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Implementing the Goals and Principles of the Habitat Agenda, adopted in Istanbul in 1996, in the legislation of the Federal Republic of Germany, Finland, the Netherlands, Romania and Turkey during the period 1996-2005

In 1996 Istanbul hosted the Second United Nations Conference on Human Settlements (Habitat II). As many as 171 countries committed themselves to implement the objectives and principles laid down in the Habitat Agenda.

The European Board of Directors of the Global Parliamentarians on Habitat initiated a project in order to contribute to the upcoming World Urban Forum III in Vancouver/Canada in June 2006. The project examines changes within national legislation 10 years after the adoption of the Habitat Agenda.

The German Bundestag acted on the Parliamentarians suggestion. The German Association for Housing, Urban and Spatial Development, with financial aid of the German government, mandated Professor Dr. Gerd Schmidt-Eichstaedt of Technical University Berlin, Institute for Urban and Regional Planning, to conduct a comparative study.

A first step included the comparison of legislation in the five European countries Germany, Finland, the Netherlands, Romania and Turkey. Results were presented at the Fifth European Conference of the Global Parliamentarians on Habitat in The Hague as well as in Vancouver/Canada in June 2006.

A summary of the most important contents is enclosed.
The long version will be available at:
www.bbr.bund.de/ressortforschung/index.html

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S U M M A R Y

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Summary

The second United Nations Conference on Human Settlements (HABITAT II) took place in Istanbul in June 1996 as the follow-up event to the 1992 UN conference in Rio de Janeiro – the moment when the principle of sustainable development gained international recognition. One outcome of the Istanbul conference was the adoption of the Habitat Agenda. Almost ten years have passed since then and the conference delegates and advocates of the Agenda must now ask themselves whether their adoption of the Agenda has had any impact. Have the participating countries taken action to implement the principles enshrined in the Agenda? One – if not the key – means of implementation is the Agenda's incorporation into national legislation. The present study therefore examines whether, and how, the goals and principles enshrined in the Agenda adopted in Istanbul in 1996 have been integrated into the legislation of five selected European signatory states.

I. General principles

1. Alongside government programmes and action plans, legislation is a useful indicator to determine whether a country is genuinely committed to the goals and principles of the Habitat Agenda. This applies despite the fact that to date, none of the legislators in the five countries surveyed have brought forward legislation with the explicit and primary purpose of implementing the Habitat Agenda. Indeed, during the period under review (1996-2005), none of these countries – Germany, Finland, the Netherlands, Romania and Turkey – adopted a single item of legislation which was mainly aimed to implement the Habitat Agenda. However, the explanatory arguments of some laws explicitly refer to the Habitat Agenda.

2. At present, then, there is no direct causality between the Habitat Agenda and specific laws. Nonetheless, there are many different thematic links between national legislation and the goals and principles defined in the Habitat Agenda. Given the Agenda's wide-ranging objectives, an entire network of linkages can be identified in various thematic areas, at different planning levels, and in a range of administrative and policy fields.

3. The broad range of issues addressed by the Habitat Agenda, with its two principle commitments – "Sustainable human settlements" and "Adequate shelter for all" – is illustrated in the diagram at the end of this summary. The boundaries between the topics covered in individual items of legislation are fluid.

II. Approaches and individual outcomes

4. The quotations from the Habitat Agenda contained in the first part of the study show how the Habitat Agenda's goals can have an impact through specific legislation. They also indicate the various themes and the planning and administrative levels on which legislators can contribute to the implementation of the Habitat Agenda goals and principles by introducing relevant regulations.

5. The second part of the study contains the country reports from the Federal Republic of Germany, Finland, the Netherlands, Romania and Turkey.

6. The third part – based on the national reports – presents a comparative overview of the main legislation pertaining to sustainability in habitat and human settlements and identifies the instruments which can be used to promote the Habitat Agenda's individual goals and principles. The parallel overview allows interesting comparisons to be made and reveals how specific – and essentially similar – instruments vary in the countries under review.

7. Regular evaluation of the impact of legislation and programmes, and the use of common indicators, facilitate the international comparison. In the context of the survey, Finland emerges as the country which has advanced furthest along the Habitat route.

8. Clearly, the overall commitments to implement the Habitat Agenda vary widely according to the stage reached in a country's development and its government's current objectives. Consolidated industrialized countries such as Germany, Finland and the Netherlands have very little real scope for improvement. Assuming that there is an appropriate political commitment, they can now focus on assisting other countries – especially developing countries – to implement the Agenda. This appears to be happening with more direct reference to the Habitat Agenda in the Netherlands than elsewhere as there is a Habitat platform. The same work is done in the other countries without explicit mention of Habitat.

