



EUROPEAN COMMISSION
DIRECTORATE-GENERAL
REGIONAL POLICY

GUIDANCE NOTE ON

ELIGIBILITY OF ENERGY EFFICIENCY AND RENEWABLE ENERGIES

INTERVENTIONS UNDER

THE ERDF AND THE COHESION FUND (2007-2013)

IN THE BUILDING SECTOR INCLUDING HOUSING

DISCLAIMER:

"This is a document prepared by the Commission services. On the basis of the applicable EU Law, it provides technical guidance to the attention of public authorities, practitioners, beneficiaries or potential beneficiaries, and other bodies involved in the monitoring, control or implementation of the Cohesion policy on how to interpret and apply the EU rules in this area. The aim of this document is to provide Commission's services explanations and interpretations of the said rules in order to facilitate the implementation of operational programmes and to encourage good practice(s). However this guidance note is without prejudice to the interpretation of the Court of Justice and the General Court or evolving Commission decision making practice."

DG REGIO services are frequently asked to which extent it would be possible for the ERDF and the Cohesion Fund to support energy efficiency and renewable energy interventions on buildings and, in particular, the residential sector. The purpose of the present note is to outline and clarify the possibilities to support this type of interventions taking on board the recent modifications of the legal framework.

I. Energy efficiency and renewable energies priorities for 2007-2013 under the ERDF and the Cohesion Fund

Energy efficiency and renewable energies actions are core elements of the EU Energy and Climate Change Strategy and both constitute priority interventions under the ERDF and the Cohesion Fund.

In the framework of the ERDF, provided that they fall within the scope of interventions defined under Article 3 of Regulation (EC) No 1080/2006, *"energy investments, including ... the improvement of energy efficiency and the development of renewable energy"* can be supported under the Convergence objective Under the Regional Competitiveness and Employment objective interventions relating to the *"environment [...], and in particular: [...] stimulating energy efficiency and renewable energy production"* can be supported. Finally, for the European Territorial Cooperation objective, *"energy efficiency"* actions can be supported under the *"environment"* priority¹.

For the Cohesion Fund assistance may be given to actions in support of *"the environment within the priorities assigned to the Community environmental protection policy under the policy and action programme on the environment"* and also *"in areas related to sustainable development which clearly present environmental benefits"* in the context of which, the Fund may intervene in *"energy efficiency and renewable energy"*².

In addition, the Community strategic guidelines (CSG) have further specified the energy efficiency interventions that could be supported by both Funds: *"Projects [improving] energy efficiency, for example in buildings, and dissemination of low energy intensity development models; [...] development and use of renewable and alternative technologies (such as wind, solar, biomass) including interventions for heating and cooling [with the view] to strengthen EC competitiveness and contribute to the Lisbon objective of ensuring, by 2010, 21% of electricity is generated from renewable sources"*. Finally, mainly for the Convergence regions, the CSG call for *"concentrating investments in traditional energy sources to develop the networks where there is evidence of market failure"*³.

Energy efficiency and renewable energy actions can be also supported under other priority interventions such as "transport", "innovation", "R&D", "environment" and, also, in the framework of sustainable urban development strategies, as the following examples demonstrate: the promotion of sustainable transport networks, including clean urban transport, public transport, cycle tracks, multimodal transport, intelligent transport systems, inland navigation routes, investments in sustainable energy and transport that contribute to the EU-Kyoto-commitments, energy efficiency and renewable energy actions related to the transformation of knowledge and innovation in commercial products and services, the improvement of the absorption capacity of

¹ Articles 4(9), 5(2)(c) and 6 (2)(b) of Regulation (EC) N°1080/2006.

² Article 2(1)(b) of Regulation (EC) N° 1084/2006.

³ Council Decision of 6 October 2006 on Community strategic guidelines on cohesion (2006/702/EC), JO L 291, 21.10.2006, p.11.

