

Background Paper (DRAFT) CASH Thematic Seminar

Administrative and Legal Framework

Brindisi, 14 and 15 April 2011

1 INTRODUCTION

Each CASH seminar will explore one specific theme. The seminar will give input for a mini guide. For every Thematic Seminar a background paper will be made. Theme of the second CASH thematic seminar will be “Administrative and Legal Framework”.

Overview of all CASH thematic seminars

Date	Place	Theme
27/28 January 2011	Utrecht	Technological Development
14/15 April 2011	Brindisi	Administrative and Legal framework
September 2011	Frankfurt	Financial Engineering
January 2012	Ptolemaida	Energy Production Approach
April 2012	Bridgend	Citizen Involvement and Expectations
June 2012	Yambol	Project Management Engineering

The background paper serves as an introduction to the seminar theme, formulates possible questions and structures the discussion for the meeting, and can be regarded as a catalogue of discussion themes.

The two first chapters describe briefly the legal framework (mainly European regulations and policy) as well as the institutional framework. The third chapter gives possible topics for discussion or open questions, to be answered during the Thematic Seminar in Brindisi. The brainstorm session that was held during the Utrecht seminar is used as an input for this chapter. The last chapter formulates

some discussion questions in more detail.

A draft of the paper will be send to all partners to make contributions from the partners possible.

2 RELEVANT POLICY AND REGULATION¹

Reduction of energy consumption in the buildings sector constitutes important part of measures to reduce Green House Gas (GHG) emissions and thus comply with the Kyoto Protocol to the United Nations Framework Convention on Climate Change (UNFCCC) and other legally binding international commitments.

Important regulatory developments can also be seen at the EU level.

2.1 Climate policy

http://ec.europa.eu/clima/policies/package/index_en.htm

In December 2008, the European Parliament approved an integrated package of energy and climate policy, including the following legally binding targets to be reached by 2020 (known as “20-20-20”):

- To cut GHG emissions by at least 20 per cent in 2020 as compared to the 1990 levels (30 per cent if other developed countries commit to comparable cuts);
- To raise the share of renewable energy to 20 per cent of total energy consumption by 2020;
- To reduce energy consumption by 20 per cent of projected 2020 levels by improving energy efficiency.

The European Commission went into the COP15² negotiations in Copenhagen with the higher target of 30 per cent. Since the negotiations on quantitative goals

¹ Mainly from Chapter 6 of the CASH Baseline Study

² The 2009 United Nations Climate Change Conference, was held in Copenhagen, Denmark, between 7 December and 18 December. The conference included the 15th Conference of the Parties (COP 15) to the United Nations Framework Convention on Climate Change

failed, formally there is still the 20-20-20-goal. United Nations negotiations on such an agreement are ongoing.

In May 2010, the European Commission published a [Communication](#) which revisits the analysis of the implications of the different levels of ambitions (20% and 30% targets), and concludes that extra effort in the housing sector necessary is.

2.2 Energy Performance of Buildings Directive

The EU Directive (2002/91/EC) on Energy Performance of Buildings (EPBD), http://ec.europa.eu/energy/efficiency/buildings/buildings_en.htm in force since 2003 and adapted in may 2010, is the main tool providing a holistic approach to efficient energy use in the buildings sector, including regulatory and information-based instruments. It is intended to lead to substantial increases in investments in energy efficiency measures within residential and non-residential buildings. It requires Member States to set up:

- A methodology to calculate integrated energy performance of buildings, based on a general framework established by the EPBD, to be set up either at the national or regional levels.
- Minimum energy performance requirements for new buildings (and mandatory consideration of alternative heating systems for planned buildings over 1,000 m²).
- Minimum energy performance requirements for building with a total useful floor area of over 1,000 m² undergoing major renovation.
- Energy performance certificates (EPC) of buildings required when a building is constructed, sold, or put up for rent. The certificates are for information only and may include recommendations for the cost-effective measures to improve the building's energy performance.
- Either a regular inspection of boilers of a certain specification or adequate provision of advice to users on the heating system, as well as a regular inspection of air-conditioning systems. The certification of buildings, the drafting of the recommendations and the inspection of boilers and air conditioning systems should be carried out by

independent, qualified and/or accredited experts, private or public. Member States can go beyond the minimum requirements set by the Directive and be more ambitious.

