments ensuring a minimum air exchange rate according to SR EN 167987-5-1: 2018. The type and configuration of the ventilation system is flexible as far as both Energy Efficiency and technical requirement are met.

In general, all measures implemented as part of the Renovation Works have been developed in line with current European and national best practices. LABEEF regards best practice as complying with the Investor Confidence Project Europe (ICPEU) Protocols for developing, documenting, implementing and measuring projects, and when it is available in Latvia the use of the "Investor Ready Energy EfficiencySM" accreditation system developed by the ICPEU.

Energy Efficiency Improvement Measures

The Renovation Works can follow one of the following packages, each of one including the following minimum Energy Efficiency Improvement Measures:

Measure	EPC	EPC+	EPC++
Thermal insulation of the exterior walls based on one of the following methods⁴⁰: External thermal insulation composite systems with rendering according to ETAG 004 guidelines. The finishing plaster has to be silicone based,	At least 15cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK; or a solution reaching at least an equivalent U-value. All windows exterior sills and jambs to be covered with 3-5cm thermal insulation.	At least 15cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK; or a solution reaching at least an equivalent U-value. All windows exterior sills and jambs to be covered with 3-5cm thermal insulation.	According or exceeding SR EN ISO 10456:2008 and not less than 20cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK (or a solution reaching at least an equivalent U-value).

⁴⁰ • For other methods prior approval from LABEEF Supervisory Board shall be required

Ventilated facades system;			
Thermal insulation of the technical attics (cold roof) If there is no attic, thermal insulation of the roof deck (warm roof)	At least 25cm thermal insulation with declared thermal conductivity of at least 0.042 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low attics ceilings (cold roof).	At least 30cm thermal insulation with declared thermal conductivity of at least 0.042 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low attics ceilings (cold roof).	At least 30cm thermal insulation with declared thermal conductivity of at least 0.042 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low attics ceilings (cold roof).
Thermal insulation of the basement ceilings	At least 10cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low ceilings.	At least 12cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK; or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low ceilings.	According or exceeding SR EN ISO 10456:2008 and not less than 15cm thermal insulation with declared thermal conductivity of at least 0.037 W/mK or a solution reaching at least an equivalent U-value. Exception only for technical limitations like low ceilings.
External thermal and hydro insulation of the plinth wall	At least 7cm of water proof thermal insulation (like XPS or similar) for at least 0.8m down from the grade level for unheated basement and full depth of the basement wall for heated basement.	At least 7cm of water proof thermal insulation (like XPS or similar) for at least 0.8m down from the grade level for unheated basement and full depth of the basement wall for heated basement.	According or exceeding SR EN ISO 10456:2008 and not less than 7cm of water proof thermal insulation (like XPS or similar) for at least 0.8m down from the grade level for unheated basement and full depth of the

	Suitable cleaning of the walls, application of hydro insulation and drainage system.	Suitable cleaning of the walls, application of hydro insulation and drainage system.	basement wall for heated basement. Suitable cleaning of the walls, application of hydro insulation and drainage system.
Thermal insulation of inner walls between heated and unheated areas (like staircase inner walls on the technical attic area or staircase inner walls going to the basement, or unheated entrance halls with flats)	At least 5cm thermal insulation with thermal conductivity of at least 0.037 W/mK.	At least 5cm thermal insulation with thermal conductivity of at least 0.037 W/mK.	At least 7cm thermal insulation with thermal conductivity of at least 0.037 W/mK.
Replacement of windows	Replacement of all windows of the building to comply with SR EN ISO 12567-1:2011, except existing windows with U-value below 1.8W/m ² K	Replacement of all windows of the building to comply with SR EN ISO 12567-1:2011, except existing windows with U-value below 1.8W/m ² K	All windows of the building to comply or exceeding SR EN ISO 12567-1:2011 and installed minimizing thermal bridges (for example embedded in the thermal insulation layer).
Loggias	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. Recommended thickness of thermal insulation 15cm, lower	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. Recommended thickness of thermal insulation 15cm, lower	Option 1: loggias are renovated with the application of thermal insulation on the exterior vertical and horizontal surfaces, carefully avoiding possible thermal bridges. Recommended thickness to comply with SR EN ISO