SMEs, the development of local innovation, the strengthening of cross-border and transnational cooperation, the creation of clusters of excellence, the support of eco-innovation, the introduction of environmental management systems, the creation of urban development funds and other funds supporting energy efficiency and the use of renewable energies, the creation of skills and new competence through training and education, the dissemination of best practices etc.

As a response to the challenge of sustainable development, climate change and energy, the EU and the Member States have committed themselves to invest in and promote energy efficiency and renewable energies. This commitment is reflected in the national strategic reference frameworks and, subsequently in the individual operational programmes. So far, as stated in the Communication on the outcome of the NSRF and OP negotiations, EUR 105 billion i.e. one third of the total cohesion policy budget will support actions actually or potentially beneficial to environment. This includes allocations for climate change oriented actions (EUR 48 billion) and a -rather limited-allocation of EUR 9 billion for energy efficiency and renewable energies⁴.

In particular with regard to the transport and industry sectors, the ERDF and/or the Cohesion Fund can support energy efficiency and renewable energy interventions that make a substantial contribution to the reduction of energy consumption and greenhouse gas emissions⁵. The implementation of projects of high environmental quality in these sectors is a priority.

II. Energy efficiency and renewable energy actions that can be supported by the ERDF and the Cohesion Fund in the building sector, including the residential sector.

Energy efficiency and renewable energy interventions in the building sector are eligible under both the Cohesion Fund and the ERDF. However, with particular regard to the residential sector, distinction should be made:

1. Under the Cohesion Fund:

While energy efficiency and renewable energy interventions in the buildings other than those serving housing purposes (e.g. schools, hospitals, administrative buildings etc) are eligible, interventions in residential buildings are not eligible. Article 3 of Regulation (EC) No 1084/2006 excludes – *expressis verbis* - housing from the scope of Cohesion Fund.

2. Under the ERDF:

In the building sector, the ERDF can support energy interventions⁶ in all types of public buildings (schools, hospitals, universities, administrative buildings, etc) and in buildings hosting activities other than housing (such as offices, factories etc). In addition, the ERDF can support interventions in the residential sector.

⁴ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions on the results of the negotiations concerning Cohesion Policy strategies and programmes for the programming period 2007-2013, COM(2008) 301 final, 14.5.2008 p.7-8.

⁵ In terms of total energy consumption, the industry sector represents 27,9%, the transport sector 31,0%, the households and services sector 41% and the sub-sector households represents 26.5%. In terms of greenhouse emissions, the industrial sector participates by 65.8%, the transport sector by 19.1%, the households, services and others 15,1%, in which households represent 9.6%. In terms of CO2 emission, the industrial sector represents 54.9%, the transport sector 26.5%, the households, services and others 18.7%, in which households represent 12.2%.

⁶ For instance, interventions concerning the thermal characteristics of the building, heating installation and hot water supply, air-conditioning installation, ventilation, built-in lighting installation, etc, see Directive 2002/91/EC of the European Parliament and of the Council 16 December 2002 on the energy performance of buildings, OJ L1, 4.1.2003, p.65.

Regarding the residential sector, before the amendment of Article 7(2) of Regulation (EC) No 1080/2006, energy related interventions were eligible only for EU-12. These interventions were submitted to the conditions set out in Article 7(2) of Regulation (EC) No 1080/2006 and Article 47 of Regulation (EC) No 1828/2006. Following the amendment of Regulation (EC) No 1080/2006 by Regulation (EC) No 397/2009, energy interventions in existing housing are now covered by Article 7(1a) of Regulation (EC) No 1080/2006.

Following this amendment distinction should be made between:

- (i) interventions concerning energy efficiency and renewable energy in existing housing: these interventions are allowed for all the Member States under Article 7(1a) of Regulation (EC) No 1080/2006 as amended by Regulation (EC) No 397/2009;
- (ii) interventions in the housing sector other than those concerning energy efficiency and renewable energy (thus covering "residential sector in general"): these interventions are only allowed in the EU-12 – the Member States which acceded on 1 May 2004 or after that date – under Article 7(2) of Regulation (EC) No 1080/2006 as amended by Regulation (EC) No 397/2009.