In May 2010 the European Commission adopted a new version of the EPBD that seeks to strengthen the main pillars of the Directive (including deleting the 1000 m² threshold). Member States are now also required to actively promote the higher market uptake of buildings of which both CO₂ emissions and primary energy consumption are low or equal to zero by producing national plans with clear targets. Some of the expected benefits of the (upgraded) EPBD include:

- 60–80 Mt/year energy savings by 2020, i.e. a reduction of 5–6 per cent of the EU total energy consumption in 2020;
- 160 to 210 Mt/year CO₂ savings by 2020, i.e. 4–5 per cent of EU total CO₂ emissions in 2020;
- 280,000 to 450,000 potential new jobs by 2020, mainly in the construction sector, energy certifiers and auditors and inspectors of heating and air-conditioning systems.

New jobs would also be stimulated by the need for the products, components and materials used or installed in better performing buildings.

2.3 Energy Efficiency (Savings) Action Plan

The 20 per cent energy efficiency target was also incorporated in the Commission Communication of 19 October 2006, the Action Plan for Energy Efficiency: “Realizing the Potential” (COM(2006)545), (http://ec.europa.eu/energy/efficiency/action_plan/action_plan_en.htm) which was endorsed by the European Parliament in its non legislative resolution of 31 January 2008 and identified the significant potential for cost effective energy savings in the buildings sector. The Action Plan was set to run for the period of January 2007–December 2012. In its resolution, the European Parliament proposed considering measures such as:

- (a) to require all new buildings needing to be heated or cooled to be constructed to passive house standards from 2011;
- (b) to gradually introduce district heating and cooling grids for all buildings;

- (c) to create a transparent database of national, regional and local measures promoting energy efficiency in buildings, in the interest of exchanging best practices and raising public awareness;
- (d) to ensure that the tax systems reflect the aim of improving energy efficiency in buildings; and
- (e) to increase research into human behaviour regarding use of energy.

The renewed Commission Communication was expected in November 2009 on an Energy Efficiency (Savings) Action Plan, but has been postponed.

2.4 Covenant of Mayors

The Covenant of Mayors www.eumayors.eu is a commitment by signatory towns and cities to go beyond the objectives of EU energy policy in terms of reduction in CO₂ emissions through enhanced energy efficiency and cleaner energy production use as well as by the implementation of their Sustainable Energy Action Plan. At the beginning of 2011 more than 2180 cities have signed the covenant.

2.5 White Paper on Adaptation to Climate Change

http://ec.europa.eu/clima/policies/adaptation/index_en.htm

The EU White Paper: "Towards a European Climate Change Adaptation Programme", was presented on 1st April 2009. Joint action involving all Member States is needed to deal with a wide range of environmental challenges including coastal erosion, reduced water supplies and threats to human and animal health. This White Paper says that a comprehensive EU strategy should be put in place beginning 2013.

2.6 ICT and energy

The Commission has acknowledged that ICT-based innovations may provide a potentially cost-effective mean to help Member States to achieve the 2020 targets. A recommendation adopted in October 2009 (http://ec.europa.eu/information_society/activities/sustainable_growth/docs/recommendation_d_vista.pdf) identified concrete actions for the ICT industry, for

EU Member State governments and their regional and local administrations, to exploit the enabling capacities of ICTs to achieve improved energy efficiency across society and the economy.

ICT also underlies the ‘smart’ in smart-metering, turning the traditional energy meter into an ICT device capable of collecting and communicating a live stream of data and other information on their energy use to consumers. Such information can in turn be used by consumers to help them better understand how much energy they consume and where, how much it costs, how it varies over time and thereby enable them to act so as to achieve savings.

In November 2009 EUROCITIES, the network of major European Cities, started the Green Digital Charter to support the Commission in this initiative. http://ec.europa.eu/information_society/activities/sustainable_growth/green_digital_charter/index_en.htm

2.7 Green Public Procurement

http://ec.europa.eu/environment/gpp/index_en.htm

The Commission presented a Communication on Green Public Procurement on 16 July 2008. Green public procurement means that public purchasers take account of environmental factors when buying products, services or works. 6 CASH countries have national plans or legislation (Denmark, France, Germany, Italy, Netherlands and UK). 3 other CASH states have plans in preparation (Bulgaria, Greece and Hungary). For cities that build or renovate houses, this means that environmental aspects should play a role in the choice of material and appliances.