	values based on technical/geometrical limitations. Thermal conductivity of at least 0.037 W/mK Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls. U-values according to SR EN ISO 12567-1:2011	values based on technical/geometrical limitations. Thermal conductivity of at least 0.037 W/mK Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls. U-values according to SR EN ISO 12567-1:2011	10456:2008, lower values based on technical/geometrical limitations. Thermal conductivity of at least 0.037 W/mK. Option 2: loggias are closed with the installation of windows combined with ventilated walls or sandwich walls. U-values according to SR EN ISO 12567-1:2011
External doors	Replacement of all exterior doors of the building to comply with SR EN ISO 12567-1:2011, except existing doors with U-value below 2.2W/m²K. In this later case door sealing gasket and closing springs/mechanisms have to be checked. To be replaced or repaired if damaged, malfunctioning, or missing. All exterior door equipped with door closer springs.	Replacement of all exterior doors of the building to comply with SR EN ISO 12567-1:2011, except existing doors with U-value below 2.2W/m²K. In this later case door sealing gasket and closing springs/mechanisms have to be checked. To be replaced or repaired if damaged, malfunctioning, or missing. All exterior door equipped with door closer springs.	Replacement of external doors to comply or exceeding SR EN ISO 12567-1:2011. All exterior door equipped with door closer springs.
Space heating system	Minimum measures: Replacement of heat distribution pipes as necessary to ensure	Minimum measures: Replacement of heat distribution pipes as necessary to ensure	Installation of a new space heating system based on best and proved available

	system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5, Technical insulation of all distribution pipes in the basement and attic of the building (unheated area), Replacement of heating element as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5, Installation of radiator thermostatic valves on each heating element, Installation of balancing valves and balancing of the heating system, An assessment for the installation of individual heat meters according to SR EN 303-5.	system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5, Technical insulation of all distribution pipes in the basement and attic of the building (unheated area), Replacement of heating element as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5, Installation of radiator thermostatic valves on each heating element, Installation of balancing valves and balancing of the heating system, An assessment for the installation of individual heat meters according to SR EN 303-5.	technologies, reaching high energy efficiency level and low operational and maintenance costs. All elements of the existing space heating system are replaced and the new heating systems is configured as a two pipe system.
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Centralized domestic hot water system (if existing)	Minimum measures: Replacement of hot water distribution pipes as necessary to ensure system availability and reliability and based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5, installation of a water softening system in case of hard water (>150mg/l).	Minimum measures: disconnection of the towel heaters from the domestic hot water loop and connection to the space heating loop, installation of new centralized domestic hot water system according to SR EN 303-5, installation of a water softening system in case of hard water (>150mg/l).	disconnection of the towel heaters from the domestic hot water loop and connection to the space heating loop, installation of new centralized domestic hot water system according to SR EN 303-5 and based on a new configuration aiming at the minimization of heat circulation losses, installation of a water softening system in case of hard water (>150mg/l).
Heat substation for buildings connected to a district heating systems	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5. The substation must as minimum be: With independent connection, With automatic temperature compensation, With high efficiency circulation pumps. In particular the space heating circulation	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5. The substation must as minimum be: With independent connection, With automatic temperature compensation, With high efficiency circulation pumps. In particular the space heating circulation	Renovation/reconstruction of the heat substation based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5. The substation must as minimum be: With independent connection, With automatic temperature compensation, With high efficiency circulation pumps. In particular the space heating circulation

	pump must ensure variable speed operation, With state-of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.).	pump must ensure variable speed operation, With state-of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.).	pump must ensure variable speed operation, With state-of the art technical thermal insulation of all its components (pipes, heat exchangers, pumps, etc.).
Heat source for buildings equipped with a decentralized heating system	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5. to ensure at least: Compliances with all current Latvian norms and standards, system availability and reliability to supply heat energy to the building, system regulation to the new heat load after building renovation, System efficiency also for the new heat load after building renovation.	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5. to ensure at least: Compliances with all current Latvian norms and standards, system availability and reliability to supply heat energy to the building, system regulation to the new heat load after building renovation, System efficiency also for the new heat load after building renovation.	Assessment, maintenance, revision and eventually replacement of the systems based on an Energy Audit from an independent expert for heating systems according to SR EN 303-5 to ensure at least: Compliances with all current Latvian norms and standards, system availability and reliability to supply heat energy to the building, system regulation to the new heat load after building renovation, System efficiency also for the new heat load after building renovation.

