



D5.4 – Legal framework to implement alternative financing schemes



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1. Introduction

1.1 About Porto Energy Hub

Under the GA, the aim of PEER (hereafter referred to as "Porto Energy Hub" or PEH) is to provide the study and information support for a new renovation programme in the Porto Metropolitan Area, north of the Douro River (hereinafter "AMP-ND"), aiming to fight energy poverty by promoting buildings energy efficiency, renewable energy communities (REC) and mainstreaming new financial schemes. PEH will allow the development of integrated tools to overcome market barriers for social and low-income households' energy efficiency, while stimulating the creation of energy communities and their benefits.

All actions will be supported by capacity building, communication and dissemination activities targeted at the various stakeholders, namely low-income homeowners, public and private building owners, project developers, public and private organisations, and financial institutions. It is expected that the PEH will cover approximately 3,000 homes in the region and lead to 71 GWh/year of primary energy savings and 17 GWh/year of renewable energy production.

PEH will act as a One-Stop-Shop for owners of public and private buildings, promoting aggregation to develop a bold renovation programme for their buildings and combine it with alternative financial schemes and legal models.

1.2 Scope and objectives of D5.4

The purpose of this document is to identify and provide the legal context for the implementation of alternative financial schemes, enabling PEH to assist a larger range of projects funded through alternative funding strategies.

Therefore, the present deliverable aims at to describe in detail the legal framework applicable for the alternative financing scheme being developed by the Consortium and the viability of its implementation considering the national legal framework.

The PEH project is ambitious, since it focuses on a deep-rooted, structural problem in Portugal: energy poverty. Its mitigation involves mobilizing synergies to implement energy efficiency measures through the renovation of housing structures, which

constitute a very important vector to address the energy deficit and thermal discomfort in which many families are currently in.

Thermal comfort is, still to this day, lacking in many realities, and both public and private entities – and even citizens individually – must be involved in the discussion on energy poverty mitigation, so that they feel also socially responsible for this type of problem. However, there is a complex combination of factors to consider, specifically:

- The needs of people deprived of energy resources;
- The infrastructures/ buildings currently constructed, which are not able to provide thermal comfort;
- The costs of implementing energy efficiency measures;
- The reduction of energy (and economic) waste;
- The environmental savings, and the necessary reconciliation of getting more from the same (or fewer) energy resources.

As it can be anticipated, it is difficult to find solutions that blend these factors in a way that satisfy all stakeholders, so the challenge is precisely to come up with relevant, transparent, and affordable answers that fulfil the project's purpose and allows its development in a sustainable way.

As it is not possible to provide a single framework, several options were considered, some of which were discarded because they would require national regulations to change and, therefore, are not able to provide a short-term solution for a more than urgent problem.

Furthermore, during the development of the PEH project, possible forms of exploiting extra revenue for entities that may ensure the installation of energy production units have also been conceived, such as including electric mobility charging stations in the concession contracts and the trading of guarantees of origin. However, these are investment attractors and not alternative financing schemes, which is why these adds are not hereby considered.

Public funding is usually the major push for deep interventions in buildings, but it is restricted in many levels. As well known, public entities have limits and constraints on their level of indebtedness that need to be met and are subject to the rules and control of the Portuguese Court of Auditors.

Although this aspect was considered when structuring the project's alternative financing solutions hereby detailed, this document presents four schemes that are

directly linked to the intervention of municipalities and which can be promoted and developed by local authorities to attract private funding which is relevant in projects like PEH. These alternatives, better described below, are the following:

- The design and structuring of a property tax exemption to be granted by the municipality;
- The possibility of setting up a municipal fund;
- The design and conclusion of framework agreements between the municipality and (i) installers or (ii) distribution channels of equipment capable of increasing energy efficiency;
- The possibility for municipality to create complementary financial support to that already existing and available.

During the project, other attractive mechanisms may be developed or designed, considering that the various stakeholders will be consulted in order to find common solutions. In that case, this document shall be updated accordingly.

1.3. Document structure

This document is organised into 3 Sections to facilitate search, reference and further analysis as required. **Section 2** outlines the alternative financial schemes, its main characteristics of the applicable legal framework. **Section 3** lists the conclusions.

2. Legal Framework for the Implementation of Alternative Financial Schemes

2.1. Municipal Property Tax

2.1.1. Overview

The Municipal Property Tax (hereinafter, "IMI") is a tax collected annually for the benefit of municipalities and falls on the taxable patrimonial value of urban and rural buildings located in the Portuguese territory.

This tax collected on the patrimonial tributary value of the properties constitutes a revenue source for the municipalities where they are located, as provided for in article 1, no. 1 of the IMI Code¹ and Article 14, paragraph a) of the Financial Regime of Local Authorities and Intermunicipal Entities. In other words, it is a way of financing the municipalities that, every year, taking into consideration the legally established limits, define the rate of that tax.

As a tax levied on rural and urban property, it is important to bear in mind that, in accordance with the provisions of Article 2(1) of the IMI Code, the following are considered to belong to the fraction of territory that characterises them: *"water, plantations, buildings and constructions of any nature incorporated or built therein, permanently, provided that they form part of the patrimony of a natural or legal person and, under normal circumstances, have an economic value, as well as water, plantations, buildings or constructions, in the above circumstances, endowed with economic autonomy in relation to the land on which they are located, although located in a fraction of territory that is part of a different patrimony or does not have a patrimonial nature"*.

¹Available at https://info.portaldasfinancas.gov.pt/pt/informacao_fiscal/codigos_tributarios/cimi/Pages/codigo-do-imi-indice.aspx

As a rule, the taxable person for IMI is the owner of the building on 31 December of the year to which it relates, under the terms of Article 8 of the IMI Code.

2.1.2. Exemption and tax benefits

The general regime of exemptions from the payment of IMI is set out in Articles 11 and 11-A of the IMI Code.

Under the terms of Article 11(1) of the above diploma, *"[the] State, the Autonomous Regions and any of their services, establishments and organisms, even if personalised, including public institutes, as well as local authorities and their associations and federations of municipalities governed by public law, are exempt from municipal property tax"*. However, it should be kept in mind that State services, establishments and organisations of a corporate nature (except for hospitals and health units incorporated as corporate public entities in relation to buildings in which health care is provided) and the public real estate do not fall within the scope of the IMI exemption situations².

This same provision for exemption from payment of IMI is reflected in the Financial Regime of Local Authorities and Intermunicipal Entities (hereinafter "RFALEI"), approved by Law no. 73/2013, of 3 September. Under the provisions of Article 16(1) of that law, *"the State, the Autonomous Regions and any of their services, establishments and bodies, even if personalised, including public institutes that do not have a corporate character, as well as municipalities and parishes and their associations, are exempt from payment of all taxes provided for in this law, with the exception of the IMI exemption of buildings not used for activities of public interest"*.