The two attached tables summarise the ERDF eligibility for housing interventions (annex I) and the eligible energy efficiency interventions relating to housing (Annex II).

2.1. Interventions in the residential sector aiming to improve energy efficiency and promote the use of renewable energy are eligible in all Member States up to an amount of 4% of the total ERDF allocation.

Member States must define the eligible categories of existing housing in national rules, in conformity with Article 56(4) of Regulation (EC) No 1083/2006, in order to support social cohesion.

2.2. The consequences of the amendment could be summarized as follows:

i) From the entry into force of Regulation (EC) No 397/2009, Article 7(2) of Regulation 1080/2006 applies to EU-12 only as regards residential sector in general. It does not govern any more energy interventions in EU-12 in the context of the residential sector since these interventions are now covered by Article 7(1a).

ii) Energy efficiency and renewable energy interventions in existing housing are eligible:

- In all Member States (not only in EU-12).
- In urban as well as in rural areas.
- Only in existing housing: the ERDF is not supporting costs for improvement of energy efficiency and use renewable energy in the construction of new houses⁷. However, construction for new houses can be eligible under Regulation (EU) No 437/2010 only for

⁷ The only exception refers to housing interventions in favour of marginalised communities which can take place in the framework of an integrated approach and are governed by the provisions of Article 7(2) of Regulation (EC) No 1080/2006 as amended by Regulation (EU) No 437/2010. In this context, the location of new houses should not be exposed to the increased risk due to the expected climatic changes.

marginalised communities. In this specific context, the new housing investments should meet at least the minimum energy performance requirements set out for the new buildings in Member States.

- In different types of housing defined by the national authorities in the eligibility rules in a way to promote social cohesion. National authorities must define the eligible categories of housing, this definition must be part of the national eligibility rules and it should be made in a way supporting social cohesion.
- In different parts of the building (common parts, apartments.)
- For interventions under Article 7(1a) of Regulation (EC) No 1080/2006 as amended by Regulation (EC) No 397/2009, Article 47 of the Commission implementing Regulation (EC) No 1828/2006 as amended by Regulation (EC) No 846/2009 does not apply.
- Interventions should be designed, selected, implemented, monitored and controlled according to the provisions and procedures governing the respective operational programme. It is recommended that this type of interventions will be performed in coherence with an integrated development plan.

iii) Implications to the Operational Programmes in which it is envisaged to include energy efficiency and renewable energy interventions in the residential sector:

- Article 7(1a) of Regulation (EC) No 1080/2006 as amended by Regulation (EC) No 397/2009 does not apply retroactively. Therefore, energy efficiency and renewable energy operations in the residential sector before the entry into force of amendment are not eligible. This, however, does not affect the eligibility of expenditure relating to energy efficiency operations in EU-12 implemented before the entry into force of Regulation (EC) No 397/2009.
- Operational Programmes do not need to be modified if the description of a priority axis can cover also energy efficiency and renewable energy interventions in the residential sector and there is no an *expressis verbis* exception of housing from the scope of the programme.
- If an Operational Programme has to be modified and new category of expenditure has to be introduced then the eligibility date starts from the date of submission to the Commission of the request to modify the OP (Article 56(3) of Regulation (EC) No 1083/2006).
- As regards the categorization of the expenditure allocated for these interventions, national authorities can use either code 78 “housing” or code 43 “energy efficiency” or codes 39, 40, 41 and 42 “renewable energy”.
- As the ERDF Regulation does not contain specific provisions, it is within the competence of the national authorities to set the appropriate monitoring and control mechanisms. However, at the closure of programmes, national authorities must be in a position to prove that energy efficiency and renewable energy interventions in the residential sector

undertaken by virtue of Article 7(1a) of Regulation (EC) No 1080/2006 as amended, do not exceed the ceiling of 4% of the total ERDF allocation at national level. For this purpose, and within the national system, Member States may be able, for instance, to use sub-codes to distinguish energy efficiency and renewable energy interventions in the housing sector from the other energy efficiency and renewable energy interventions. In any event, a consistent approach would be recommended in order to avoid the inclusion of the same allocation under different codes. A sub-code should not be considered as new category expenditure.