			In case of replacement of the heat generator: the use and integration of renewable energy systems, including an assessment for the use of solar heating system, heat pumps, wood chips and wood pellets; the proposed solution must result an overall high energy efficiency.
Ventilation	Natural ventilation guaranteed by installation of trickle vent in each window. Cleaning and repair of ventilation shafts.	Mechanical exhaust ventilation systems with advance control system (like for example CO2 control system, moisture control dumpers, etc.). Cleaning and repair of ventilation shafts.	Mechanical ventilation system with heat recovery.

Additional measures

The Renovation Works can follow one of the following packages, each of one including the following minimum additional measures:

Measure	EPC	EPC+	EPC++
Staircases	Not included.	Cosmetic renovation of the staircases including repairs to the plaster, repainting, replacement/repair of staircase railings	The staircases are renovated including repairs to the plaster, repainting, replacement/repair of staircase railings

Staircases lighting system	Not included.	Basic repairs of the staircase lighting system.	New highly efficient staircase lighting system using LED technologies, motion and/or daylight control sensors.
Entrance halls	Not included.	Cosmetic renovation of the entrance hall of the building.	The entrance hall of the building is renovated.
Trash rooms	Not included.	Cleaning the trash room of the building.	Cosmetic renovation of the trash room of the building
Cold water system	Not included.	Optional: installation of a new cold-water system.	Installation of a new cold-water system.
Water canalization	Not included.	Optional: installation of a new canalization water system	Installation of a new canalization water system
Side walks	Sidewalk of the buildings are simply restored after thermal insulation of the plinth, with particular attention to rain- water drainage and rain-off water	Sidewalk of the buildings are simply restored after thermal insulation of the plinth, with particular attention to rain- water drainage and rain-off water	New sidewalk of the building, after thermal insulation of the plinth with particular attention to rain-water drainage and rain-off water.
Suspended balcony	Requested structural measures and repairs of railings / fences.	Requested structural measures and new railing / fences.	Requested structural measures and new railing and fences.
Exterior lighting	Not included.	Repair of the lighting system at entrance halls.	New lighting system for entrance hall. Optional: Installation of exterior lighting system, like

			façade integrated LED lighting system.
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Structural measures

The Renovation Works, independently from the selected package have to include the following structural measures:

- Roof has been carefully inspected and refurbished addressing all structural problems identified during the phase of civil engineering appraisal. The roof should satisfy all aspects of SR EN ISO 10456:2008, in particular for heated attic with warm deck thermal insulation. Gutters should be restored/renovated;
- The substrate for the application of thermal insulation on the exterior wall meets the necessary air tightness and mechanical strength requirements. This means that all joints between panels and/or bricks are adequately refurbished and repaired including the application of sealing membranes, specialist plaster and mechanical reinforcement of the structures, like steel reinforcing cages. Measures to be implemented according to the civil engineering appraisal;
- Assessment of the foundation walls and building static structure and implementation of remedies as recommended in the civil engineering appraisal;
- Assessment of suspended balconies and implementation of remedies as recommended in the civil engineering appraisal;
- Removal of hazardous material, like asbestos, according to health and safety standards;
- Assessment of the lightning protection system of the building according with SR EN 60529.

Documentation

The ESCO has provided to Apartment Owner instructions for the operation of the building after completion of the Renovation Works and the all needed documentation and training;

The ESCO has provided an updated energy performance certificate according to SR EN ISO 13790 and order no. 2641/2017, which LABEEF will advertise and which shall additionally be displayed in the building. The energy performance certificate shall also include the LABEEF logo.

