

# **Energy performance policy for Dutch office buildings: Explaining the gap between intended and realised policy outcomes**

Master Thesis

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## Colophon

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## Preface

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## **Abstract**

In the pursuit of sustainable and resilient societies, governments are implementing policies to reduce energy consumption. Since the real estate sector is responsible for approximately 40% of global energy consumption, energy efficiency measures in this sector are of particular importance. Therefore, the Dutch government has introduced a minimum energy performance standard for office buildings as of 2023. However, the intended policy outcomes diverge significantly from the realised results thus far. As similar policies will be implemented in the future, it is crucial to understand how these policies can function effectively. Therefore, through stakeholder interviews and qualitative analysis, this study investigates why this policy has not produced the intended effects thus far. We find that certain aspects of the policy implementation and enforcement process are inadequate, and that office building owners act strategically in response. The findings of this research have been translated to clear policy recommendations that can enhance the effectiveness of future energy efficiency policies in the real estate sector. We recommend emphasis on timely development of an implementation strategy. This can alleviate the burden of implementing organisations and enable timely implementation action. This creates the perception among the target group that the policy will be enforced, thereby increasing policy compliance.

**Keywords:** Policy effectiveness, Energy label, Minimum energy performance standard, Real estate

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# 1. Introduction

## 1.1 Motivation

In recent years, scientists have sounded the alarm on climate change and the future liveability of humanity on planet Earth (United Nations, 2022). The environmental issues we face call for highly urgent reduction in the consumption of unsustainable energy in all aspects of society (United Nations, 2022). The real estate sector plays a crucial role in reducing energy consumption. This sector is responsible for approximately 40% of the global energy consumption (Harputlugil & De Wilde, 2021). Along with the energy transition, the reduction of energy consumption of the real estate sector is therefore of great importance. It follows that a significant task towards future proof societies lies in improving the energy efficiency of the built environment. Whether this can be achieved through natural market behaviour of actors in the real estate market is questionable. Desirable developments for society, such as energy efficient buildings, often need some form of policy intervention in order to be achieved (Gillingham et al., 2009). Governments have therefore introduced policies that aim to reduce energy consumption and improve the energy efficiency of buildings. Examples of such policies in the European Union include minimum energy performance standards (MEPS) (Economidou et al. 2020).<sup>1</sup>

One such policy in the Netherlands comprises a minimum EPC requirement of energy label C for Dutch office buildings (OB's) per 1 January 2023 (RVO, 2023).<sup>2</sup> Even though it had already been known for some time that this requirement was forthcoming, the government officially announced and incorporated this requirement into the Dutch Building Decree in November 2018 (Vastgoedjournaal, 2018; BZK, 2018). The requirement acts as an intermediate step towards the goals of the Paris Agreement and comprises the first MEPS for buildings in the Netherlands. However, there has been debate on the policy (Vastgoedmarkt, 2022a; Savills, 2022; AD, 2022; Vastgoedjournaal, 2022). Rather than questioning the aim of the policy itself, the debate focusses on the feasibility of the requirement, as 55 per cent of the office space does not comply to the requirement as of 1 January 2023, the date that the requirement effectuates (RVO, 2023). According to the Dutch minister of Housing and Spatial Planning, particularly smaller organisations lag behind in meeting the energy labels requirement for their OB's (NOS, 2022). This suggests there may be a difference among different types of office building owners (OBO's) in compliance to the requirement. Additionally,

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<sup>1</sup> For a comprehensive overview of EU energy efficiency policies for the built environment, we refer to Economidou et al. (2020).

<sup>2</sup> The minimum requirement of energy label C is subject to several exceptions. These exceptions will be discussed in the following Sections of this research.

there is criticism on the government because many of their own OB's do not meet the requirement (Vastgoedmarkt, 2022a).

The debate mentioned above, together with the status quo of government OB's, suggests a relatively large share of stakeholders is not willing or able, or both, or even well aware of the necessity to adopt the requirement in time. The policies' effect may therefore be suboptimal, as evidently not all stakeholders are onboard. Suboptimal sustainability policies hamper the potential progress towards sustainable societies. It is therefore important to investigate this energy efficiency policy and explain the large deviation of the realised results from the policies' aim. As the Netherlands and the EU aim for a climate neutral continent by 2050, the future will involve increasingly frequent and drastic sustainability policies, such as possibly extending the energy label requirement for OB's to energy label A in 2030 (Duurzaam Gebouwd, 2022). It is therefore vital to understand the failures and best practices of this Dutch energy label policy.<sup>3</sup> Understanding of this policy can promote optimal practice of future energy efficiency policy and ultimately lead to more sustainable societies and liveable environments.