In addition to the exemption benefiting the State, the Autonomous Regions and any of their services, establishments and organisms, the terms of no. 1 of article 11.-A of the IMI Code also exempt from IMI payment *"rural buildings and the building or part of an urban building intended for the taxable person's own and permanent residence or that of his family household, and which is effectively used for such purpose, provided that the total gross income of the household is no more than 2.3 times the annual value of the IAS and the global tax patrimonial value of all the urban and rural buildings belonging to the household does not exceed 10 times the annual value of*

² According to Article 11(2)(a) and (b) of the IMI Code.

the IAS³. These exemptions recognised by the legal system do not prevent a Municipality, regarding its own taxes and other levies, from granting total or partial exemptions. To do so, the Municipality must propose this to the Municipal Assembly, which must approve the regulation that sets out the criteria and conditions for the recognition of these exemptions. In other words, the intervention of the Municipality's deliberative entity is a prior requirement for someone to be exempted from paying IMI.

Except for the assumption of the necessary intervention of the Municipal Assembly to approve the exemption through its own regulation, there is any constraints on the possibility of recognising an exemption from payment of IMI (or a reduction in the IMI rate), provided that the general principles of the administrative activity are complied with, namely the principle of good administration and the principle of pursuing the public interest.

In fact, the legal system itself already provides for situations of reduction of the IMI rate for urban buildings used for the generation of energy from renewable sources and for the efficient use of energy in urban buildings. For this, see the provisions of Article 44-A(1)⁴ and Article 44-B(1)⁵, both of the Statute of Tax Benefits, approved by Decree-Law 215/89, of 1 July, as amended. Therefore, in a systematic and coherent logic, there is no clash with the legal order when a Municipality recognises, by means of a resolution taken by the Municipal Assembly, an exemption from the payment of IMI to self-consumers of electricity produced from renewable energy sources, including those who participate in Renewable Energy Communities.

Besides that, see, as an example, what is stated in article 12 of Regulation no. 21/2021, of December 22⁶, of the Municipality of Angra do Heroísmo, when it foresees the possibility of benefiting from IMI exemption the buildings used by the promoter in the activity developed within the scope of the project of municipal interest, considering as

³ Social Support Index, which is a reference value for the calculation and determination of several social supports granted by the Portuguese State. The value of the IAS in 2023 is € 480.43.

⁴ Under the provisions of paragraph 1 of Article 44A of the Statute of Fiscal Benefits, *"in buildings referred to in paragraph 1(d) of Article 6 of the Municipal Property Tax Code that are exclusively used for the production of energy from renewable sources are subject to a 50% reduction in the municipal property tax rate"*.

⁵ Under the provisions of paragraph 1 of Article 44B of the Statute of Fiscal Benefits, *"the municipalities, by resolution of the municipal assembly, may establish a reduction of up to 25% of the municipal property tax rate in force in the year to which the tax relates, to be applied to energy efficient urban buildings"*.

⁶ Available at <https://angradoheroismo.pt/wp-content/uploads/2021/12/Regulamento-de-Atribuicao-de-Beneficios-Fiscais-do-Municipio-de-Angra-do-Heroismo.pdf>.

projects of municipal interest, among other requirements, those that demonstrate *"energy efficiency or promote the use of renewable energy sources, through the verification of one of the following conditions:*

- i. Introduction of management and control processes and methods aimed at optimising the use of energy resources with a significant impact on the reuse of energy, by introduction of cogeneration systems and techniques aimed specifically at reducing energy consumption;*
- ii. Diversification of energy sources, favouring renewable sources and those with less environmental impact."*

Furthermore, it is possible that several municipalities have in force regulations that already foresee tax exemptions. In these cases, the provision of new exemptions considering IMI should be made by amending or adapting the abovementioned regulation or, alternatively, by approving a new specific regulation for this purpose.

The approval of the Municipal Regulation shall be based on a proposal presented and approved by the City Council to the Municipal Assembly.

2.1.3. Designing the model

In order to define a tax exemption for IMI, it will be necessary that it:

- i. is aimed at protecting relevant public interests, with particular impact on the local or regional economy,
- ii. has a generic wording;
- iii. complies with the principle of equality;
- iv. has a maximum period of 5 (five) years, possibly renewed for a maximum of one period;
- v. complies with the European rules on minimis aid.

In addition, the European experience regarding the launch of these development programmes anchored in instruments of a fiscal nature demonstrates the convenience of automating the procedure. Portuguese law also shows its preference for automated solutions, insofar as it requires the Municipality to communicate to the Tax Authority, *"by electronic data transmission"*, those tax benefits it has recognised

and in which, in general, it commands the public administration to re-use its own data or data in its possession where possible.

To this extent, by promoting a IMI exemption to promote renewable energy production, it seems advisable to take into account the legislation and regulations applicable to the installation and commissioning of Self-Consumption Renewable Energy Production Units when designing the incentive programme, particularly when selecting the facts giving rise to the exemption: on the one hand, these are the ones that reveal an adequate connection with the public policy objective to be pursued; on the other hand, and given the operational pre-existence of other tools (e.g. the databases of the permitting authority – the Portuguese Directorate-General for Energy and Geology), this may prove to be an adequate method to ensure the automation of the whole procedure.

To ensure the compliance with the applicable principles, legal regimes and in particular State aid, it is now necessary to define:

i. Subject to cover:

- In a transparent and non-discriminatory manner;
- Using general and abstract criteria;
- E.g.: natural persons, legal persons, all self-consumption units owners/users;

ii. Triggering event for the IMI exemption:

- In a transparent and non-discriminatory manner;
- Using general and abstract criteria.

iii. Amount of the exemption:

- It could be full exemption;
- There is no legal obstacle to the definition of an exemption limit amount (e.g., up to the limit of the installation value in base prices); difficulties are foreseen in the operationalization with the Tax Authority;
- If a limit amount is set, weigh the alternatives of actual prices and base prices (approximation to tax reality, procedural complexity, and possibility of fraud as criteria to be weighed).

iv. Duration of the exemption:

- Legal limit of 5 (five) years;
- Extendable once for the same period.

It is expected that for the approval by the City Council of the proposal to launch this mechanism, it will be necessary to prepare an economic and financial study similar to the one that informs the municipal budget proposal, prepared and presented annually.

Additionally, and especially in those cases where the consumer is accompanied by the Porto Energy Hub, it will be necessary to ensure that any accumulation of incentives between the object of this information and others are compatible with the respective legal regimes and the terms of their attribution.

2.1.4. Exemplification of implementation

For illustrative and exploratory purposes, for ease of understanding, the mechanism could work as follows:

i. For the individual self-consumer

The profile-type of this category is the natural or legal person, owner of immovable property, subject and not exempt from IMI.

The relevant taxable event for the attribution of the exemption is that, in a specific IMI tax period, a production unit for self-consumption installed in the building of which the taxpayer is the owner was registered.