4.3. Forfeiting criteria

As financial ratios for equivalent of LABEEF are met by pledged cashflows resulting from Energy Performance Contracts, the forfeiting transaction has to comply with the criteria and model set in Annex V of these Rules;

Financial data and the energy data of each EPC are acquired and documented through the Platform's monitoring module system;

We recommend the insurance for the full value of the renovation works valid for the contract period.

No Ancillary Risk Transfer: equivalent of LABEEF shall not assume any risk related to:

- Changes in commodity or any other fuel prices. This risk, based on the provision of the Energy Performance Contract, is taken by the apartment owner;
- Actual savings following the Energy Performance Contract and any payment adjustment or dispute related to it. This risk based on the Energy Performance Contract is taken by the ESCO;
- Technology installed or in any other way applied. This risk, based on the provision of the Energy Performance Contract, is taken by the ESCO;
- Performance risks provided by any other third party involved in the Renovation Works or in the operation and maintenance of the building as indicated in the provision of the Energy Performance Contract are taken by the ESCO.
- Execution of the Renovation Works, Operation and Maintenance of the Building, general administration, billing, is set in according to the Energy Performance Contract and Forfeiting Agreement and either managed by the ESCO or by the Manager or by the a Collecting Agent for the full duration of the Energy Performance Contract.

4.4. Projects not eligible to receive funding

A Forfeiting Agreement may NOT be entered into any person or entity that have engaged in:

1. a coercive practice which means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of a third party to influence improperly the actions of such a third party;
2. a collusive practice which means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
3. a corrupt practice which means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party; and
4. a fraudulent practice which means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; or
5. are subject to a Third-Party Funding for the purpose of refinancing the following:
 - production and/or trade of arms or military equipment;
 - financial institutions or financial services companies;
 - insurance business;
 - production or export of tobacco or hard liquor;

- sale of tobacco or hard liquor (other than where the sale of tobacco or hard liquor is ancillary to the entity's primary business activity);
- casinos or other gambling activities;
- speculative investments in property or currencies or any other speculative investment activities;
- investments in securities of any kind, including investments in share capital of other companies.

for the purpose of refinancing: investments in new production ('greenfield investments'), working capital requirements, investments in new buildings that are already compliant with national energy efficiency standards, purchase of land, investments in real estate solely with the aim of making short or medium term profit on sales refinancing (or other type of replacement/consolidation) of any existing term loan or credit operations to the Beneficiary.

4.5. Procedure for amending the rules

Equivalent of LABEEF Board of Directors may propose any changes to these Rules in the last quarter of every year after analysis of the existing portfolio and the market. Equivalent of LABEEF Supervisory Board shall vote on the proposed changes within the first quarter of the following year. Changes and amendments to this Guideline shall only become effective after their valid adoption with a majority of the votes of the Supervisory Board, formal approval of the General Meeting and upon publication on the FinEERGo-Dom online platform.

4.6. Energy Performance Contract

The energy performance contract, concluded between the ESCO and the Beneficiary of the respective Building where the Renovation Works are being implemented, can be generally used in the existing form.

According to the Romanian legislation and the particularities of this country, we have following recommendation:

Energy Performance Contract – client and contractor information

In case of Romania, the client can also be an institution or company and for this reason the client details should be adapted in order to take in count this fact.

1. Scope of the Agreement

Article 1 and the corresponding Annex No 1 and Annex No 2 of the Agreement are in concordance with the Romanian legislation, except the mentioned Regulation No. 383 and Regulation No. 337 in Annex No. 1 and Regulation No. 239 in Annex No. 2, which must be deleted.

2. Service Provided

Article 2 and the corresponding Annex No 3, Annex No. 4 and Annex No 5 of the Agreement are in concordance with the Romanian legislation. As a technical aspect, for Romania should be considered as average indoor temperature 20.0° C.

3. Terms of Agreement

In article 3, the specific dates regarding Construction Period, Commencement Date, Commissioning Date and the Service Period of the Agreement must be agreed.