## **1.2 Literature review**

In order to adequately assess the Dutch minimum energy label requirement, we first discuss literature on general governmental policy, and subsequently aim to narrow down to sustainability policy and the real estate sector.

Hoogerwerf (2021) defines policy as the endeavor to achieve objectives using means and time-bound choices. In an overview on policy science, Hoogerwerf et al. (2021) discuss both (in)effective policy elements and the general policy process. According to Hoogerwerf (2021), policy constitutes objectives, instruments and time-bound choices, that serve to answer a problem. With regard to these constituents, Hoogerwerf (2021) discusses general best practices for successful policy.

In the initial stage of the motivation for the policy, Hoogerwerf (2021) argues that the particular problem description influences the selection of objectives and instruments by which the government tackles the problem. It follows that a well-thought-out and adequate problem description in an early stage is important for the further course of a successful policy. The subsequent choice of policy instruments is based on assumptions. Knowledge of these assumptions is essential. If these assumptions are not tenable, "it is likely that the policy will not be effective, not be appropriate and not be reasonable" (Hoogerwerf, 2021, p.17). A brief analysis of the explanatory memorandum of the Dutch energy label C policy (ELCP) already reveals some assumptions to be false in hindsight (BZK,

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<sup>3</sup> The large potential value of scientific research for policy practices in sustainability of the built environment is also recognized by Van Bueren & De Jong (2007).

2018).<sup>4</sup> Subsequently, proper application of the chosen policy instruments with regard to the chosen objectives, increases the likelihood of effective policy (Hoogerwerf, 2021). Finally, the use of the third constituent of policy (time-bound choices) is important, as policy objectives and instruments often implicitly or explicitly refer to time (Hoogerwerf, 2021).

Successful policy generally consists of well-defined policy phases. In order to analyse policy, Hoogerwerf (2021) identifies six policy phases that typically constitute all elements in the course of a policy: (1) agenda setting, (2) policy preparation, (3) policy determination, (4) policy implementation, (5) policy compliance and enforcement, and (6) policy evaluation.<sup>5</sup>

Based on the 55 per cent compliance rate per 1 January 2023 (RVO, 2023), we can already deduce that the phase of policy compliance of the ELCP likely falls short. As contributors to the lack of (consumer) compliance on energy efficiency measures, Gillingham and Palmer (2014) document market failures, such as imperfect information and financing constraints, as well as behavioural failures, such as reference-dependent bias.<sup>6</sup> Although their research is focussed on consumers, Gillingham and Palmer (2014) state that “firms may face many of the same issues in their efficiency investment practices as consumers” (p.19). Their findings may therefore be relevant for the entire spectrum of Dutch OB’s owners. With regard to policy enforcement of the ELCP, Dutch municipalities are responsible. However, the capacity and willingness to enforce appear to differ per municipality (NOS, 2022a). In the literature, these are common explanations for the lack of policy enforcement (Mastenbroek & Versluis, 2021). We argue that the lack of capacity to enforce has its roots in the decentralization of national government tasks and competences to municipalities. Studies show that as a result of decentralization, municipal decision-making capacity falls short, the guiding and controlling role of municipalities is weakened, and municipalities usually fail to formulate their own policy for their decentralization tasks (Boogers & Reussing, 2019). An explanation for the low willingness to enforce might be the unwillingness to impair the local economy by closing OB’s

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<sup>4</sup> The document states that once the policy comes into effect in 2023, the new Environmental Act and its own system and terminology is already familiar to municipalities. According to the document, this Environmental Act should enable enforcement bodies (municipalities) to enforce the energy label requirement in a tailor-made manner. This implies more effective enforcement of the policy. However, the introduction of the new Environmental Act suffers from massive delay, and will not come into effect until at least 2024.

<sup>5</sup> For each policy phase, Hoogerwerf (2021) identify various elements that influence the effectiveness of the phase. We will discuss these elements in Section 2.

