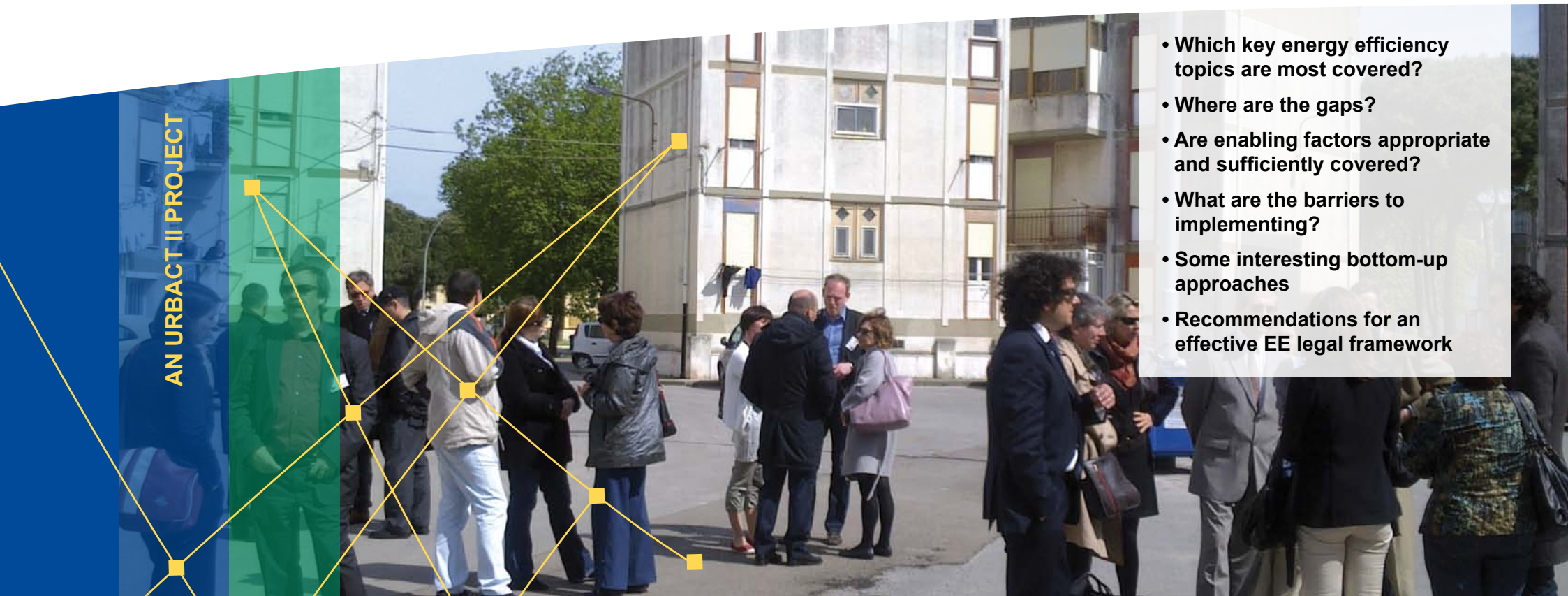


# Legal framework for energy-efficient renovation

Mini guide no.2 / nov. 2011



- Which key energy efficiency topics are most covered?
- Where are the gaps?
- Are enabling factors appropriate and sufficiently covered?
- What are the barriers to implementing?
- Some interesting bottom-up approaches
- Recommendations for an effective EE legal framework

Cash is a European URBACT II project around a network of 10 cities and 1 region from 9 countries: Bridgend-UK, Brindisi-IT, Rhône Alpes Regional Council-FR, Echirolles-FR, Frankfurt-DE, Les Mureaux-FR, Eordea-EL, Tatabanya-HU, Utrecht-NL, Yambol-BG. Its ambition: to propose new solutions and promote new policies in the European Union for the energy-efficient renovation of social housing.

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# Introduction & subject significance

This edition, covering the theme of legal framework for energy efficient renovation is the 2<sup>nd</sup> in a series of 6 mini-guides for the CASH project.

Availability of affordable and energy efficient housing is not only a technical or financial matter. European Directives, national / regional / local laws, decrees, ordinances and policies are forming the framework for cities to work within. This mini-guide describes the existing legal playing field for CASH partners from 9 European countries at the local level and shows how they can manoeuvre within the given possibilities to enhance energy performance of affordable housing for social landlords, low income owners or tenants. It also highlights the gaps, barriers, local needs and the potential solutions for a bottom-up approach more in line with local context.