9. Countries which face economic problems (e.g. Romania) and/or which have embarked upon political reform (e.g. Turkey) can benefit from some form of external impetus to encourage them to focus specifically on the Habitat Agenda. This may take the form of international agreements and/or economic assistance programmes – e.g. from the EU – which offer appropriate incentives. For Romania and especially for Turkey, the important impetus provided by international agreements cannot be over-estimated.

10. The basic legislation of relevance to Habitat was introduced long before 1996 in all five countries, so the laws adopted over the last ten years were primarily designed to improve upon this basic legislation. The impressive **list of instruments** introduced in this context testifies to the legislators' innovation and creativity.

Table: *List of Instruments to implement the Habitat Agenda into Legislation*

Field of Action	Instruments
ADEQUATE SHELTER FOR ALL	
I. Construction Sites / Buildings	I. 1. Standard marking system for labelling building material I. 2. Standardised norms for construction and buildings including quality measures I. 3. Official encouragement of architectural qualities and the building culture I. 4. Monitoring a building's safety I. 5. Protection of ancient monuments
II. House Building and Housing	II. 1. Constitutionally protected „ basic right to housing “ II. 2. Allocation of the Federal Government's and local government bodies' sites for house-building II. 3. State subsidy for housing projects (also for council house-building) and modernisation of dwellings II. 4. Monitoring eligibility for council houses II. 5. Direct subsidy when building or acquiring housing property II. 6. Tax privileges for acquiring housing II. 7. Financial support for overhead costs for floor space II. 8. Civil law protection for tenants II. 9. Special regulations for those with special accommodation needs II.10. Setting up a governmental institute for encouraging house-building
III. Town Planning and Settlement	III. 1. Basic Regulation of urban land use planning III. 2. Well-established public-private partnerships (PPP) III. 3. Obligatory (also cross-border) co-operation for neighbouring local government bodies and authorities involved in urban land-use planning III. 4. Obligatory public participation in urban land-use planning, including cross-border public participation III. 5. Environmental impact assessment of certain public and private projects (Project EIA) III. 6. Strategic environmental assessment of plans and programmes: Obligation to audit the probable significant environmental effects caused by the realisation of urban land-use planning already being processed, obligation to prepare an environmental report, monitoring the environmental effects of realising urban land-use III. 7. Special obligation to consider the requirements of nature conservation in urban land-use planning III. 8. Relaxing State supervision of local -government as regards urban land-use planning III. 9. Limiting the timeframe of validity for urban land-use planning III.10. Use of special governmental funding for town planning and urban renewal III.11. Local authorities have the pre-emptive right when disposing of sites III.12. Co-operation of the Federal Government / local authorities with the private sector during land allocation III.13. Controlling the settlement of shopping centres and large area retail III.14. Enabling co-operation between local authorities III.15. Introducing special town planning development areas

IV. Town / Country Planning and Regional Planning	IV.1 General Regulation of the governmental task Regional Planning IV.2 Strategic environmental assessment of plans and programmes even at the regional planning level IV.3 Planning precautions against natural catastrophes (flooding, earthquakes) and hazardous accidents IV.4 Special coastal zone management
V. Infrastructure. Traffic Systems	V.1 Promoting environmentally-friendly traffic V.2 Precautions against accidents involving hazardous substances V.3 Regulating the interoperability of the rail system V.4 Coordinating the flight plans of the passenger airports in Europe V.5 Regulation of infrastructure networks V.6 Regulation of fees on the use of streets