The individual self-consumer is eligible for the IMI exemption up to the incentive limit amount, assessed through a base cost methodology, defined in the unit €/kW of installed power in the municipal incentive regulation. The global amount of the incentive is determined at the moment of registration of a self-consumption production unit, considering that this is the time when the cost (CAPEX) intended to be encouraged is fixed. For clarity, the global amount of the incentive attributed to each individual self-consumer is not updated neither by resorting to automatism, such as those that reflect the evolution of the Consumer Price Index, nor in case of amendment of the Incentive Regulation.

The amount of the incentive may be totally or partially used up in the first IMI settlement after its award. If the amount of the incentive is not fully used up, the remainder will be applied to the following IMI assessment(s), until it is used up or reaches five (5) years after it was granted, whichever occurs first.

The individual self-consumer just needs to request the incentive through the "*Citizen's Portal*" (or other appropriate electronic platform developed by the Municipality), indicating the two relevant tax facts: ownership of the property where the production unit is installed and the relevant identifiers of the self-consumption production unit.

ii. For the collective self-consumer

The profile-type of this category is the natural or legal person, owner of immovable property, subject and not exempt from IMI.

The relevant taxable event for the attribution of the exemption is that in a given IMI tax period a production unit for self-consumption installed in the property owned by the taxpayer and covered by collective self-consumption was registered.

Collective self-consumption is eligible for IMI exemption up to the incentive limit amount, measured through a base cost methodology. Given the collective nature of self-consumption, the base cost is determined by apportioning the total amount of the incentive, defined in the unit €/kW, through the energy sharing coefficient applied to that collective self-consumption. Thus, the sum of all incentives to be attributed in respect of the self-consumption production units aggregated in collective self-consumption corresponds to the incentive that would be attributed to an individual self-consumer registering a self-consumption production unit with the same power.

The global amount of the incentive is determined upon the registration of a self-consumption production unit, given that that is the moment that the CAPEX intended to be incentivised is fixed. For clarity, the global amount of the incentive attributed to each self-consuming collective is not updated either by resorting to automatism, such as those which reflect the evolution of the Consumer Price Index, or in case of a change in the Incentive Regulation.

The amount of the incentive may be totally or partially used up in the first IMI settlement after its award. If the amount of the incentive is not fully used up, the remainder of the incentive will be applied to the following IMI assessment(s), until it is used up or reaches five (5) years after it was granted, whichever occurs first.

Collective self-consumers simply request the incentive through the Citizen's Portal (or other appropriate electronic platform developed by the Municipality), indicating the two relevant tax facts: ownership of the property where the self-consumption

Production Unit is installed and the relevant identifiers of the self-consumption Production Unit, including, in this case, the energy sharing coefficient applicable to it.

iii. For Self-consumers integrated in Renewable Energy Community (REC)

The profile-type of this category is the natural or legal person, owner of immovable property, subject and not exempt from IMI, which holds shares or voting rights in REC.

The relevant taxable event for the attribution of the exemption is the acquisition of a shareholding or voting rights in a REC. Members of the REC who have no political or economic rights (if any) in that legal entity are necessarily excluded, given that there is a strong correlation between the investment to be encouraged and those legal facts. This is to say that it is unlikely that anyone who actually invests in a REC would not reserve for himself, as a condition of his investment, some political or economic rights in the legal entity.

The participant in a REC is eligible for an IMI exemption up to the incentive limit amount, measured through a base cost methodology. Given the collective nature of self-consumption, the base cost is determined by apportioning the total amount of the incentive, defined in the unit €/kW and which refers to the power of Production Units for Self-Consumption actually installed and registered under the aegis of the REC and which supply the relevant property, through the percentage of share capital or voting rights (where there is none) held by the participant in the REC. In this way, the sum of all incentives to be attributed in respect of the Self-Consumption Production Units aggregated in the REC is the same as that which would be attributed to an individual self-consumer registering a Self-Consumption Production Unit with the same power.

The global amount of the incentive is determined at the moment of registration of a Production Unit for Self-Consumption, given that it is at this moment that the CAPEX intended to be incentivised is fixed. For clarity, the global amount of the incentive attributed to each participant in a REC is not updated either by resorting to automatism, such as those that reflect the evolution of the Consumer Price Index, or in the event of a change in the Incentive Regulation.

The amount of the incentive may be totally or partially used up in the first IMI settlement after its award. If the amount of the incentive is not fully used up, the

remainder of the incentive will be applied to the following IMI assessment(s), until it is used up or reaches five (5) years after it was granted, whichever occurs first.

The participant in a REC just needs to request the incentive through the "*Citizen's Portal*" (or other adequate electronic platform developed by the Municipality), indicating the relevant tax facts: the ownership of property supplied by REC and the ownership of shareholdings or voting rights (where these do not exist) in the REC itself.

iv. For the municipality

The Municipality is in charge of developing an electronic platform for the application and management of the incentive, which is fed by the relevant databases of the Tax Authority and the Directorate-General for Energy and Geology (DGEG).

After receiving the incentive application, the platform:

- In the case of individual self-consumption:
 - Validate the ownership right over the property for which the incentive is requested, namely through the consultation of the Urban Property Registry extracted from the Tax Authority's databases;
 - Validates the existence of a Production Unit for Self-Consumption registration, using the database of the DGEG;
 - Validates the coincidence between the property and the location of the usage facility supplied by the self-consumption production unit(s) by consulting the Urban Property Registry extracted from the tax authority database and the database of the DGEG.
 - Calculates, by applying the basic cost methodology, rounded down to the nearest euro cent, the total amount of the IMI exemption.
 - Reports to the Tax Authority in each tax period the amount of IMI exemption to be attributed to each taxpayer/property pair.
 - Receives from the Tax Authority any remaining amount of exemption from IMI for each taxpayer/property pair; if greater than € 0, includes the taxpayer/property pair in the report to the Tax Authority for the following tax period.

- In the case of collective self-consumption:
 - Validates the ownership right over the property for which the incentive is requested, namely through the consultation of the Urban Property Registry extracted from the Tax Authority's databases;
 - Validates the existence of a Production Unit for Self-Consumption registration in collective self-consumption, using the database of the DGEG;
 - Validates the coincidence between the property and the location of the usage facility supplied by the self-consumption production unit(s) by consulting the Urban Property Registry extracted from the tax authority database and the database of the DGEG.
 - Calculates, by applying the base cost methodology corrected by the power sharing coefficients, rounded down to the nearest euro cent, the total amount of the IMI exemption.
 - Reports to the Tax Authority in each tax period the amount of IMI exemption to be attributed to each taxpayer/property pair.
 - Receives from the Tax Authority any remaining amount of exemption from IMI for each taxpayer/property pair; if greater than € 0, includes the taxpayer/property pair in the report to the Tax Authority for the following tax period.