2.8 Economic instruments in environmental policy

The Commission presented Green Paper on Market-Based Instruments in March 2007 (http://ec.europa.eu/environment/enveco/green_paper.htm) in order to launch a broad public consultation on advancing the use of market-based instruments for environment and related policy purposes in the Community. The Green Paper starts from the broadly shared view that market-based instruments,

such as taxes, charges and tradable permit schemes but also targeted subsidies provide a flexible and cost-effective instrument for enforcing the polluter-pays principle. Depending on the issue, they will often be combined with regulatory instruments to ensure the best and most cost-effective policy mix for the protection of the environment. In the Green Paper, the Commission explores a very wide range of areas where the use of market-based instruments could be promoted further, either at Community or Member State level. This includes energy consumption, the environmental impact of transport as well as the sustainable management of water, waste management, protection of biodiversity and reduction of conventional air pollution.

3 ADMINISTRATIVE FRAMEWORK

3.1 Overall policy

The legal and administrative framework of each country is very relevant for the possibilities and opportunities to make the cities acting really on the energy problem. Sometimes there is a real overall policy in the country, relayed by several administrative levels (national, intermediate and local level). In this case there are several financials and legal tools which are then a good support for the cities to develop policies and innovative measures.

In other cases there is not a similar involvement of the national level, and not enough intermediates levels to encourage and support this kind of policies. That means that some cities (Bulgaria or Greece for example) are relatively alone to set up on concrete actions. In this case one important question is how to develop, set up, and influence financial and legal framework to support local authorities' policies.

3.2 Allocation of responsibilities

Different responsibilities for social housing can be identified. In different countries these responsibilities are allocated to different actors.

Development: The commissioning of construction of social housing, usually on land owned by the developer or from the government.

Construction: The physical construction of social housing, usually under contract to the developer. Development and construction are often carried out by the same participant.

Financing: Various forms of financing to support social housing exist, from subsidized constructing to subsidized rent.

Ownership: Legal ownership of the physical social housing structure, often including the land on which it is built. The responsibilities of ownership usually include the financial liabilities of the property (including debt servicing and maintaining the property in a habitable condition), and compliance with legal and regulatory requirements applicable to social housing (although these may be wholly or partially delegated to management agents under contract). Ownership of social housing may include individual households. Ownership also includes cooperatives, where the occupants of social housing are collective owners of their homes.

Management: The responsibility for ensuring that social housing activities, including the administration of service provision to residents, the collection of rental income and the allocation and letting of vacant units, are effectively carried out. Maintenance of the physical fabric of social housing is included in the management task. Maintenance itself will, like construction, often be carried out by separate private-sector organizations, but the planning, funding and procurement of this work are part of management.

Also management can be contracted out to a range of organizations.

Strategy/regulation: This task concerns the approach to planning the social housing strategy, including the determination of the amount of social housing requirements and how these should be funded and delivered.

Relevance for CASH

Responsibility	Relevance for CASH
Development	--
Construction	+
Financing (Capital and Revenue)	++
Ownership	+++
Management	+
Strategy / Regulation	--

4 POSSIBEL TOPICS FOR THE SEMINAR

The legal framework and administrative organization can be quite different in the European countries. The main objective of the Thematic Seminar is to identify the important elements of the existing legal and administrative framework for the CASH partners. With help of best practices or exchange of experiences we can propose possible improvements. In the CASH project application, following themes were already identified:

- How to disseminate and develop a feed-in tariff approach.
- How to propose and disseminate national and local plan with financial means to encourage an energy efficiency process.
- How to develop control and certification process for building renovation project in a clean legal framework.

- How to organize clear and complementary responsibilities between different administrative levels.
- How to develop national financial tools or bonus systems (as special low taxation, or VAT modulations, or 0% rate) to encourage energy efficiency renovation.

At the Thematic Seminar in Utrecht a brainstorm session was dedicated on possible topics for the meeting in Brindisi:

- Compatibility of national regulation, or how to deal with contradicting rules and regulations.
- Rapid changes of regulations.
- Legal aspects of ownership.
- The role of politicians versus the role of officers.
- Can legal obligations alone lead to action.
- What is the playing field of housing corporations.
- How to push or stimulate towards action.
- Investments lead to higher rents, which has its effects on rent subsidies, or is limited by rent regulations.
- What are major EU regulations?

Following a suggestion made in Utrecht in this background paper specific themes are identified that can be discussed or answered in smaller groups in Brindisi.

In the following chapter issues that summarize topics from the lists above are proposed as discussion issues.

5 PROPOSED ISSUES FOR DISCUSSIONS

5.1 Allocation of responsibilities

Central governments are increasingly withdrawing from housing policy and shifting tasks and responsibilities to the local level.