4. Compensation

Article 4 and the corresponding Annex No 6, Annex No. 7 and Annex No 8 of the Agreement are in concordance with the Romanian legislation. In Annex No. 7, Contractor Financial Contribution (including VAT), Floating Interest Rate (fixed part and floating part) and Repayment terms of corresponding to the Service Period must be agreed.

5. Other Provisions

Article 5 can be used as mentioned.

Annex No. 9 and Annex No. 10 can be used as they are.

In energy performance contracting the implementation of Renovation Works and verified and monitored during the whole term of the contract.

The investments (work, supply, service) for Renovation Works are paid in relation to a contractually agreed level of Guaranteed Energy Savings.

4.7. Forfeiting contract

Forfeiting contract is the written agreement signed between the ESCO and equivalent of LABEEF setting out the terms and conditions for the acquisition (cession) at a discount rate of receivables arising from Energy Performance Contracts, whereas the transferor is the ESCO, the debtor is the Beneficiary and the transferee is equivalent of LABEEF and of which Final Beneficiaries shall be informed pursuant to the sending of the respective written notification thereof.

General remarks:

The Forfeiting contract needs only a few changes, which I mention below, in order to be used for energy efficiency projects in Romania.

Specific remarks:

1. The Forfeiting contract refers to the Latvian legislation and this mention must be changed to Romanian legislation.
2. The Forfeiting contract refers to the LABEEF and this mention must be changed to an equivalent of LABEEF.
3. The financial condition mentioned in the Forfeiting contract must be agreed by the contract parties. They can be stipulated in EUR (if the parties agree in that way), but the payments must be executed in RON.
4. For annual indexation the Operation and Maintenance fee must be applied the Romanian Consumer Price Index for the respective year as published by National Institute for Statistics (Institutul National de Statistica = INS).

4.8. Maintenance Agreement

The Maintenance Agreement is a contract between the ESCO, the Fund and the Manager, who would be authorized to collect all payments in the name and on the behalf of the ESCO and subsequently after the transfer of Receivables in the name and on behalf of the Fund.

General remarks:

Also, the Maintenance Agreement can be used in his actual form with a few changes, which I mention below, in order to be used for energy efficiency project in Romania.

Specific remarks:

1. The Forfeiting contract refers to the Latvian legislation and this mention must be changed to Romanian legislation.
2. If the Parties fail to reach mutual agreement and there is a dispute, disagreement or claim between the parties that arises out of the Agreement, concerns it or the suspension, termination or invalidity thereof, it shall be resolved in a mediation process according to the mediation rules of the Professional Association of Mediation in Romania (Asociatia Profesionala a Mediatorilor din Romania) – Article 14.2.
3. The contractual parties must agree on terms and condition and this can be adapted in order to find a common position of the three agreement parties.

5. Poland

As each European country Poland is obliged by the Energy Efficiency Directive (EED) to introduce the legislation supporting energy services market development. The regulations of Energy Efficiency Act make it possible for energy service companies (ESCO) to apply to the President of URE to obtain an energy efficiency certificate (white certificate). To fulfill the requirements of Art. 18 of EED Poland also promotes energy performance contracting. As part of the promotion activities, the Ministry of Energy has developed and published on its website a guide to energy efficiency funding for the public sector. The guide provides guidance for the public sector, and model core provisions of an energy performance contract (EPC). The website of the Ministry of Energy also includes a list of ESCOs active on the Polish market.

There has been also introduced in Poland the Act on public-private partnership that allows public bodies to implement energy performance contracts through public-private partnerships. The Act sets out detailed rules for cooperation between public bodies and private partners (including ESCOs) on the delivery of joint projects.

Currently there is no system which could be used for continuous monitoring and obtaining accurate statistical data regarding ESCO market in Poland. ESCOs operate in different sectors and for different clients. Their clients may include the public, commercial, and energy sectors, industry, small and medium-sized enterprises, and even households, which, taken together, represent a significant potential for reducing energy consumption. There are significant opportunities for the development of the ESCO model in the public sector. Even though, in recent years, the volume of projects for the public administration sector has declined, the sector remains one of the key segments of the ESCO market in Poland⁴¹.