- In the case of participation in REC:
 - Validates the ownership right over the property for which the incentive is requested, namely through the consultation of the Urban Property Registry extracted from the Tax Authority's databases;
 - Validates the holding of shares in the REC by consulting the permanent certificate of the commercial register in the case of private limited companies, or by consulting (manually) a declaration attesting to the ownership of shares signed by the Administration of the public limited company, or by consulting (manually) a declaration attesting to the ownership of voting rights, in the case of legal persons without share capital;
 - Validates the coincidence between the property and the location of the usage facility supplied by the REC, by consulting the Urban Property

- Registry extracted from the databases of the Tax Authority and the database of the DGEG.
- Calculates, by applying the base cost methodology corrected by the ownership of shareholdings or, where there is no share capital, voting rights, rounded down to the nearest euro cent, the total amount of the IMI exemption.
 - Reports to the Tax Authority in each tax period the amount of IMI exemption to be attributed to each taxpayer/property pair.
 - Receives from the Tax Authority any remaining amount of exemption from IMI for each taxpayer/property pair; if greater than € 0, includes the taxpayer/property pair in the report to the Tax Authority for the following tax period.

The explanation of how the above mechanism works is given by way of example only and should not be interpreted as an opinion on its technical and economic viability, which needs to be assessed.

2.2. Municipal Fund

2.2.1. Prior considerations

This possibility is based on the model used by the *Ajuntament de Barcelona* in promoting energy transition, called *Mecanisme per l'Energia Sostenible de Barcelona* (hereinafter "MES Barcelona"). The aim is to identify and analyse, from a legal point of view, the aforementioned model and the feasibility of replicating it in the design and implementation through, if possible, a Municipal Fund or, failing that, other mechanisms aimed at supporting energy efficiency projects and/or decentralised energy production in municipalities.

The measures to be adopted should be capable of:

- a) stimulating private investment in decentralised energy production and promoting energy efficiency;
- b) subsidise non-repayable or co-fund the costs associated with interventions suitable for achieving the above objectives and aimed at final beneficiaries with a disadvantaged profile;

- c) to share the costs associated with interventions, namely in the opaque envelope and glazing, air-conditioning systems and domestic hot water (DHW) preparation, lighting, replacement of large electrical appliances, among others; and
- d) provide credit to consumers who want to implement energy efficiency measures, with more favourable conditions - namely long maturity and reduced interest rates.

2.2.2. The Barcelona model

MES Barcelona is the name given to one of the various initiatives of the *Ajuntament de Barcelona* regarding energy transition, approved by the *Comissió d'Economia i Hisenda* at its meeting held on 15 December 2020.

The full structure of this "model" is not publicly available, but from the information available it is possible to tentatively infer the main aspects that characterise it.

a) What it is

The MES Barcelona is a municipal financial envelope approved by the *Ajuntament de Barcelona*, in the initial amount of €50,000,000.00, aimed at co-investment in projects with impacts on the region's energy transition, namely the promotion of energy efficiency of infrastructures and decentralized energy production, with special emphasis on the production of photovoltaic solar energy.

One of the main objectives of the MES Barcelona is to boost investments, of private and public nature, in order to generate a multiplier effect on the economic impact of municipal investment⁷.

Given the broad formulation of the programme, it is expected that it may encompass different investment operations, groups of projects and management tools, aimed at improving the energy efficiency of the municipality's buildings and infrastructure, using measures that promote decentralized production and self-consumption,

⁷ This multiplier effect is expected to be achieved through different investment instruments, namely, as far as we can identify, through co-investment with other entities and channeling investments through CIUs.

energy efficiency and technological innovation in the production and use of clean energy.

For their part, the measures in question could relate, inter alia, to:

- i. Residential, "tertiary" or service buildings whether owned by public entities or by private companies;
- ii. Charging points, including in public and private car parks;
- iii. Diversified public and private infrastructure;
- iv. Innovative companies in energy improvement;
- v. Industrial areas; and,
- vi. Public roads.

Through this model, it is intended to ensure that these investments diversify the installation of photovoltaic panels on different types of buildings and improvements in relation to the use and harnessing of municipal roofs.

b) How it works

The MES Barcelona qualifies as potential beneficiaries any legal entities, with experience in developing projects of this nature and which, among other requirements, have equity capital exceeding two million euros.

It is envisaged that companies with a pre-determined profile and which have an interest in participating in the programme will be able to submit their respective applications, in accordance with the terms and deadlines determined from time to time.

Once the requirements for qualification for the MES Barcelona have been analyzed, the companies ("Investors") will be approved⁸.

From that moment on, Investors will be able to present projects that focus on the Barcelona region, fit in and have previously defined characteristics, subject to the

⁸ In March 2021, the Comissió d'Economia i Hisenda approved the first companies and business groups that can be approved investors in the BARCELONA MONTH. Among the investors approved in the first phase are Endesa X Servicios S.L., a fund management company of the GVC GAESCO Group ("GVC GAESCO Gestión Gestora de Instituciones de Inversión Colectiva S.A.") and a vehicle and investment company of the Iberdrola Group ("Inversiones Financieras Perseo SL").

approval of the *Ajuntament de Barcelona*, which will select the projects based on criteria of equality, economic and social profitability.

The *Ajuntament de Barcelona* will invest in the implementation of the selected projects jointly with the respective Investors promoters, up to a maximum of 30% of the overall CAPEX and OPEX foreseen.

Promoting Investors will be entitled to full repayment and a return on equity calculated according to a pre-agreed rate on a case-by-case basis, which will take into account the specificities of the project submitted.

These results may be obtained through the energy generated with the projects, following the Energy Services Company (ESCO) contractual model, with sharing of the savings generated, as well as the result of the sale of the surplus that may be generated, whenever applicable.

The management of the projects to be implemented and their operational follow-up is the responsibility of the Investors who promote them, without prejudice to the Barcelona City Council being able to collaborate in these functions, namely, to attract new public or private investment.

Finally, we would like to point out that investment by the *Barcelona City Council* may take different forms.

In fact, the Announcement provides for different ways of allocating and contracting the *Ajuntament de Barcelona's* financial allocation, namely through the acquisition, for a limited period of time, of equity, quasi-equity and debt instruments.

c) Investment in equity instruments

The Investment in equity instruments shall be made by means of the acquisition of equity interests directly in the share capital of the Investors or in companies incorporated by them for that purpose.

This co-investment modality assumes that, regardless of the percentage of shareholdings acquired, in no case will the *Ajuntament de Barcelona* hold, directly or indirectly, a controlling position.

In turn, the modality of the respective disinvestment and terms at the end of a certain period should be foreseen. The period proposed as reference in the model contract

attached to the Announcement is six years, but it may vary between five and ten years, depending on the specific characteristics of the project in question.