2<sup>nd</sup> CASH Thematic Seminar on Legal Framework, Brindisi 13-15.04.2011, Brindisi, Italy

# STATE-OF-THE-ART

## European EE Policy and regulation

At European level the **reduction of energy consumption in the building sector is an important policy goal** which is reflected in many directives and regulations.

Well-known is the **20-20-20 goal** (to reduce GHG emissions by at least 20 per cent by 2020; to raise the share of renewable energy to 20 per cent; to improve energy efficiency by at least 20 per cent), which many local and regional authorities in Europe have committed to through the "covenant of mayors" (signed by 6 of the CASH partners).

Probably the most relevant regulation for CASH is the **EU Directive (2002/91/EC) on Energy Performance of Buildings (EPBD)**, in force since 2003 and adapted in May 2010.

For EU legislations on Energy Efficiency (EE), consult the link: [http://europa.eu/legislation\\_summaries/other/127042\\_en.htm](http://europa.eu/legislation_summaries/other/127042_en.htm)

On 22 June 2011, a **new set of measures for increased Energy Efficiency** was proposed by the European Commission (Energy Efficiency Plan 2011). There will be a legal obligation for member states to establish energy saving schemes and more efforts from local and regional governments to be made for public buildings. Even though **social housing is not explicitly addressed in the new directive**, it will be a topic to consider since it is often within the influence of local governments.

Moreover, the European Commission is developing a "**Low-carbon economy 2050 roadmap**" with objectives to reduce greenhouse gas emissions by 80 to 95% by 2050, and further rules can be expected.

## Principle of subsidiarity has led to a variety of norms and regulations that relate to national, regional or local context.

### Cash partner legal framework

To understand how some European countries have adapted their legal framework to cope with these European directives and to pinpoint gaps and national specific contributions, CASH partners have illustrated their national, regional and local legal EE instruments in the form of a table organized by key EE topics, synthesized hereafter – see detailed table on the CASH webpage (<http://urbact.eu/cash/>, “Pro-

ject documents”, “CASH Partner legal framework” -. The information gathered has shown how the **principle of subsidiarity** – central principle in the EU context stipulating that political decisions in the EU must always be taken at the lowest possible administrative and political level and as close to citizens as possible – **has led to a variety of norms and regulations that relate to national, regional**

**or local context** (cultural, financial, climatic specifics...). As illustrated by the table, this resulted in very different EE legal framework in CASH partner countries although they are all based on the same EU directives - except for EE targets specification, audits and energy performance certificates. Table results are analyzed in the following sub-sections.

	EE DIAGNOSIS & SPECIFICATIONS			ENERGY PRODUCTION & DISTRIBUTION			USERS INVOLVEMENT		R&D	FINANCIAL TOOLS / ENGINEERING				
	EE Targets + Energetic requirements of buildings	Audits + Energy performance certificates EPC of buildings + posting	Renovation labels	Energy sources	Co-generation	District heating	Condominium / co-properties	Tenants contribution to energy renovation	Clusters (industries & research institutions)	Subsidies for energy efficiency housing units renovation	Eco-loans and low interest loans	Fiscal measures	Feed-in tariffs	Funds for state & municipal buildings
Yambol, BULGARIA														
Sonderborg, DENMARK														
CRRA, Echirrolles, Les Mureaux, FRANCE														
Frankfurt, GERMANY														
Eordea, GREECE														
Tatabanya, HUNGARY														
Brindisi, ITALY														
Utrecht, NETHERLANDS														
Bridgend, UK														

Synthesized CASH partner Energy Efficiency Legal Framework by key topics



## Key topics most covered by legal instruments

**For EE diagnosis and specifications:** all CASH member states have translated the EPBD into national legislation. **Energy Efficiency targets** have been defined, monitoring methods developed and **certification systems** installed. However, there is no common calculation scheme between member states making it difficult to compare the energy consumption values (e.g.: there are over 25 different types of energy certificates at European level). Regarding levels of target energy values for energy modernization, whereas these are generally rather poor at national level, partners have shown that, in some cases, the local governments have defined more ambitious targets.

**For energy production and distribution:** most countries are working on regulations to promote the **use of renewable energy sources**, accompanied by financial measures (guaranteed feed-in tariffs, subsidies for solar units or heat pumps...). In some countries (France, Denmark) an assessment on different energy options for big projects is even required by national regulation, so that the choice for energy source is not centrally prescribed, but is dependent on the local situation.