SUSTAINABLE SETTLEMENTS DEVELOPMENT	ECOLOGICALLY SUSTAINABLE DEVELOPMENT
0. General	0.1 Principle of environmental protection rooted in the constitution 0.2 Introduction of an environmental liability insurance
1. Soil	1.1 Regulation of soil protection by law
2. Waste	2.1 Regulation of waste transport 2.2 Special control on waste disposal sites and waste incineration plants 2.3 Separating waste 2.4 Introduction of closed cycle waste management in waste processing
3. Energy (Electricity, Energy Conservation)	3.1 Liberalising the energy market 3.2 Promoting the generation of energy from renewable sources 3.3 Promoting energy conservation 3.4 Obligation to label energy consumption
4. Air, Climate, Emissions	4.1 Measuring air pollution ; regulating countermeasures and appropriate procedures 4.2 Regulations for dealing with benzine 4.3 Limitation of emissions into the air
5. Noise	5.1 Protection against aircraft noise 5.2 Obligation to compile noise maps and noise reduction charts to combat ambient noise
6. Water (Supply, Treatment)	6.1 Monitoring waters , regulation of the instruments of intervention 6.2 Compiling management plans for all waters and for the surface water in the state territory and for adjoining waters
7. Nature and Landscape	7.1 Obligation of the party interfering with nature or landscape to provide compensation (intervention-compensatory measures) 7.2 Creation of a Europe-wide network of nature reserves and bird sanctuaries: „ Natura 2000 “
8. Agriculture and Forestry	8.1 Promotion of ecological cultivation 8.2 Limitation of tree-felling ; Targeted reforestation

SUSTAINABLE SETTLEMENTS DEVELOPMENT	SOCIALLY SUSTAINABLE DEVELOPMENT
9. Youth	9.1 Early diagnosis of handicaps of children 9.2 Special regulations for the protection of children and youths (against child labour; alcohol and tobacco abuse, etc.)
10. Family and Gender	10.1 Explicit codification of the equal status of women and men 10.2 Maternity protection 10.3 Payments of child allowance to parents; tax allowances for parents with children living in the household 10.4 Protection against violence in the home
11. Old and Handicapped People	11.1 Handicapped accessible public buildings 11.2 Handicapped accessible residential buildings 11.3 Obligation of employers to employ handicapped people 11.4 Tax incentives to take an insurance for retirement pension
12. Foreigners, Asylum-Seekers, Refugees	12.1 Basic regulation and limitation of the rights of foreigners, asylum-seekers and refugees 12.2 Setting up a special office for foreigners
13. Security and Health	13.1 Public insurance against labour accidents 13.2 Granting allowances o unemployed people 13.3 Introduction of a minimum wage in the building trade 13.4 Promotion of public health

SUSTAINABLE SETTLEMENTS DEVELOPMENT	ECONOMICALLY SUSTAINABLE DEVELOPMENT
14. Taxes; Finances, Other Fiscal Instruments	14.1 Governmental grants to local government bodies 14.2 Taxing real estate and trade
15. Constitution and Organization of Government	15.1 Constitutionally guaranteed right to local self-government including the right to financial autonomy 15.2 Creation of a regional level of government administration 15.3 Supply of relevant statistical information 15.4 Citizen's right to free access to any information about the environment in the public authorities possession (against payment of a moderate fee) 15.5 Setting up special agencies, commissions; appointing a commissioner 15.6 Governmental support of research institutions for town and regional planning, for housing, and for the protection of the environment

III. The country reports

Federal Republic of Germany

11. In the comparison of the five countries surveyed, a particular feature of Germany is its federal structure and very robust system of municipal self-government. The municipalities form part of the *Länder* and fall outside the purview of the Federation. Fiscal steering of the municipalities' activities by the Federation is only possible in cooperation with the *Länder*. The Federation's role – and also its strength – lies primarily in its legislative steering function, which it utilizes to the full by passing numerous laws. In several laws the German federal legislator explicitly refers to the Habitat Agenda in the explanation of the law.

12. In the thematic area of relevance to Habitat, the strong influence of European regulations and directives is very noticeable. They impact – via federal and state legislation – at all tiers of government right down to the municipalities. Ultimately, it is the municipalities – as the bodies responsible for urban land-use planning – which control the development of human settlements. In doing so, they generally comply with the Habitat goals by default, if not explicitly. In the comparison of the five countries surveyed, a unique feature of Germany – and eastern Germany in particular – is the housing surplus in many cities and municipalities; many of these dwellings are being removed from the housing market as a result of publicly funded urban regeneration programmes.

Finland

13. Finland displays all the advantages of a relatively small and efficiently governed state. Although the natural conditions for Finland's development are not necessarily straightforward, the country faces no risks from extreme natural events (such as earthquakes or flooding) and has extensive forests and abundant water resources. Furthermore, due to its marginal position, Finland is not exposed to a high level of immigration by foreign demographic groups.

14. Finland ranked first in an international comparison of environmental sustainability in 146 countries undertaken by experts at America's Yale and Columbia Universities. Like the other countries, Finland introduced Habitat-compatible legislation well before 1996. However, Finland still adopts an innovative approach to ensure that its legislation and administration continue to develop positively in environmental terms – for example, it commissions international experts to undertake external evaluations of the effectiveness of its national housing policy. The report from Finland therefore justifiably reflects Finland's "clear conscience" with regard to the implementation of the Habitat Agenda.