<sup>6</sup> Reference-dependent bias is an example of loss aversion; the tendency of humans to avoid losses more as opposed to acquiring gains. In this case, the reference point is zero payoff, i.e. consumers may have no reference in gains of energy efficiency investments and therefore rather avoid the initial loss of the investment.

(Mastenbroek & Versluis, 2021).<sup>7</sup> Non-compliance and lack of enforcement do not only hinder policy effectiveness, they also undermine the legitimacy and credibility of the public governance (Mastenbroek & Versluis, 2021).

Van Bueren and Ten Heuvelhof (2005) stress the importance of the institutional context under which sustainability policies are formulated and implemented. The authors find that policy of a compelling nature, in which existing patterns between actors are ignored, is less effective than policy of an adaptive and institutional-context-specific nature. Additionally, the authors find that the extent to which actors are enabled to reframe the proposed arrangements of the policy is decisive to the policy's success. However, the explanatory memorandum of the Dutch energy label policy indicates that this best practice has not been optimally followed (BZK, 2018).<sup>8</sup> Further investigation is therefore necessary.

This study is the first to specifically investigate the Dutch energy label C policy (ELCP). Furthermore, we observe a lack of literature on MEPS policies where the intended effects significantly differ from the realised effects. Particularly in the field of energy efficiency for commercial real estate, we identify a gap in the literature. Therefore, we aim to fill this gap in the literature. Being the first investigation into this policy, along with the aforementioned gap in the literature, we can uncover essential mechanisms for effective policy in this field. Effective policy can ensure a more energy-efficient built environment, which can be valuable for more sustainable societies. Additionally, this research can serve as a valuable foundation for future studies into increasingly emerging energy efficiency requirements.

### **1.3 Research problem statement**

In literature on energy efficiency policy for commercial real estate, analyses that explain why policy outcomes deviate substantially from its objectives are of great importance. The ELCP, as subject of this research, is the first MEPS to be introduced for buildings in the Netherlands. Moreover, energy performance certificates, being the most widely adopted 'sustainability label' for buildings in

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<sup>7</sup> In the literature, the general term for this phenomenon is 'regulatory capture' (Dal Bó, 2006), which signifies that enforcement bodies are less willing to enforce strictly, as it may damage their relationship with the target groups and/or hurt the enforcement body financially.

<sup>8</sup> The policy document reveals that the Association of Dutch Municipalities (VNG) opted for the removal of a hardship clause, which would form an exception on the policy for OB's that required energy efficiency investments with a payback period of more than ten years. The VNG argued that the hardship clause would limit effective enforcement of the policy. However, market parties opted for keeping the hardship clause, arguing that it is essential for special individual cases. It was decided to give more weight to the latter argument, thereby keeping the hardship clause.



the EU, are likely to become increasingly adopted in the future, as the Dutch and EU economies strive for climate neutral built environments in 2050. Research on best policy practices of MEPS is therefore of great importance.

This research therefore aims to fill this gap in the literature, by providing a thorough analysis of the (in)effectiveness of the Dutch ELCP:

This study therefore asks:

*What explains the gap between intended and realised results of the minimum energy performance policy for Dutch OB's?*

Adopting the following sub-questions:

- 1. What insights does literature contain on the effectiveness of governmental policy in general and energy efficiency policy for office / commercial real estate in particular?*
- 2. What are the empirical findings on the (in)effectiveness of the Dutch policy regarding the minimum energy label for Dutch OB's?*
- 3. What do the findings say when subdivided based on type of office building owners?*

We adopt qualitative research methods. We collect data by conducting semi-structured stakeholder interviews and collecting various government documents regarding the ELCP. Through structured analysis of interview transcripts and policy documents, we provide insights into why the ELCP has not produced the intended effects thus far.

## **Outline**

The remainder of the study is organised as follows. Section two constructs an elaborate theoretical framework on the processes and factors that influence the (un)successfulness of government policy. This framework provides the basis to formulate our hypotheses. Section three outlines the methodology and data. Section four presents the results of our qualitative analysis. We provide the conclusion to this research in Section five. The research finalizes with the discussion of the finding in Section six.