3. Financial Engineering Instruments as vehicles for repayable investments in energy efficiency and use of renewable energy in buildings, including in existing housing

Article 44 of Regulation (EC) No 1083/2006, as amended by Regulation (EU) No. 539/2010⁸ expanded the possibilities for financing investments in energy efficiency and use of renewable energy in buildings, including in existing housing, by opening up the possibility of financing such investments through funds or other incentive schemes providing loans, guarantees for repayable investments or equivalent instruments. This financing can take the form of direct contributions to such funds or other incentive schemes, or through holding funds, that is funds set up to invest in several "sub-funds" or other incentive schemes which provide loans, guarantees for other repayable investments or equivalent instruments. Moreover, the amendments introduced to Article 43(6) of Commission Regulation (EC) No 1828/2006 allow for investments in energy efficiency and renewable energy in buildings, including existing housings, to be supported through a combination of grants, loans, guarantees or equivalent instruments.

Thus, in addition to grants and traditional support schemes, it is now also possible to use contributions from structural funds programmes to set-up new instruments or to contribute to existing ones, which provide repayable financing and guarantees for investments in energy efficiency and use of renewable energy. Furthermore, the possibility of combining grants and repayable financing opens-up new opportunities to address a wide range of market gaps, namely through incentives to investments with long-term break even financial returns or to beneficiaries with low financing capacity.

For example, energy audit schemes in the housing sector that are supported in the framework of a cohesion policy operational programme may identify the concrete investments needed and these schemes could be complemented with adapted financial instruments, such as loans, guarantees or other forms of repayable investments, implemented through existing market institutions. Furthermore, actual investments could be supported through a combination of soft loans and grants, particularly in those cases where the financial and economic returns to investment owners are not immediately internalized (public buildings, private households, etc).

With a view to a rapid delivery of financial support to end beneficiaries, to achieve early investments and to maximize environmental and economic benefits, the Commission encourages Member States to explore fully all possibilities of contributing to existing financing schemes, including those supported by or implemented through public authorities, energy service companies, international or national financial institutions or private investors, provided that they

⁸ OJ L 158 of 24.6.2010, p.1.

are compatible with the relevant EU and national regulatory framework and the relevant national strategies.

The combination of the above mentioned actions with financial market instruments or other type of incentives, such as fiscal incentives, marketing of emission certificates and carbon credits, development of energy efficiency standards, etc should be encouraged, particularly in cases where large scale interventions are foreseen. This complementarity could be instrumental to achieve the ambitious climate change targets agreed by the EU.

Finally, energy efficiency interventions supported through financial engineering instruments are submitted to the eligibility rules of Article 7(1a) ERDF Regulation are applicable also for energy interventions in the residential sector.

III. Other considerations

In addition to the above, the regulations in force allow a broad range of energy-related actions, which should not be considered as housing, that can be supported in all Member States and from which the residential sector can also benefit. For instance:

- Different forms of investments supplying energy via networks to a defined geographical area. These investments encompass district heating systems, cogeneration units, renewable energy parks (solar, photovoltaic, thermal wind...), and networks transporting energy. For instance, in urban areas roof-mounted solar parks on buildings (including houses), and the respective network transporting energy for the needs of a given area should be deemed eligible under both the ERDF and the Cohesion Fund. This infrastructure provides energy for all types of buildings situated in a given geographical area. It can be installed in/on a building serving housing purposes as well as in/on a building supplying public services. The fact that this infrastructure is installed in/on a building serving housing purposes does not affect the fact that this infrastructure satisfies the energy needs of the population of a given area and not only the needs of the inhabitants of the building in question. The eligible part of the investment could be the unit that produces energy, the energy transporting network and the connection to the network, the latter with the limitations deriving from the ERDF and Cohesion Fund regulations. For the calculation of the Funds' support, Article 55 of Regulation (EC) No 1083/2006 on revenue-generating projects shall apply, in accordance with the respective COCOF Guidance Note COCOF. It is recommended that these projects should be part of a plan covering the served geographical zone which has clear objectives and strategy. This could be for instance an integrated urban development plan or an energy saving plan at local level etc. It is also recommended that the selected areas for this type of investment should be in priority those experiencing or threatened by serious socio-economic difficulties.
- Under the ERDF, services which are part of an integrated urban development plan (Article 8 of Regulation (EC) No 1080/2006) such as energy audits¹¹, monitoring and evaluation of energy performance of buildings (including those serving housing purposes) organised by the public authorities (or on behalf of them, or by other entities provided that the conclusions of the audit will be public); elaboration of energy efficiency local strategies or actions plans.

- Support to enterprises, especially to SMEs, (e.g. aid to enhance the competitiveness of enterprises in the renewable energies and energy efficient sectors or willing to develop innovative energy systems) in the framework a State aid scheme.
- Under the ERDF, support to R&D projects, implemented by universities, research centres or enterprises, which aim to conceive and develop in the housing sector environmentally friendly innovative solutions, models, materials etc.
- Under the ERDF, demonstration projects for energy efficiency in the housing sector, i.e. projects designed to prove the viability of new technologies offering potential economic advantage, but which cannot be yet commercialised directly. These projects in certain cases presuppose the construction of a new "model" house (to be inhabited or not) and, in other cases, interventions in existing houses. Managing authorities shall take all the necessary steps to ensure that the provisions of Articles 7(1a) and (2) of Regulation (EC) N°1080/2006 are respected. Therefore, they should ensure that the demonstration project is genuinely innovative and constructed on a limited scale that satisfies essentially demonstration purposes and number (by Region NUTS I or NUTS II: One by type of renewable energy and/or one for energy efficiency; when a demonstration project is completed, it can be replaced by an other demonstration project and this until the end of the programming period). In terms of energy performance, these projects must be monitored and evaluated by competent scientific bodies.
- Under the ERDF networks concerning the exchange of experience in the housing sector, best practices (e.g. in the framework of "Regions for Economic Change" initiative¹²).
- Under the ERDF, capacity-building for staff, for instance in co-owners associations, municipalities and information campaigns for consumers on rational use and energy savings, on renewable energies and climate change.
- It is strongly recommended that the ERDF support of networks and capacity building interventions and any other similar action takes place not in an isolated way but within the framework of a plan with clear objectives and strategy (e.g. energy saving plan, urban development).
- Reduction in energy demand and the promotion of renewable energies in the housing sector may also need the development of synergies with the above-mentioned actions that can be supported by the cohesion policy instruments. It maybe necessary to further develop financial market instruments that can support such investments.