Finally, it should be noted that the model contract attached to the Announcement provides for typical elements of an investment and shareholders' agreement, including divestment rules, an agreed rate of return, pre-emption rights, *drag-along* and *tag-along* rights, among others, in an operation similar to established models for *private equity* transactions.

d) Investment in debt and quasi-equity instruments

The investment by the *Ajuntament de Barcelona* may alternatively be made by acquiring and holding for a limited period debt or quasi-equity instruments, including the acquisition of convertible securities and other forms of financing, such as bond underwriting or guarantees.

It is not clear from the available information whether they presuppose the existence of some capital investment or whether they can be made in isolation.

Investments in debt securities, loans by the *Ajuntament de Barcelona* or the temporary provision of guarantees, may not, in aggregate and at any time, exceed 30% of the overall value of CAPEX and OPEX foreseen in the implementation of the project.

e) Marketplace for consumers interested in implementing energy measures

At the same time, owners of buildings located in the region covered can express their interest in participating in the MES Barcelona, doing so through an electronic platform, and indicating, among others, the characteristics of the property. This information is forwarded to the previously approved companies.

The previously approved companies are responsible for contacting the applicants to study the feasibility of the interventions and define the conditions, according to the respective requested typology and characteristics of the property.⁹

⁹ Among others, the square meters available on the roof, the hours of sunshine, its state of repair and insulation.

If the feasibility analysis is positive, the Investors and the building owners will have to sign a contract establishing the type of investment, the expected return time for the investment to be made and – in the case of the installation of photovoltaic panels – the period in which the ownership of the solar panels is transferred free of charge to the building owners.¹⁰

In this respect, taking into account the available elements, the *Ajuntament de Barcelona* only provides interested consumers with means of immediate access to market operators with a suitable profile for the implementation of measures to promote the desired ends, without any active intervention in their management and implementation.

2.2.3. The proposal for PEER Project

Considering the legislation in force in the Portuguese jurisdiction, nothing prevents the MES Barcelona model from being partially replicated in Portugal, as far as it was possible to ascertain. However, we point out relevant legal limitations to the holding of shareholdings by municipalities in commercial companies, resulting from the Legal Regime of Local Business Activity and Local Holdings.

The Legal Framework of Local Business Activity and Local Holdings is particularly demanding regarding the figure of "local companies", which is defined as the "*companies incorporated or held in accordance with commercial law, in which the participating public entities may exercise, directly or indirectly, a dominant influence*". These are alternative requirements for the exercise, directly or indirectly, of a dominant influence:

- i. Holding a majority of the capital or voting rights;
- ii. Right to appoint or dismiss the majority of the members of the management, administrative or supervisory body;
- iii. Any other form of management control.

¹⁰ This compensation may seem a relevant stimulus and is based on the assumption that the current photovoltaic panels have a useful life of about 25 years, allowing that, once the investment is recovered, the modules installed revert to the owners of the buildings concerned, who may enjoy all the energy and economic savings that the respective installation provides.

Considering that the exclusive corporate object of local companies can only be the exploration of activities of general interest (as defined in article 45 of the referred legal regime), the promotion of local and regional development (as defined in article 48 of the referred legal regime) or the activities of equipment management and rendering of services in the cultural area, and not finding in any of these categories usefulness for the pursuit of the objectives proposed by the project in question, it is recommended that the instrument be designed to avoid the qualification of participated companies as a "local company".

When the participated commercial company is not classified as a "local company", the legal requirement regarding its object is more relaxed, as it will be sufficient that the company pursues "aims of relevant local public interest" and its object falls within the scope of the attributions of the participating public entities.

The power to acquire shareholdings in commercial companies is always subject to supervision by the Court of Auditors, regardless of the amount involved, and must always be preceded by the necessary technical studies to demonstrate the economic and financial viability and sustainability of the investment, under penalty of nullity and financial liability.

However, we understand that this option alone is not able to satisfy all purposes.

Considering the above considerations, it is necessary to seek guidelines around the stated objectives, in the light of the MES Barcelona model and taking into account the competences of municipalities and applicable legislation.

Municipalities have specific powers to promote development, as set out in Article 23(2)(m) of the Legal Framework of Local Authorities.

In order to carry out these attributions, municipal bodies are conferred competences in terms of supporting the attraction and settlement of companies, employment and investment in the respective municipalities, as set forth in the provisions of paragraph ff) of no. 1 of article 33 of the Legal Framework of Local Authorities.

Invoking the need to encourage business investment in the energy sector in Municipalities, namely all investment that is relevant for sustainable development, as well as for the maintenance and creation of jobs, based on qualification, a "programme" may be approved that includes a financial allocation and respective regulation, through which the concrete measures of support and incentive to private investment in decentralized production and energy efficiency, as well as in the fight

against energy poverty, will be defined, establishing the rules for the respective allocation.

In fact, according to the Local Authorities Legal Regime, one of the material competences of Municipalities is precisely to promote and support the development of activities and events related to economic activity of municipal interest (as provided in the aforementioned article 33(ff)).

With relevance to the delimitation and definition of the concrete forms through which these entities may exercise their attributions and competences, it is important to note that articles 6(1), 238(1) and 241 of the Constitution of the Portuguese Republic stipulate the principle of autonomy of local authorities, of an administrative and financial nature, recognized by their own assets and finances and also by their own regulatory power.

In this regard, the municipalities' ability to grant total or partial exemptions regarding their own taxes and other levies, in accordance with the provisions of Articles 15(d) and 16(2) of the Financial Framework of Local Authorities and Intermunicipal Entities, thus distinguishing their taxing powers from a mere supervisory power of the administration and showing that its exercise is compatible with the principle of legality, should be highlighted.

Taking into account that there is no precise legal framework that sets out the conditions, criteria and assumptions on which the granting of exemptions regarding taxes and other municipal taxes depends, it is therefore necessary to fill this gap by means of regulation in order to confer transparency and predictability to the exercise of the tax powers in question, guaranteeing respect for the interests pursued by tax law and the principle of equality and simultaneously providing content and useful meaning to the constitutional principle of local financial autonomy.

From the point of view of normative legitimacy, we understand that the Municipalities are competent, in the light of the provisions of paragraphs a), b) and k) of no. 1 of article 33 of the Legal Framework of Local Authorities, to "*[...] prepare and submit for the approval of the municipal assembly the plans necessary for the implementation of municipal responsibilities; participate, with other entities, in planning that directly relates to the responsibilities of the municipality, issuing an opinion to be submitted to the municipal assembly for consideration and deliberation; prepare and submit for*

the approval of the municipal assembly the draft external regulations of the municipality, as well as approve internal regulations".

In turn, and maintaining the normative focus, the Municipal Assembly is the holder of the competences set forth in paragraphs g) and h) of no. 1 of Article 25 of the Legal Framework of Local Authorities, i.e., it is competent, upon proposal by the Municipal Council: "[...] *to approve the ordinances and regulations with external efficacy of the municipality; to approve the plans and other strategic instruments necessary for the pursuit of the municipality's attributions*".