The Netherlands

15. The Netherlands has a very strong tradition in environmental protection, social housing and environmentally responsible settlement policy and sets standards in this field. Most of its environmental, urban development and housing laws were introduced well before 1996 and the adoption of the Habitat Agenda. In the Netherlands too, most of the Habitat-relevant laws passed during the period

1996-2005 therefore consist of amending provisions which make detailed improvements to existing legislation. Due to the very large number of indirect impacts, the survey focussed exclusively on the core features of the Dutch legislative provisions.

16. What is noticeable in the Netherlands is the central government's disproportionately strong emphasis on fiscal steering of municipal activities, e.g. through subsidy programmes based on specific (e.g. environmental) criteria. To secure funding under these national programmes, the municipalities must fulfil the relevant criteria.

17. The Netherlands is the only country to have launched an official *Habitat Platform* and, as an element of this Platform, an official *World Habitat Day* every year on the first Monday in October. The Habitat Platform hosts conferences on Habitat-relevant themes and, in particular, runs Habitat projects in developing countries, especially in Africa. The Netherlands has thus assumed a special responsibility for implementing the Habitat principles not only at home but especially in poor countries. As the Netherlands' settlement and housing policies are already Habitat-compatible to a large extent, this is a logical and consistent step which facilitates the implementation of the Habitat Agenda.

Romania

18. In the original version, the report from Romania is the most comprehensive and detailed report. This is partly due to the fact that Romania changed all the relevant legislation after the collapse of the communist dictatorship in 1990. Legislation introduced after 1990 therefore reflects Romania's efforts to evolve, under extremely difficult circumstances, into a fully democratic and accountable polity.

19. However, in Romania in particular, the letter of the law and the good intentions underlying the legislation do not equate with social reality. Much of what is written on paper needs more time to be implemented. This change must also happen in the political and social consciousness. This cannot happen overnight. As in the other countries, the legislation makes no direct reference to the Habitat Agenda, although it relates in many different ways to its substantive goals. At the same time, the legislation is a reaction to the economic and institutional problems and difficulties faced by Romania on its way into the European Union. The focus is entirely on addressing the country's own deficits; Romania yet lacks the resources to assume any global responsibility.

Turkey

20. The report breaks down Turkey's legislative activities during the period 1996-2005 into three phases: the first phase (1996-1999) was dominated by terrorist attacks by the Kurdistan Workers' Party (PKK) and Turkey's perceptions of its own social vulnerability, when most reform efforts were obstructed by the administration. Nonetheless, even during this period, Turkey participated in various international development projects and acceded to agreements which had a positive effect on the implementation of the Habitat goals.

21. The second phase (1999-2002) began with the devastating earthquakes in the Marmara region in late summer/autumn 1999. The effect of these events was to focus the debate about habitat and human settlements entirely on essential relief and reconstruction activities and on minimizing risk in the event of future earthquakes. The legislation adopted during this period also reflected these priorities.

22. The third phase (late 2002 to 2005) began with the landslide victory of the Party of Justice and Development (AKP) in the November 2002 parliamentary elections. Since then, the adoption of legislation – based on the AKP's parliamentary majority – has accelerated rapidly, and this applies to Habitat-relevant legislation as well. However, given the speed at which legislation is being passed, especially to establish the basis for EU accession, the laws are having to be corrected and amended continuously.

23. The Turkish state's strongly centralistic governmental traditions have an impact – but so do the international agreements of relevance to Habitat. To a large extent, Turkey is being drawn into implementing the Habitat Agenda through its ratification of treaties and agreements. What is very significant is the fact that Turkey is the only country surveyed which still has strong population growth. This creates very different urban development and housing problems compared with those faced by the other four countries, whose populations are decreasing.

IV. Reform proposals and recommendations

Developing the Habitat Agenda

24. The national legislators in the countries surveyed have not been idle when it comes to implementing the goals and principles of the Habitat Agenda, but their efforts so far have not been targeted appropriately.

25. The thematic classification of legislation in terms of individual aspects of the Agenda – and, above all, targeted action by the legislators – would be easier to achieve in future if the text of the Agenda were to make a clearer distinction between fundamental objectives and the explanatory interpretations and guidance on implementation which occur throughout the document. The fundamental objectives should be clearly defined in the Agenda, designated as "goals" and numbered consecutively. This procedure is required for the legally binding objectives contained in Germany's regional development plans, for example.