Two key types of ESCO investments in public sector are street lighting and project aiming at increasing energy efficiency in public buildings.

Although there are some first good cases in energy performance contracting in public-private partnership formula still residential building sector investments face a lot of barriers in Poland.

Adaptation of the existing and planned residential buildings solution and projects to environmental protection requirements needs clear and bold decisions from policy makers as well as a financing system supporting energy efficiency improvement of buildings.

The scale of needs, the variety of conditions for thermomodernization, the awareness of the issue, inclination to invest in energy efficiency by owners and tenants, the availability of technical equipment, the availability of funds are very challenging.

⁴¹ National Energy Efficiency Action Plan 2017

Thus, the POLBEEF, as one of the potentially available programs in Poland, may enable a change in approach to increase the energy efficiency of multi-family buildings.

However, existing solutions should be taken into account, in particular the Thermomodernization and Renovation Fund existing since 1999. Its funds were in most cases used for subsidies for thermomodernization carried out in multi-family buildings. This means that there is a need to adapt, and perhaps create a common basis for the implementation of programs and instruments, so as not to cause programs to be competitive or to make beneficiaries' choice not only based on economic criteria, but also on availability or complexity. And the POLBEEF Program is, and may be in the initial phase, perceived as more complicated, involving several entities and the financial commitment of final owners (tenants) of apartments by paying monthly higher bills for the supply of heat / electricity.

System coherence is required for the implementation of the "clean air" program. Cohesion understood as promoting and investing in such solutions that contribute to the application of modern and "clean" technologies.

There is also a lack of systemic coherence for supporting thermo-modernization, also using renewable energy sources. Support for thermomodernization takes place through the Thermomodernization and Renovation Fund, by the National Fund for Environmental Protection and Water Management, by Voivodship Funds for Environmental Protection and Water Management, by local governments. And, which is worth emphasizing, without systemic, instrumental and coordination interaction.

It is necessary to conduct broad education, addressed not only to beneficiaries, but also to decision-makers, central and local authorities, non-governmental organizations, residents and owners of buildings or apartments.

The following elements should be included in the Program:

- Understanding that thermomodernization is not only a cost, but also an investment in environmental protection, giving specific positive social effects - primarily health, and thus bringing savings in the healthcare sector.
- Understanding that investment in energy efficiency encourages increasing innovation in the economy, which increases its competitiveness and operating costs.
- Accepting that the thermomodernization program requires a clear indication of the leader responsible for the energy efficiency of residential buildings, who would coordinate the work of other market participants in accordance with their competences: environmental protection, construction, social assistance, energy, finance.
- Awareness that financing energy efficiency is carried out by various public and private entities, under various programs, including EU ones, without coordination and concentration in the most important aspects, using various grant and repayable instruments, for various, often arbitrarily selected aspects the functioning of the housing market.

Obtaining the expected energy efficiency should be based on the principle of comprehensiveness and availability. The POLBEEF Program seems to meet these criteria.

Due to the particularism of individual market participants, there is practically no cooperation between regulators or solution providers that reduce energy consumption.

Building awareness of the need to modernize existing buildings and investing in buildings to achieve specific energy parameters requires broad and continuous education of consumers, solution providers that affect energy efficiency (designers, contractors and manufacturers) of buildings.

It is recommended to coordinate the activities taken under POLBEEF with other existing national programmes.

This would allow:

- creating a uniform thermomodernization program
- cooperation of public and private institutions
- mobilization of public and private funds
- increase of the scale and scope of the thermomodernization program
- introduction of repayable instruments, also for people with low incomes.

Energy poverty in countries where the Program is proposed is a fact. In Poland, it is not sufficiently recognized and there are practically no elements supporting poor families. It is important to take actions aimed at solving a technical problem - thermomodernization of buildings, replacement of energy-consuming devices, etc. Also actions aimed at solving an economic problem - helping households at risk of energy poverty in coping with current energy expenditure and actions aimed at solving the problem of attitudes towards effective use of energy (in cognitive, behavioral and emotional aspects) - educational activities raising the level of knowledge and skills in using energy-powered devices, as well as providing information needed when choosing and purchasing energy-efficient equipment, modernizing and operating the heating system.