Annex I

Development regarding eligibility of ERDF expenditure for housing interventions		
General Housing (including until 2009 energy efficiency and renewable energy - From 2009, EE is not included in the “general housing” for EU-12 see next column ⁹⁾ 2006	Energy efficiency and renewable energy in housing 2009	<i>Housing interventions in favour of marginalised communities</i>^{10 11} 2010
Article 7(2) of ERDF Regulation 1080/2006 and subsequently modified by Regulation (EC) 397/2009 + Article 47 of the Commission implementing Regulation (EC) No 1828/2006 as amended by Regulation (EC) No 846/2009	Article 7(1a) of ERDF Regulation added by Regulation 397/2009	<i>Article 7(2) of ERDF regulation as amended by Regulation (EC) 437/ 2010 [+Article 47 of the Commission implementing Regulation (EC) No 1828/2006 as amended by Regulation XXX]</i>
EU-12	EU-27	EU-27
Eligibility conditions defining the zones, the categories of eligible housing and the types of intervention of interventions set out by the ERDF and Commission Regulations	Eligibility condition provided by the ERDF: Definition of categories in a way to support social cohesion- Additional eligibility conditions: national rules	<i>Condition provided for by the ERDF: The housing interventions takes place in the context of an integrated approach. Additional eligibility conditions: national rules [+ Article 47 of the Commission implementing Regulation (EC) No 1828/2006 as amended by Regulation XXX]</i>
Interventions only in existing houses	Interventions only in existing houses	<i>Interventions in existing & new houses</i>
Interventions limited only on multifamily residential buildings and Public buildings to be transformed in social housing	Intervention in all types of houses (multifamily, individual, social etc).	<i>Interventions in all types of houses (multifamily, individual, social etc).</i>
Interventions only in the common parts of the	Interventions in all parts of the house (common & private).	<i>Interventions in all parts of the house (common & private).</i>

⁹ Until the entry into force of Regulation (EC) No 397/2009, energy efficiency in housing was eligible only for EU-12 by virtue of Article 47(2)(a)(iii) of Regulation (EC) No 1828/2006. After the entry into force of Regulation (EC) No 397/2010 energy efficiency became eligible for all Member States by virtue of Article 7(1a) of Regulation (EC) No 1080/2006 as amended.

¹⁰ The issue of housing for marginalised communities is not developed in the COCOF note. Reference to Regulation (EU) No 437/2010 is made for the completeness of the table.

¹¹ Expenditure for housing interventions in favour of marginalised communities is included in the expenditure for « general housing » which should not exceed the thresholds of 2% of the total ERDF or 3% of the OP ERDF allocation

<p>multifamily residential houses or transformation of public buildings into social housing</p>		
<p>Urban zones</p>	<p>Urban & rural zones</p>	<p><i>Urban & rural zones</i></p>
<p>Max : 2% of the total ERDF allocation or 3% of the OP ERDF allocation</p>	<p>Max: 4% of the total ERDF allocation.</p>	<p><i>Max: 2% of the total ERDF allocation or 3% of the OP ERDF allocation.</i></p>
<p>To be shared with the housing interventions in favour of marginalised communities</p>		<p><i>For EU-12 to be shared with the general housing interventions</i></p>

Annex II

Types d'interventions dans le domaine de l'efficacité énergétique et d'énergies renouvelables au titre du FEDER, dans les bâtiments existants (EU-27).

1. Bâtiments résidentiels multifamiliaux existants (propriété publique ou privée):

Celule (appartement)	Parties communes	Extérieur du bâtiment (y compris façades, toits, fenêtres, porte de façade escaliers)

2. Bâtiments rénovés et/ou reconvertis en logements sociaux (propriété publique ou privée):

Celule (appartement)	Parties communes	Extérieur du bâtiment

3. Bâtiments publics (utilisés à des fins autres que le logement):

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4. Transformations d'usage des logements en locaux d'activités (y compris les transformations de rez-de-chaussée en magasins, manufactures, bureaux, etc) :

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5. Actions directement liées au logement, telles que la réhabilitation des espaces collectifs, les mesures de sécurité (e.g. éclairage de la zone autour des bâtiments de logement) :

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6. Unités génératrices d'énergie installées dans/sur un bâtiment (y compris un bâtiment destinée au logement) et qui desservent par réseau une zone géographique donnée:

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7. Connexion aux réseaux énergétiques au titre de l'efficacité énergétique ou des énergies renouvelables des bâtiments résidentiels multifamiliaux :

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