***In some countries, an assessment on different energy options for big projects is even required by national regulation, so that the choice for energy source is not centrally prescribed but is dependent on the local situation.***

**For users' involvement:** several partner countries have legal instruments to obtain **tenants contribution to energy renovation** (Denmark, France, Germany, Hungary and the Netherlands). In Germany 11% of energy modernization costs may be transferred to higher rents and most often, to pay back investments for home improvement, rents are being raised.

If and how much the rents in social housing can be raised varies between countries. Some cities (Utrecht, Frankfurt) are developing local rules for this. Because implementation mechanisms are complex and since this tenants contribution issue often raises social problems, in most cases social landlords prefer not to implement them. Frankfurt and some cities in Germany have introduced energy criteria in local rent comparison schemes ("Mietspiegel"). Landlords can justify higher rents, if they prove measures (new heating, insulation) or lower energy demand.

**For financial instruments:** **subsidies** (national or local or a combination of both), **loans** and **feed-in tariffs** are regulated the most.

## Topics less covered by legal instruments

Whereas all EE topics are important, several of them, presented hereafter, seem to be poorly regulated:

**Renovation labels:** only a few partner countries have regulated labelling aspect, such as France with its high environmental quality (HQE) and low consumption building (BBC). In Germany, the **Passive House Institute** ([www.passiv.de](http://www.passiv.de)) has developed a calculation scheme independent from national standards with procedures and boundary conditions not influenced by political considerations allow-





ing fast integration of new research results which gives more correct results. Some renovation labels have inspired new national standard construction rules, enforcing EE and bioclimatic assets when constructing a new building (i.e. Thermic regulation RT 2012 in France). Compulsory renovation rules are expected to follow.

**Cogeneration and district heating:** in some partner cities specific energy applications are promoted through legislation, be it cogeneration, district heating or the use of natural gas. Local circumstances, resource availability and economical aspects, influence which option for energy supply is promoted, as in Tatabanya, Eordea or Sønderborg with district heating.

**Co-properties / condominiums:** majority voting is ruled differently. In some cases a quorum requirement is used. In

most partner countries this has not been the object of legal instruments or the choice to be made by owners between normal maintenance works and energy investments. The Netherlands is one of the exceptions, with a law obliging the owners of apartments to set up a fund for long term maintenance, with differences made between normal maintenance and extra energy investments. There is no general rule for this in Europe. For Bulgaria, where the situation with ownership of buildings is the most complicated, The Condomin-

***The Netherlands is one of the exceptions, with a law obliging the owners of apartments to set up a fund for long term maintenance, with differences made between normal maintenance and extra energy investments.***

ium Act, in force, stipulates that a qualified majority of votes is required for decisions concerning basic repair or renovations and in a month's time, an amendment should indicate that "every owner is obliged to pay monthly fees for the renovation of the building".

**Clusters:** only a few CASH members, such as Sønderborg and Brindisi, have regulated the creation of EE clusters, joining R&D institutions and industries for EE developments. Clusters exist in other partner countries but as supportive measures.

**Fiscal measures:** these economic instruments are always mentioned in EU communication documents and policies as being important for realising the energy efficiency goals. Different from subsidies, economical tools -

such as tax regulations, should be available for all actors and make energy-friendly options financially attractive. However, they are very rarely used in social housing EE renovation or are very recent towards low income owners.

**Green Procurement** (environment-friendly purchasing): even though it is included in national plans of 6 of the 9 CASH countries, no legal instrument regarding this topic has been mentioned by CASH partners.

## Specificities and strengths of CASH partners

The detailed CASH partner legal framework table, presented on the CASH webpage, stresses some trends and specificities:

Some countries like Italy have developed a series of legal instruments at **regional and local levels** which deserve to be scaled-up (such as the Brindisi City Council resolution to establish the service chart providing 30% of rental fees to the tenants union for self-management including for EE renovation). Others like France have adopted a **more centralized approach** with less local and more national regulation.

Some countries have developed specific legal instruments for key EE topics:

- Hungarian Decree N°389/2007 on feed-in tariffs related to **cogenerated electricity**;
- Tatabanya's General Assembly Decree N°4/2010 on measuring and setting **district heating** and N°10/2010 on the district heating modernization programme (Hungary),
- German EE label, Apulian Regional Council Resolution N°863, March 23, 2010 on **R&D** (Italy) and French Tax Instructions N°5B-22-09 establishing **Tax credit** for EE expenditures on main houses and N°6C-1-10 establishing a property **tax relief** for energy saving works on social housing units.