26. It would also be helpful if national legislators, when adopting Habitat-relevant laws, could signal that the law in question is intended (among other things) to implement specific goals defined in the Habitat Agenda. They could do so by appending a footnote to the title of the legislation and specifying the goal in question. To facilitate this process, the fundamental goals set out in the Agenda must be clearly defined and numbered. This approach is adopted in the German legislation to implement EC regulations and directives. Where otherwise not possible at least a citation of the Habitat Agenda should form a part of the explanation of the law.

Recommended instruments

27. The country reports were evaluated in order, among other things, to identify the various instruments which can be recommended as particularly suitable to promote the Habitat Agenda goals. Three models of best practice from each of the five countries surveyed are listed as examples below.

28. THE NETHERLANDS

- World Habitat Day: an official *World Habitat Day* is held every year on the first Monday in October in order to publicise the Habitat Agenda.
- The Habitat Platform: the institution responsible for World Habitat Day. As well as preparing the annual World Habitat Day, the Platform organizes conferences to promote an exchange of experience and also runs projects in developing countries.
- Levying of a local tax on buildings: The municipalities are empowered to levy a local tax on buildings, differentiated between buildings for housing and buildings for business. This improves the local authorities' financial situation. In addition to the local tax on buildings, there is a taxation of real estate (with real estate included as part of the property), which forms part of the Dutch Government's taxation of wealth.

29. FINLAND

- Participation and assessment scheme: At the start of each planning process, an individual "participation and assessment scheme" must be drawn up how to organize the public consultation process and environmental assessment, mostly in the form of an annotated timetable.
- Environmental insurance: Organizations responsible for projects which may have a harmful impact on the environment must obtain environmental insurance to cover the costs of repairing any environmental damage caused.
- Regional "Centres of Expertise": "Centres of Expertise for the Collection and Exchange of Knowledge and Experience" have been established at regional level, enhancing regional competence in various economic matters, so as to strengthen regions.

30. ROMANIA

- Decentralization of the public administration, and the regionalization process which is now beginning, are key institutional prerequisites for sustainable habitat and human settlements.
- Introducing and consolidating municipal self-government is the basis for effective popular participation in the decision-making process.
- The "National Housing Agency" has proved its worth as an inter-departmental agency addressing housing problems.

31. TURKEY

- Turkey's voluntary commitment, through its accession to international agreements, has achieved significant progress in implementing the goals and objectives of the Habitat Agenda.

- The improvement to an internationally applicable statistical system is a prerequisite for the preparation of sound scientific analyses and international comparisons.
- Improving building safety, especially against natural disasters, is a basic prerequisite for sustainable housing.

32. GERMANY

- **Closed substance cycle and waste management:** Germany's **Closed Substance Cycle and Waste Management Act** is a very advanced response by legislators to the problem of waste.
- Uniform labelling of building materials which meet EU standards simplifies the construction process and enhances building safety.
- The Strategic Environmental Assessment for all urban land-use plans and regional planning processes increases the impact of environmental issues in planning. Hereby - as by the EU-wide uniform labelling of building materials - the European Union's increasing influence on legislation in the member states is becoming apparent.

Essential legislation

33. The following fields of legislation have proved indispensable for the implementation of the goals and principles of the Habitat Agenda:

A. Specific laws

- Laws on the planning of human settlements at local and regional level
- Laws on urban regeneration and urban renewal
- Housing construction laws, housing laws and laws on social housing
- Nature conservation laws
- Water resource management laws
- Emission control and immission protection laws
- Soil protection laws
- Waste management laws
- Environmental assessment legislation
- Historical preservation acts.

B. Laws relating to the organization of the state

- Laws on the decentralization of the public administration
- Laws and decrees on the establishment of regions
- Laws and decrees on the establishment of specialized agencies (e.g. with responsibility for regionalization, environmental protection, exchange of experience)
- Laws on municipal self-government.