## 2. Theoretical framework

To investigate the thus far unsuccessfulness of the ELCP for OB's, we need understanding of the processes and factors that influence a policy's (un)successfulness. Therefore, this section aims to construct a theoretical framework that explains the key processes and factors that influence a policy. We organise this theoretical framework based on the different policy phases as defined by Hoogerwerf (2021), already mentioned in Section 1.2. For each phase, we discuss key processes and factors that influence a policy's success. Based on this, we examine best practices and pitfalls.

### 2.1 Policy preparation – policy design<sup>9</sup>

According to Hoogerwerf (2021), adequate policy preparation entails two main activities: the design of policy, and the preparation of policy in networks of stakeholders. First, we discuss the former. Hoogerwerf (2021) identifies the two most commonly used criteria to evaluate the general quality of a policy: rationality (or reasonableness) and legitimacy (or acceptability). A policy is rational (or reasonable), when the reasoning on which the policy is based is sound and tenable, and thereby resistant to well-founded criticism. A policy is legitimate, when the policy is acceptable to those involved. This acceptability entails the extent to which stakeholders support the policy, and perceive it as correct and justified. These stakeholders include the ones who prepare, determine and implement the policy, as well as the individuals or organisations targeted by the policy, i.e., the target group. Research shows that rationality and legitimacy constitute important criteria for a policy's quality in real life policy practice (Hoogerwerf, 2021).

Hoogerwerf (2021) outlines a division of the policy design process, in which his starting point is the pursuit of policy that is as rational and legitimate as possible. His central assumption is that a policy is more likely to be rational or legitimate to the extent that it is based on *more reliable information* regarding: the policy problem, the causes of the problematic situation, the policy's objectives, instruments, implementation, and effects. The division of the policy design comprises eight steps:

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<sup>9</sup> Although we start with the phase of policy preparation, the first phase of the policy process concerns agenda setting. The central question of this phase is whether, and why, a societal problem enters the political agenda. The focus of this phase lies solely on the matter of whether and why a societal issue emerges as a topic that warrants policy. However, in this research, we aim to explain the (un)successfulness of the energy label requirement policy for Dutch OB's. Therefore, we argue that discussing the phase of agenda setting is not relevant to the aim of this research, as this phase does not contain processes or factors that influence the successfulness of the policy itself.

1. Analysis of the policy task
2. Analysis of the problem
3. Analysis of the causes and consequences of the problem situation
4. Formulation of the end objective
5. Consideration of policy instruments and their effects
6. The design of policy implementation
7. Weighing the costs and benefits
8. Formulation of the policy design

For the ELCP, it is important to examine *whether* and *how* these steps have been followed. We come back to these steps in the results section where we discuss the findings regarding the various policy phases.

## **2.2 Policy preparation - preparing policy in networks**

Policy preparation does not only entail a design thinking process, but also a social and political process (De Bruijn, 2021). By engaging in timely consultation and making agreements with governments and private organisations, the policy-making government can increase its policy options and success. For example, a larger support base can increase policy effectiveness (De Bruijn, 2021). In this *network approach*, policy makers engage in conversation with societal groups and thereby cooperatively design policy. This policy process involves a series of decisions made by different actors, which results in gradual development of policy.

Preparing policy in policy networks can have significant benefits. First and foremost, policy problems often transcend the boundaries of organisational domains and societal sectors (De Bruijn, 2021). Therefore, independently solving a policy problem effectively may be impracticable. When dealing with complex problems that lack clear solutions or approaches, governments often choose to perform policy development in networks, as the knowledge and cooperation of various actors are necessary to achieve effective policy. Second, interests and perspectives differ, which makes it difficult to independently establish an adequate policy strategy. Governments and other (private) parties are thus dependent upon each other (De Bruijn, 2021).<sup>10</sup> Next to cooperation with contributing parties, preparing policy in networks also enables the government to perform its task of hearing vulnerable societal interests.

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<sup>10</sup> This dependence may be threefold: (1) cooperation with the target group can increase the support base for the policy, which is likely to increase its effectiveness, (2) the government may not have access to sufficient financial means, and (3) the government may have inadequate power or knowledge of the problem (De Bruijn, 2021).