## KEY ISSUES DISCUSSED

During the Brindisi seminar, thematic workshops were held on enabling factors, barriers and needs for partners to implement their EE legal framework. Hereafter, are some key elements raised by partners.



Brindisi Seminar Workshops April 13-14.04.2011, Brindisi, Italy

Often supportive measures are not diversified enough, or not adapted to the context, and the legal framework not appropriate. This can create barriers to implementing the legislation.

### Enabling factors

**Regulatory mechanisms**, such as: 'Volunteer' modernization and no compulsive measures are found in Germany; posting of energy efficiency levels by estate agencies in France; obligation to add certification to selling act in Italy; co-property being able to act as a legal person in Italy, France and the Netherlands; self-management by tenants in Italy and tenants agreement to adopt a renovation operation in the Netherlands...

**Financial measures** are numerous, as listed hereafter, but are often ephemeral and project based, not adapted to large scale renovation operations : EC structural funds; preferential loans and tax incentives for social landlords in France and for owners in Italy; guaranteed 2-3% interest loans for social landlords at regional level in the Netherlands; low interest rate credits from national funding banks -KfW- in Germany; eco-loans / green loans at 0% interest rate for private owners in France and Denmark; revolving fund for social landlords at local level by an independent organization in the Netherlands; 3rd line tenants contribution in France); possible subsidies from state for low income private owners in France and to reach C level in Hungary; regional financial measures in France; exemption of land tax for social owners in France; exemption of property taxes if level A is achieved in Bulgaria; reduced VAT in France; fiscal measure: tax deduction for some energy units and material in France, Italy and Denmark; white certificates - selling of energy savings by social landlords to energy companies in Denmark and France; creation of a national fund fed by fixed rents – once loans are paid-, managed by government on the basis of social landlords' requests justified by tenants in Denmark; subsidized rent on the basis of en-

ergy savings in the Netherlands; public-private partnership in Italy; financial support for changing old boilers in Germany; risk sharing covered by public entities such as municipalities through guarantees...

**Technical support**, less widespread, can cover: Technical assistance for the certification process, accessing financial support and helping draw up funding requests in France; technical assistance for energy measurements by universities in Denmark; development of district heating by municipalities in Denmark and the Netherlands; use of smart metering to raise awareness in Germany...

**Capacity building and training** vary widely, going from schoolchildren to scholars: National educational programme for primary schools in Denmark; teaching programmes in technical schools around the PassivHaus building, including programmes for architects and builders in Germany; university programmes with units on energy in Italy...

**Information & awareness** raising stay the most standard enabling factors but are still insufficient and untargeted: Awareness raising campaigns by municipalities and at national level in Denmark; website with advice on energy saving for private owners and tenants in Denmark and the Netherlands; posting of energy efficiency levels in estate agencies, energy guides and information desk with information for co-properties and individual houses in France; NGO providing information on financing in Hungary...



## Barriers to implementing

Often supportive measures are not diversified enough, or not adapted to the context, and the legal framework not appropriate. This can create barriers to implementing the legislation. Below are aspects of legislation that are seen as barriers by the CASH partners:

- Existing legal framework does not cover all the aspects of energy efficient renovation and legal obligations are not always connected to facilitating instruments like capacity building & training or financing.
- There can be competitiveness between energy efficient (EE) legal instruments and other legal instruments (i.e. fire security, elevators, building regulations, lead diagnosis, etc.). This could make it hard to agree on how to implement legislation.
- Goals set by legislation are not always financially achievable or seen as realistic.
- Weak and unstable financial measures in time, as well as the difference of incentives between national and regional or local levels, make it difficult to reach national targets.
- Legal instruments (laws, ordinances, regulations) can be influenced by lobbies and stakeholders of social housing do not have a strong lobby.
- National laws are not always applicable to specific local conditions. Moreover, the scaling-up of local regulation, which have proven to be efficient, to national legislation is difficult.

***Enabling factors exist, as regulatory mechanisms, financial measures, technical support, but many of them are short term based.***

Whereas these barriers are general for many policy areas, there are some additional specific factors for the social housing sector:

- Governments may have high EE targets but social landlords could face difficulties to finance renovation, financial instruments being limited (no access to tax deduction and to green loans for some stakeholders...) and not adapted to large scale operations and rents being hard to raise when a high percentage of tenants live on very low incomes or social welfare. Renovation investments charged on rents can generate strong tenants' opposition driven by their low awareness and involvement in the renovation process.
- Mixed properties (social landlord buildings with private owners) do not fit with regulations made for standard average situations and social landlords bear all legal obligations.
- Multiplicity of funding sources leads to complex application or transactional procedures.