The design of the Program makes it possible to assess that reducing pollution, reducing hazardous substances in the air, changing users' approach to energy efficiency, increasing the budget for improving the quality of life has significant social consequences of properly and widely carried out activities enabling the increase of energy efficiency of residential buildings. This is the great added value of the POLBEEF Program. The program should also provide for the concept of classifying a residential building into a specific energy category. In this aspect, it is necessary to cooperate with the largest real estate base in Poland - the AMRON system (Real Estate Market Analysis and Monitoring) operated by the Polish Bank Association.

Obtaining multi-comfortable living, i.e. thermal, acoustic, visual comfort and good air quality, affects the quality of life, environmental protection, and especially well-being. Such elements of the Program should be presented as the final result of the implementation of the proposed solutions.

The proposed solutions under the Program meet the establishment of the National Anti-Smog and Energy Efficiency Fund suggested by the World Bank. As part of the latter proposal, it was indicated that the Fund would manage a pool of funds from various sources of financing. Cooperating with the Fund (similarly, it can be assumed that also within the POLBEEF company established under the Program) entities managing financial support and financial mechanisms to combat smog and improve energy efficiency should meet the criteria set out in the Program.

The program should also take into account the possibility and need for cooperation with banks in the scope of introducing the green mortgage instrument (energy-efficient mortgage loan), in accordance with the guidelines of the European Mortgage Federation.

Given the scope of the Program, the necessary participation of public and private parties for the use of various financial instruments, it is necessary to establish, at an early stage of the Program's development in Poland, the principles of cooperation and support (financing) of projects implemented under the Program with the banking sector.

5.1. General eligibility criteria

The beneficiary are residential multifamily buildings

5.2. Technical criteria

The technical criteria have been slightly adapted to the requirements defined by Polish Law - The Act on technical conditions of buildings and their location and by the Polish standards.

5.3. Energy Performance Contract

- the model contract must be adapted to the conditions of Polish law, basing its legal structure on the legal provisions of the Civil Code and industry regulations relevant to the subject of the contract;
- references to national regulations should be used in the model contract, avoiding references to standards and guidelines that will be difficult or impossible to apply in Polish conditions;
- it would be desirable to create a universal template for an EPC contract that will allow the Contractor (ESCO) to conclude EPC contracts with entrepreneurs as well as cooperatives or housing associations. Recommendation: Extending the definition of "Customer";
- the contract template defines the Customer only as the owner of a dwelling, which in Polish conditions may significantly hinder conducting a comprehensive investment in a building (residential building), due to the limited right of the owner of the dwelling to use common parts. It may be justified to conclude an agreement with a housing community or cooperative; In addition, the Customer must have a legal title to the premises [differently provided in point 6.1 of the model contract];
- the parameters of the verification of the energy effect guarantee specified in the contract template may be difficult to enforce in practice, especially if the Customer is the owner of the dwelling (for example: point 3.3 the Contractor does not guarantee the indoor temperature levels agreed in the Specific Conditions of the Agreement for the specific Apartment during the time when the windows in an Apartment of the Building are open and for 2 (two) hours after the windows have been closed,.);
- the contract template indicates that the Contractor will be responsible for the heat energy supply to the building, which may significantly limit the circle of potential Contractors (point 5.12 of the contract template);
- a guarantee of good performance should be granted by the Contractor for the duration of the works (duplication of the guarantee is not recommended (see point 4.6 and point 4.7). The guarantee should be provided to the Customer only by the Contractor, even if it uses subcontractors (general construction companies), not directly by a subcontractor;
- the Customer should be able to accept the modernization project before the Contractor begins work;

- the customer should be guaranteed the opportunity to receive work from the Contractor and to report the need for corrections before acceptance; the contractor's obligation to insure the building should be submitted as an alternative, not an obligation (depending on the will of the parties). The building owner may already have adequate insurance.

6. References

www.fineergodom.eu



PROJECT PARTNERS



STAGE



Mattig Management Partners