The Municipal Assembly, on a proposal from the Municipal Council, can thus approve the allocation of funds to programmes and the respective regulation(s) that provide for both models of programme and call for tenders (the "Regulation"), under the provisions of article 241 of the Constitution of the Portuguese Republic, of article 15(d) and of article 16(2) and (3), both of the Financial Framework of Local Authorities and Intermunicipal Entities, in conjunction with sub-paragraphs m) of article 23(2), g) and h) of the Financial Framework of Local Authorities and Intermunicipal Entities, which provide for both models of programme and call for tenders (the "Regulation"). The Local Authorities and Intermunicipal Entities Financial Regime, jointly with article 23 no. 2 m), article 25 no. 1 g) and no. 2 k), article 33 no. 1 k), all of annex I of the Local Authorities Legal Regime and article 23-A of the Investment Tax Code.

The draft Regulation for granting investment incentives shall be subject to public consultation through publication in the Official Gazette and made public, by Notice under the terms and for the purposes of the provisions of article 56 of the Legal Framework of Local Authorities, the measures and respective Regulation under the proposal of the Municipal Council, which the Municipal Assembly may approve.

2.2.4. Support for companies

Nothing prevents a certain financial allocation to equity investments and/or quasi-equity or debt instruments, aimed at financing CAPEX and/or OPEX to be borne by private investors wishing to implement projects with impacts in the intended areas, in substantially similar ways to that provided for in the MES Barcelona.

Indeed, the selection of relevant projects could be determined in advance by using the concept of Economic Projects of Municipal Interest ("PEIM").

Through the approval of a municipal regulation, it is possible to define investment profiles, in terms of energy, that configure PEIM. The interested PEIM promoters may, upon request, benefit from support, not only through the attribution of municipal tax benefits and the reduction of municipal taxes that may be applicable, but also through direct investments by the municipalities in their implementation.

In fact, the status of PEIM, duly regulated and providing for a universal and abstract selection of beneficiaries, can be combined with the attribution of financial support, namely with co-investment by municipalities in certain projects, replicating the MES Barcelona.

The selection criteria for these projects may include, in addition to the regional aspect, concrete targets for energy efficiency measures and decentralized energy production.

2.2.5. Support for private individuals

The interventions to be promoted in this area include the opaque envelope and glazing, space heating systems and DHW preparation, lighting and the replacement of large electrical appliances, among others.

The aim is to assign the benefits of the budget allocation to energy consumers with a socially disadvantaged profile. In this way, energy poverty will be tackled, as well as included other population segments in the adoption of measures that promote energy efficiency in municipalities. This can be done, namely by granting credit on particularly favourable terms and conditions where the focus is to support the costs associated with the interventions, for example, with long maturities and low interest rates. In this regard, it is important to make some considerations.

a) The granting of credit to support the costs associated with interventions that promote energy efficiency

Article 8(2) of the General Regime of Credit Institutions and Financial Companies ("RGICSF") provides that only credit institutions and financial companies may carry out, on a professional basis, the activity of granting credit.

The emphasis is placed on the "title" under which that activity is pursued. Although the concept of "professional title" is not legally defined, we follow the criterion adopted in

the case law of the Lisbon Court of Appeal according to which, in short, it presupposes a reiteration, with durability in the manner and result, dispensing, in turn, an exclusive character.

However, to this regime we must add the provisions of article 49 b) of the Financial Regime of Local Authorities and Intermunicipal Entities, which forbids municipalities, except in cases expressly permitted by law, to grant loans to public or private entities.

Now, in the absence of a legal exception applicable to the object of the present analysis, this possibility should, except in the best of opinions, be ruled out and municipalities may not grant credit.

Also, regarding local companies, the restriction on the corporate purpose of local companies contained in the Legal Regime of Local Business Activity, as previously mentioned, prevents credit granting activities.

However, from the point of view of a positive fiscal discrimination, the compensation for an energy efficiency intervention, in a certain building, can be given by a reduction or an exemption of fiscal charges.

In effect, under the provisions of Articles 15, paragraph d) and 16 of the Financial Regime of Local Authorities and Intermunicipal Entities, municipalities have taxing powers regarding taxes and other levies to whose revenue they are entitled, which include the granting of exemptions and tax benefits.

The exemptions and tax benefits to be granted must be approved by means of regulations containing the criteria and conditions for their recognition: total or partial, objective or subjective exemptions, regarding taxes and other own taxes. This matter must also be deliberated by the Municipal Assembly, on the proposal of the Municipal Council.

The tax benefits referred to above must be aimed at protecting relevant public interests, with particular impact on the local or regional economy, and their formulation must be generic and comply with the principle of equality.

It is true that the reduction of emissions by reducing the energy consumption and by producing renewable energy are today, more than a public interest, a right to be defended, the right to climatic balance, as results from the Basic Law on Climate.

It should be noted that, under the terms of the applicable legal framework, these exemptions and/or reductions cannot be granted for more than five years.

Another perspective to consider may be the signing of protocols with financial entities and energy suppliers, within the scope of these entities' social and environmental responsibility.

In fact, the growing demand from credit institutions for their Social Responsibility policies and requirements in the scope of Environmental Social Governance ("ESG") criteria present a potential that can be taken advantage of in this scope, through the signing of protocols that present advantageous conditions for municipalities.

The relevance of the ESG criteria has been growing and is currently reflected among several European Regulations and national diplomas.

This context has been contributing to a greater attention and appetite of the business fabric and, in particular, of Credit Institutions and Financial Companies in the design of strategies for the creation and development of new products and services, to meet new expectations and regulatory requirements and satisfy ESG criteria.

b) Support to the Population

There is no obstacle to the desideratum of total or partial non-refundable subsidies for the costs associated with the interventions suitable for improving energy efficiency in buildings and, in this way, fighting energy poverty and improving the energy performance of buildings in the territorial restriction of the municipalities that adhere to the ideology of the project.

The terms of this financial allocation may foresee the following modalities, according to the conditions to be defined in view of the typologies of the interventions and the socioeconomic conditions of the family households:

- i. Payment of the full costs associated with the intervention directly to the supplier upon presentation of the invoice to the Municipality;
- ii. Partial payment of the expenditure associated with the intervention directly to the supplier on presentation of the invoice to the municipality, with payment facilities to be agreed between the beneficiary and the supplier;
- iii. Resorting to the ESCO model, according to which the company carries out the analysis of the facility to be intervened, designs the energy efficiency solution, installs its elements and is responsible for the maintenance of the system

during the term of the performance contract, with the ESCO being remunerated:

- exclusively through a percentage of the savings generated in energy consumption, according to the performance contract to be signed between the ESCO and the beneficiary; or
 - only partially, with the municipality partially assuming the CAPEX of the intervention.
- iv. Mediation between building owners and market players who are interested in ceding and using suitable areas for the installation of solar panels. The latter may agree to carry out interventions that promote energy efficiency in the buildings of the former and/or ensure the supply of energy in them in exchange for the right to use the areas for the installation of equipment by the latter and the respective production of energy to be sold on the market.