## Needs & required outcomes

The EE legal framework should cover several key aspects:

- Set ambitious technical standards, with **realistic targets**, whenever insulation of the building envelope or a new heating installation is planned. In some German cities and in the Baden-Württemberg region, the legal framework stipulates that renewable energies (i.e. Solar collectors) must be installed if the roof or heating system is modernized;
- Connect financing and the legal framework to establish a transparent way to reach an equilibrium between the financial interests of the landlord and of the tenant; develop co-ordinated multi-actor instruments (technical, social, financial) for low income owners;
- Promote renewable sources of energy supply. There should be a clear framework to support the implementation of heat and electricity from cogeneration and electricity from renewable energies. Feed-in tariffs, which have caused the highest and most cost-effective boom of energy from renewables (as in Germany) should be stable for 15-20 years after installation of the plant.
- Furthermore, it is fundamental to **diffuse** the various available EE legal instruments **to municipalities** and to raise the awareness of households of the benefits of EE renovation.

# EXAMPLES FROM PARTNERS

Interesting CASH partners' examples on how to favour a bottom-up approach to draw up legal instruments reflecting local needs are shared hereafter:

## Orca Apulia Region, Italy

The Regional Observatory of the Apulia Region (ORCA) has developed a database on stakeholders' needs and is using it to support the region in drawing up adapted regional regulation on EE renovation of public social housing. ORCA gathers feedback from tenants, not only through data but mostly by talking with them and orders the data so that it is helpful to the evaluation units. The analysis leads to matching peoples' needs and the local laws to find out if there are any gaps between them. Then new laws are drawn up or existing ones are implemented with the support of politicians, to promote better practices at local level. ORCA pilot projects for dissemination of good practices are available at:

[www.orca.regione.puglia.it](http://www.orca.regione.puglia.it)

## Brindisi Tenants Union, Italy

The Brindisi Tenants Union promoted two resolutions which were approved unanimously by the City Council, representing a cutting edge in legislation at national level. These resolutions established the chart, called 'Carta dei Servizi e Commissione Gestione della Carta dei Servizi', now used by

the social landlord IACP (Istituto Autonomo Case Popolari) and the self-management set of rules which regulate the tenants and allows the Tenants Union to receive 30% of rental fees (once used to pay management and administration fees) for self-management. It could be used for EE renovation or other improvements, in agreement with the IACP.

Furthermore, the Tenants Union has designed a **cartoon** to raise tenants' awareness on the impact of housing legislation... This creative tool should be promoted as a best practice to provide information to citizens on legal framework.

[www.unioneinquilini.it](http://www.unioneinquilini.it)



*A Brindisi Tenants Union representative presenting the high impact of their cartoon on legal instruments.*

## Apulia Cluster for Sustainable Building, Italy

The Apulia "Cluster for Sustainable Building" is promoting cooperation and educational activities for sustainable development to increase awareness of sustainability in the building process at any level. It brings together industries, companies and universities in the region, informs and gives training on sustainable development and energy-related issues, as well as initiates research and innovation. Stakeholders involved share their experiences, allowing regions to give feedbacks to the higher legislative level and to influence new legislation, through the cluster's R&D activities.

[http://www.numix-ecoinnovation.eu/doc/pdf\\_67.pdf](http://www.numix-ecoinnovation.eu/doc/pdf_67.pdf)

## Heating source regulated in urban planning

Since 1997 Frankfurt obliges building companies and project developers to connect the buildings to local district heating supplied by cogeneration. The use of other heating systems of fuels is forbidden. This obligation is implemented through local ordinations related to land-use plans in urban planning.

[http://www.frankfurt.de/sixcms/detail.php?id=8686&\\_ffmpar\\_id\\_inhalt\]=50482](http://www.frankfurt.de/sixcms/detail.php?id=8686&_ffmpar_id_inhalt]=50482)

[http://www.frankfurt.de/sixcms/detail.php?id=8686&\\_ffmpar\\_id\\_inhalt\]=50467](http://www.frankfurt.de/sixcms/detail.php?id=8686&_ffmpar_id_inhalt]=50467)

## Voluntary agreement on local level

Utrecht has signed a voluntary agreement with social housing associations to have them insulate 18,660 apartments from 2011 to 2015. In return, the city council will adapt legal rules which hindered housing associations from splitting up big houses or from selling part of their housing stock.