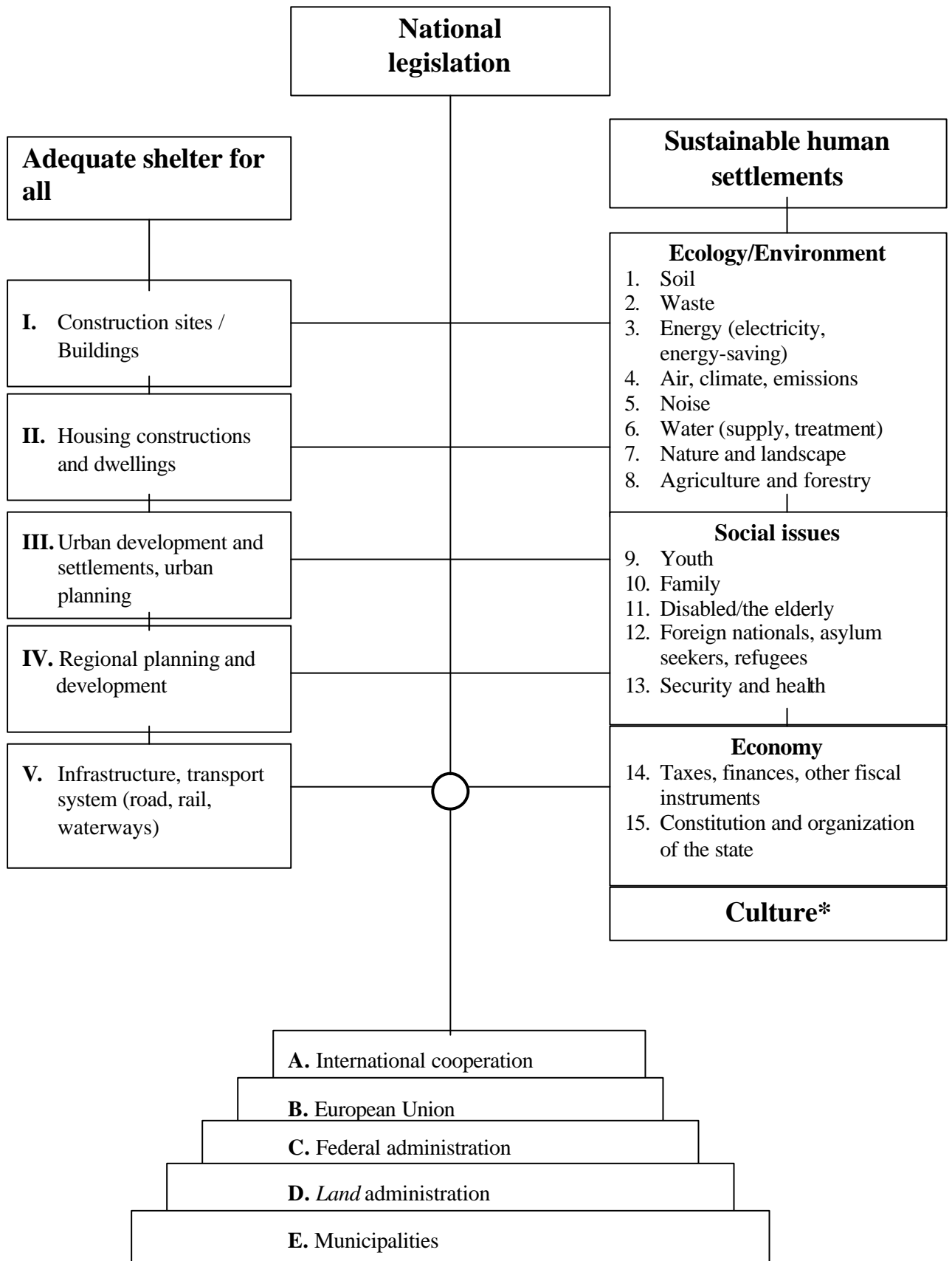
34. These laws already exist, in essence, in all five countries surveyed. Where they do not exist, or are inadequate, appropriate legislation should be brought forward to fill the gaps.

V. Conclusions

35. Overall, the present survey on the implementation of the Habitat Agenda, adopted in Istanbul in 1996, in the legislation of five countries shows that it is worth developing further national legislators' capacities and willingness to learn from each other in a process which transcends language barriers.

36. Within the five countries themselves, there is a substantial prosperity gap which has substantial implications for housing and sustainable urban development in particular. Against the background of the threats to survival faced by much of the global population living in developing countries, however, these prosperity gaps appear less severe.

37. Regardless of this, the legislation in the five countries examined should stimulate the legislature in all of the 176 countries which signed the Habitat Agenda 1996 in Istanbul. If they hope to further the implementation of the goals and principles of the Habitat Agenda through legislation, they can regard the substantial catalogue of instruments in the five countries as offering useful models.



* In Germany: The Federation has no legislative competence in this area.