2.2.6. The impossibility of setting up a Municipal Fund / Collective Investment Undertaking

The concept of "Fund" is commonly used to designate "Collective Investment Undertakings" ("CIU"), which correspond to autonomous assets, without legal personality, belonging to the participants in the general communal regime, generically governed in the General Regime of Collective Investment Undertakings, provided for in Law no. 16/2015, of 24 February, in its current wording, taking into account the entry into force of Law no. 16/2021, of 24 February¹¹, without prejudice to specific regimes, namely in matters of venture capital and alternative investment.

In a broader sense, CIUs may take the contractual form of an investment fund or the corporate form – that of a collective investment undertaking – with different types and characteristics.

CIUs in contractual form are autonomous assets, managed by a third-party entity duly authorized for this purpose, while CIUs in corporate form may follow the same

¹¹ The general regime of collective investment undertakings should soon be revoked and replaced by a new "General Regime of Asset Management" that is in the approval process. The version that was put out for public consultation of this new legal diploma does not foresee structural changes with impacts on the model equated.

method (hetero-management) or, alternatively, be self-managed (self-management).

Investment Funds are subject to supervision by the Portuguese Securities Market Commission ("CMVM"), and their constitution must be preceded by authorization and registration or, in certain cases, mere prior notification.

In the present case, the questions that arise may be reduced to knowing whether: *i)* a Municipality, a public law entity, may constitute a CIU; *ii)* a Municipality may invest in a CIU as a participant in the same; and *iii)* whether the governance models of this type of CIU suit the aims of the project.

- a) As explained above, the incorporation of, or participation in, companies, including the possibility of exercising a dominant influence by municipalities in commercial companies, as are the CIUs in corporate form, is impossible given the Legal Regime of Local Business Activity and Local Participation;
- b) Likewise, mere participation as an investor (even if a "minority" investor) in a CIU is not compatible with the purposes for which the CIU is intended (distribution of results to unit-holders). This is to say that, in order for the investments to be made by the CIU to encompass investments of the types described above, this would necessarily imply that the results of the investments to be made by the CIU would be chronically in deficit, which goes against the rules applicable to this purpose - and which could not be varied by means of the mere application of an asymmetric formula for distribution, according to which the participant municipality would waive its distributions to the benefit of the other participants. Similarly, we would always be faced with the limitations on granting credit or issuing guarantees applicable under the terms also set out above.
- c) The management and decision-making process of heterogeneous CIUs is the responsibility of a "Management Entity", which must be authorised by CMVM, in one of the forms typified by law, and must perform its management functions in an independent and impartial manner, on the basis of *business judgment rule* criteria, in the exclusive interest of the unit-holders and with respect for the principle of equality of all unit-holders.

As regards self-managed CIUs, although they do not require the intervention of a third party (the Management Entity referred to above), the very process of authorization by

CMVM implies validation of the respective constitutive documents, governance model, functional suitability of the management and qualification and suitability requirements of the members of their management bodies, and the same rules as regards investment policy generally apply to them.

2.2.7. Assumptions regarding this mechanism

- i. The MES Barcelona is a municipal financial envelope approved by the Barcelona City Council for co-investment in projects with an impact on energy transition in the region, particularly in promoting energy efficiency of infrastructures and decentralised energy production, with special emphasis on the production of photovoltaic solar energy.
- ii. In the context of the MES Barcelona, the assumptions on which the qualification of companies with experience in the design and implementation of relevant projects depends precede their approval. These companies are then entitled to present projects that focus on the Barcelona region, and that fit and meet previously defined characteristics;
- iii. The Ajuntament de Barcelona will select the projects on the basis of criteria of equality, economic and social profitability to invest in the implementation of the selected projects together with the respective promoters, up to a maximum of 30% of the global value of the foreseen CAPEX and OPEX, foreseeing that they will have the right to obtain full reimbursement and a return on equity calculated according to a previously and caustically agreed rate, depending on the characteristics of the project presented.
- iv. The MES Barcelona provides for different ways of allocating the financial allocation of the Ajuntament de Barcelona and their contractualisation, namely through the acquisition, for a limited period of time, of equity, quasi-equity and debt instruments and the terms of their disinvestment.
- v. The Barcelona City Council provides interested energy consumers on its electronic platform with a means of immediate access to market operators with a suitable profile for the implementation of measures aimed at promoting the objectives in question, without the Barcelona City Council taking any active part in the management and implementation thereof other than that "Marketplace" and facilitating the matching of demand and supply in that regard.

- vi. The current legal framework allows the model described above to be applied, with the necessary adaptations, to municipalities and combined with other incentives for companies and support for energy consumers, aimed at meeting the desiderata of promoting energy transition, stimulating decentralised energy production, energy efficiency and self-consumption in municipalities, as well as combating energy poverty.
- vii. The solution suggested can be implemented by the Municipal Assembly, on a proposal from the Municipal Council, by approving the allocation of funds to a programme that includes the different modalities and the respective regulation(s), under the provisions of article 241 of the Constitution of the Portuguese Republic, of the precepts of paragraph d) of article 15 and of paragraphs 2 and 3 of article 16, both of the Financial Regime of Local Authorities and Intermunicipal Entities, combined with sub-paragraphs m) of paragraph 2 of article 16 of the Financial Regime of Local Authorities and Intermunicipal Entities. The Local Authorities and Intermunicipal Entities Financial Regime, together with Article 23 no. 2 m), Article 25 no. 1 g) and no. 2 k), Article 33 no. 1 k), all of annex I of the Local Authorities Legal Regime, and Article 23-A of the Investment Tax Code.
- viii. It can also be considered the approval of a municipal regulation that determines the profiles of investments and projects, at the energy level, that configure PEIM and that enable the promoters to benefit from different incentives, support and perhaps direct investment by the municipalities in their implementation.
- ix. Municipalities may not grant credit or set up a CIU, as these activities are legally forbidden to municipalities. Likewise, the constitution of a Fund presupposes an initiative of an entity authorised by the CMVM, with the purpose of generating and distributing income to the participants, and presupposes a governance model that, combined, indicate that we are not in the presence of a suitable means to achieve the objectives pursued.
- x. Municipalities are also forbidden to incorporate or participate, including the possibility of exercising a dominant influence, in commercial companies whose corporate purpose is incompatible with the Legal Regime of Local Business Activity and Local Participation, as the categories of local companies are of no use for the pursuit of the project's aims here.

- xi. From the point of view of positive tax discrimination, it is possible for Municipalities to grant reductions and exemptions from applicable tax charges, rates and contributions.

2.3. Framework Agreements

2.3.1. Overview

The following item intends to provide an alternative financial scheme that enables the Municipality to support measures of energy efficiency, through a mechanism legally achievable, financially transparent, that can serve its purpose in a short period of time and that can be verifiable in its application and outcome.