<http://www.utrecht.nl/smartsite.dws?id=88530&GID=366375&comnmnr=17013&sub>



# CONCLUSIONS AND RECOMMENDATIONS

At the Brindisi thematic seminar, the partners identified gaps between national legislation and what is locally possible. Based on the barriers, needs and enabling factors, they have identified **recommendations for an effective EE legal framework**, agreed in the following ‘**Brindisi Manifesto**’.

## Brindisi Manifesto, Recommendations for an effective EE legal framework

### Long term vision of the legal instruments

Fast politically-motivated changes of legislation should be avoided.

### Coherent legal framework at national, regional and local levels

Legislation must be consistent, understandable and scalable.

### Flexible and adaptable legal framework

In this sense, voluntary legal instruments (soft law) associated with a higher control level should be favoured.

### Involving stakeholders in drawing up bills, including citizens, is key

to produce coherent legislation that can be implemented locally with the participation of EE actors, social landlords, private owners and tenants.

### Scaling-up, into national legal instruments, local Decrees and municipal deliberations that have proven their efficiency

Individual cities have often difficulties to give feedback on successful local processes to national government or to the EU. By organizing themselves in dedicated organizations and networks (like CECODHAS, Eurocities, Climate Alliance, ICLEI, national municipal associations, etc.) they can have more influence on future legislation.

### Adopting a global approach to the cost of housing (rent-energy-heating)

Being part of the housing costs, heating and energy costs should be integrated in the rent protection systems. Furthermore, claiming “saved energy costs” to compensate energy investments must be made easier for house owners.

### Adopting a comprehensive, simple and fast approach to funding

Funding should be less oriented towards individual projects or pilots, but be more structural support. It should be made less bureaucratic and procedures homogenized and simplified.

### Providing adaptive mechanism for rents, on the basis of incomes

Flexible mechanism for rents to fit to local context (deprived neighbourhood) and a form of protection from rent increase for existing social rents should be ensured.

### Favoring the creation of clusters



### Providing appropriate communication and capacity building

Municipalities should receive clear and timely information on legislation and on possible sources of funding in a systematic way and receive appropriate training. Educational programmes for stakeholders, in particular architects and builders, are needed and energy efficient Certification of architects / builders should be promoted. Awareness raising campaigns by cities and by tenants unions should be promoted (e.g. Climate Tour in Frankfurt, Apulia Cluster for Sustainable Development, ORCA “Watt/IN” project). Even if the occupants of social housing are not always easy to involve in a renovation process, it is essential that they are, just as all other stakeholders, informed and involved.

## MORE TO LEARN

An overview of relevant legislation and institutional framework can be found in the Background Paper made for the thematic meeting in Brindisi.

(See CASH website: <http://urbact.eu/cash>)

### **Development of European policy related to Energy Efficiency can be found on the website of DG Energy**

[http://ec.europa.eu/energy/index\\_en.htm](http://ec.europa.eu/energy/index_en.htm)

[http://ec.europa.eu/energy/efficiency/action\\_plan/action\\_plan\\_en.htm](http://ec.europa.eu/energy/efficiency/action_plan/action_plan_en.htm)

[http://ec.europa.eu/energy/strategies/2011/roadmap\\_2050\\_en.htm](http://ec.europa.eu/energy/strategies/2011/roadmap_2050_en.htm)

[www.epbd-ca.eu](http://www.epbd-ca.eu)

### **Other sites**

**Covenant of mayors:** [www.eumayors.eu](http://www.eumayors.eu)

**Developments of European and national housing policies:** [www.powerhouseeurope.eu](http://www.powerhouseeurope.eu)  
[www.housingeurope.eu](http://www.housingeurope.eu)





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Brindisi



Tatabanya



Gemeente Utrecht



Yambol

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## AN URBACT II PROJECT

**URBACT** is a European exchange and learning programme promoting sustainable urban development. It enables cities to work together to develop solutions to major urban challenges, reaffirming the key role they play in facing increasingly complex societal challenges. It helps them to develop pragmatic solutions that are new and sustainable, and that integrate economic, social and environmental dimensions. It enables cities to share good practices and lessons learned with all professionals involved in urban policy throughout Europe. URBACT is 300 cities, 29 countries, and 5,000 active participants. URBACT is co-financed by the ERDF Funds and the Member States.

<http://urbact.eu/cash>



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