Possible actors in social housing:

- National Government
- Regional / local Government
- Private Sector
- Voluntary / non-profit sector
- Cooperatives / local self government
- Households

In chapter 3.2 the different responsibilities have been identified and also their relevance for CASH. A further exercise would be to allocate the responsibilities to the different actors, for different partner cities.

	National Government	Local Government	Private Sector	Non-profit sector	Cooperatives	Households
Development						
Construction						
Financing (Capital and Revenue)						
Ownership						
Management						
Strategy / Regulation						

Based on such an allocation each partner can identify the main stakeholders for their actions.

5.2 Ownership and management

Combination of the role of owner with that of user /habitant offers an opportunity for sustainable house management. Ownership includes also the responsibility for long term value management, habitation includes a direct interest in the improvement of quality of living and reducing of energy costs. Although the combination owner / habitant seems to be an ideal combination for energy efficient renovation, reality is often different. Many partners have in the Baseline Study indicated that just this combination is one of their main problems.

Questions to be discussed:

What are the factors that this combination not always works positively as expected? How can these factors be influenced?

5.3 Condominium laws and regulations of management

A **condominium** is the form of housing tenure and other real property where a specified part of a piece of real estate (usually of an apartment house) is individually owned while use of and access to common facilities in the piece such as hallways, heating system, elevators, exterior areas is executed under legal rights associated with the individual ownership and controlled by the association of owners that jointly represent ownership of the whole piece.

Investments for renovation, need to be agreed between owners according the condominium legislation. In some countries a majority of 70% of the house owners is needed to decide on such investments, in some countries 100% is needed.

In the Netherlands the owners of apartments are obliged by law to organize themselves and set up a fund for long term maintenance.

When the associations of owners are (too) small, they can be merged to become more effective. Which other ways of effective and efficient management of

common properties are used in the partner cities?

5.4 Energy Performance of Buildings Directive

The EU Directive (2002/91/EC) on Energy Performance of Buildings (EPBD), in force since 2003, is the main tool providing for a holistic approach to efficient energy use in the buildings sector, including regulatory and information-based instruments. It includes also the set up of energy norms and labels. All countries are left free in the method they choose for the energy labelling. Consequently the energy performance demands are not comparable between the different CASH partners.

Questions to be answered in CASH:

- Is this regulation enough stimulus to initiate energy efficient renovation?
- Does the labelling effectively lead to better energy performance?
- Must the energy performance be enforced, and are the partners capable for an effective control of the energy performance?
- Some partners set even higher energy demands (Frankfurt). How can these high levels be enforced?

5.5 Feed-in tariff

A feed-in tariff is a policy mechanism designed to encourage the adoption of renewable energy sources.

It typically includes three key provisions:

- guaranteed grid access,
- long-term contracts for the electricity produced, and
- purchase prices that are methodologically based on the cost of renewable energy generation.

Under a feed-in tariff, regional or national electric grid utilities are obliged to buy renewable electricity, from all eligible participants. The cost-based prices therefore enable a variety of projects (wind, solar, etc.) to be developed, and for investors to obtain a reasonable return on renewable energy investments.

Feed-in tariffs typically offer a guaranteed purchase for electricity generated

from renewable energy sources within long-term (15–25 year) contracts. These contracts are typically offered in a non-discriminatory way to all interested producers of renewable electricity.

In all the countries of the CASH Network a feed-in tariff is, or will soon be, legally installed. Some cities, like Frankfurt and Brindisi, are reacting on this by installing solar collectors on the roofs of their social houses. In most cities there is no systematic approach how to make use of feed-in tariffs.

How do and how can cities make use of feed-in tariff regulations?

Feed-in tariffs in CASH countries

Member state	Solar PV	Biomass
Bulgaria	0.34 - 0.38	0.08 - 0.10
Denmark	n/a	0.039
France	n/a	0.125
Germany	0.29 - 0.55	0.08 - 0.12
Greece	0.55	0.07 - 0.08
Hungary	0.097	n/a
Italy	0.36 - 0.44	0.2 - 0.3
Netherlands	0.459 - 0.583	0.115 - 0.177
United Kingdom	tariffs scheduled for 2010	

6 FURTHER STEPS

This draft background paper will be distributed among the partners of the CASH network. Each partner is asked to make comments and add-ons to this document, so that it can serve as a common basis for the thematic seminar in Brindisi.