Therefore, this proposal suggests the design of framework agreements, to be promoted by municipalities, according to the legally applicable public procurement procedures, in order to select installers or distribution channels with whom framework agreements can be established for the development of multi-measure projects (energy efficiency and decentralised production).

According to its nature, a framework agreement consists in determining in advance the set of conditions which will be common to all contracts based on the framework agreement. Thus, this is a public procurement instrument that allows to rationalise costs and simplify the acquisition of goods and services across various entities.

In this scenario, it is necessary to previously assess: (i) how the selection of projects is made; (ii) how the beneficiary's applications and selection criteria; (iii) the amount of support to be granted by the municipality; (iv) the deadline for implementation of the projects to be awarded.

2.3.2. Framework Agreements with Independent Installers

This first variant consists in formalising a framework agreement with several independent installers, to be contracted for the implementation of energy efficiency measures. In this case, it would be necessary to define: (i) the type of installers (if installers specialized in each specific measure, or general installers, able to make a project with multiple energy efficiency measures); (ii) what type of management and

control is necessary; (iii) the maximum values for each support; (iv) the interaction between beneficiaries and installers and the role of the municipality/municipality in the process.

Although this type of procedure is legally admissible and easy to construct and execute, it is necessary to take into consideration some constraints among which:

- The requirement to establish standard costs, *i.e.*, maximum values for each measure or for each procedure, according to what is practiced in the market;
- The monitoring and verification of compliance can be complex;
- There is a higher financial risk for installers if they manage the process directly with final beneficiaries.

On the other hand, an advantage that can be pointed regarding this model is the involvement of local community and the dynamisation of local businesses. As has been mentioned, energy poverty needs to be fought at various levels, and the inclusion of several stakeholders is positive because, in addition to contributing to the solution / mitigation of a common problem, locals also have an opportunity to promote their own economical activities.

2.3.3. Framework Agreements Distribution Channels

An alternative within the construction of framework agreements is for these to be established, not with independent installers, but with large equipment distribution chains.

For example, the municipality may propose to pay for 25% of the heat pumps sold and installed by distribution channel "A", with the beneficiary obliged to deliver the old/replaced equipment, where existing. Company "A" is responsible for all the assembly and interface with the final beneficiary.

In this model, the participation of local entities is excluded and priority is given to large supply channels for goods and services, substantially reducing the number of market players. This can have several positive aspects, namely:

- An easier control mechanism, since these distribution channels already have this type of process in place or, if not, they find it easier to implement;
- It is accessible to all interested parties;

- Low financial risk for the municipality;
- A process based on the exchange of the equipment purchased for the old one guarantees, in itself, more control;
- It is a type of mechanism that has already been tested, and we can mention, for example, the Plan for Promotion of Efficiency in Energy Consumption (“PPEC”¹²).

Similarly to the previous solution, there is a difficulty in establishing standard costs, i.e. maximum values for each measure or for each procedure, according to what is practiced in the market. On the other hand, by comparison, this modality may bring some limitations regarding the typology of measures to implement, as it will be easier to operationalize the purchase / replacement of equipment than other energy efficiency measures, such as, for example, the insulation of buildings.

2.4. Complementary Financial Support

This proposal is based on the creation of a mechanism linked to already existing financial support, such as, for example, the Environmental Fund¹³, or another similar programme.

Firstly, it is necessary to structure the type of support, which could be:

- a. a complement or an addallity, in which the municipality provides financial support of a certain amount (the same amount or only a part, *vis-à-vis* the value of the approved application to the beneficiary);
- b. an anticipation of the funds to be obtained by the beneficiary under the Environmental Fund, or another similar programme.

On the other hand, the proposed mechanism also raises some challenges, namely

¹² PPEC was launched for the first time in 2006 by the Energy Services Regulatory Authority and aims since then, although with some modifications between its editions, to finance energy consumption efficiency measures that contribute to the goals set out in the National Energy and Climate Plan 2020–2030 (PNEC 2030), the main energy and climate policy instrument for the decade 2021–2030.

¹³ The Environmental Fund is the entity responsible for implementing the Support Programme for More Sustainable Buildings, which aims to finance a set of measures that promote rehabilitation, decarbonisation, energy and water efficiency and circular economy of the housing stock throughout the Portuguese territory. More information can be consulted on <https://www.fundoambiental.pt/>.

- the linkage to the existing support, such as the Environmental Fund (or another similar programme) and the possible resulting limitations;
- the application method and selection criteria for support applicants - in essence, the operationalisation of the programme;
- the process control and management structure;
- the dependency in relation to the opening of the notices;
- the dependence of the granting of support on the measures and conditions defined by the Environmental Fund (or other similar programme);
- the fact that certain social segments may be excluded from the process, since it is cumbersome in administrative terms.

Overall, there are features that, whatever the mechanism adopted, should be carefully analysed, not only from the legal but also from the operational point of view, under penalty of not fulfilling their proposed utility function.

3. Conclusion

All scheme models presented on this document are designed counting on the Municipalities as an important and active role.

Regarding the **first scheme**, it is possible for these entities to have in force regulations that already foresee tax exemptions. In these cases, the provision of new exemptions considering IMI should be made by amending or adapting the abovementioned regulation or, alternatively, by approving a new specific regulation for this purpose. Furthermore, this needs to be weighed and measured, considering that there is an impact on municipal revenues.

Also, considering a practical perspective, this mechanism will need a development of: (i) an interaction IT portal between the municipality and the potential beneficiaries of the exemption; (ii) an automatic means of communication to the tax authority regarding which persons/entities the benefit falls upon.

Finally, the distribution of the incentive in the case of collective self-consumption or RECs is based on the importance of each element for the project (in terms of energy share coefficients or regarding its participation), although this is a rationale that can be re-examined.

When it comes to the **second scheme**, based on the MES Barcelona model, the current legal framework allows its applicability, with the necessary adaptations, to municipalities and combined with other incentives for companies and support for energy consumers, aimed at meeting the desiderata of promoting energy transition, stimulating decentralised energy production, energy efficiency and self-consumption in municipalities, as well as combating energy poverty existing at the time. However, it is necessary to observe the legal limitations.

Regarding the **third scheme**, there are features that, whatever the variant, require prior analysis, whose conclusion may impact on the method to be chosen, namely, the monitoring structure between the independent installers / distribution channels and the municipality, the reference values practiced by the market, etc., are decisive factors that must be properly assessed.

The fact is that the implementation of this solution, as well as the one proposed in the **fourth scheme**, should be guided by transparency and simplification of procedures, in order to maximize its effects and the municipality's purpose: to support energy transition and household savings through real and tangible measures, capable of improving the lives of those who need them.

As set forth initially, once this is a dynamic and in constant updating project, other alternative schemes may be developed considering universe of the project' stakeholders.



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Energy Efficiency for all.



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