For optimal effectiveness, De Bruijn (2021) outlines multiple guidelines and best practices for the network approach of policy preparation. The proposed steps for policy preparation in networks shows strong similarities with the policy design discussed in Section 2.1. However, the network approach emphasizes the *process*, in which the right organisations must be brought together and the policy design steps are taken in cooperation. In the network approach, the government should acknowledge and understand the own rationality of the parties involved, as this can improve the interaction and cooperation. As cooperation is not simple and does not arise spontaneously, *network management* is important. Network management contributes to collective problem solving and the relationships and interactions between actors. At the start of the preparation process, conducting a stakeholder analysis can provide insight into the identity of stakeholders and the extent to which their interests are affected by the policy problem or potential solution. Ultimately, network management should primarily aim to achieve a solution that is acceptable and sufficient for all involved parties.<sup>11</sup>

The network approach also contains potential pitfalls. First, the balance between content and process can shift too much to the process. The network manager can prevent this by ensuring sufficient continuity and progress. Second, the compromise reached by the involved parties may not be an adequate solution to the actual policy problem. Continuous monitoring of the compromise in relation to the policy problem, also during the policy implementation phase, can be useful in this respect. A third risk is the overestimation of benefits and underestimation of costs. Preventing this risk is challenging. Governments should therefore acknowledge this risk and establish prior agreements on unexpected costs or benefits.

### **2.3 Policy determination**

An adequate execution of policy preparation enables a suited foundation for the determination phase. Herweijer (2021) refers to policy determination as making decisions about the content of policy. Policy determination also entails rights and obligations. Citizens and organisations can legally, politically, and publicly hold government officials accountable for delivering the policy performances announced during the policy determination phase (Herweijer, 2021).

Policy determination entails the combination of two activities: making a decision and reaching agreement with other authorities on this selection (Herweijer, 2021). Crucial in selecting the most effective instrument, is the ability to make sound and timely judgments, as well as access to reliable, recent and relevant information. Assuming this process of decision making results in the optimal

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<sup>11</sup> Network management has proven effective, primarily because (1) participants in the policy process may change, (2) the reached agreements must be documented, and (3) progress and agendas for the various phases of the policy must be monitored (De Bruijn, 2021).

solution to the policy problem, agreement with other authorities should be reached to ensure that the selected solution becomes actual policy. This predominantly requires effective negotiation and persuasive communication, as well as other authorities that are willing to make compromises (Herweijer, 2021).

## **2.4 Policy implementation**

Subsequently, the policy must be implemented and the selected measures must be put into practice. The implementation of government policy often occurs through an interaction between employees of implementing organisations and the target group (Coolsma & Van Montfort, 2021). On the one hand, the implementation process involves objective-oriented actions of the implementing organisations: the *policy performances*. On the other hand, implementation also includes the behaviour of the target group in response to these policy performances, i.e., the *primary policy effects*. Ultimately, the policy performances of implementing organisations and the reactive behaviour of the target group will together have *societal effects* (the outcomes).

A key theme in the phase of policy implementation is *conformity* (Coolsma & Van Montfort, 2021). Ideally, the degree to which the policy implementation corresponds with the determined policy is high, i.e., the degree of conformity is high. Conformity can occur in the three effects mentioned in the previous paragraph. However, the phase of policy implementation mainly focuses on the former, i.e., the policy performances. We therefore aim to identify and understand the factors that influence the conformity of the policy performances of implementing organisations.

Coolsma & Van Montfort (2021) provide characteristics of four factors that are of great significance to the degree of conformity of policy performances: environment, policy and policy theory, implementing organisations, and implementing officials. It is important to note that these factors interact with each other. The environmental factor comprises four characteristics: the economy, technological environment, operating environment and political governance. Economic downturn can entail significant cutbacks, leading to higher workload and decentralization of government tasks (Coolsma & Van Montfort, 2021). Availability of new technology may enable solutions for an existing problem. For the operating environment, the primary factor is the target group and their awareness of the policy, their internal organisation or lack thereof, and their ability and willingness to comply. The fourth environmental characteristic mainly concerns the dependence on the political governance to which the policy implementers are accountable. This dependence can function supportive or restrictive. An example of the latter is the overruling of enforcing municipal officials by the political governance.

The second factor that influences the conformity of policy performances are the characteristics of the policy and the policy theory. With regards to the policy, as a result of a lack of consensus in the policy determination phase, policy objectives can lack clarity and detailed elaboration. Additionally, there may be a lack of consensus on the distribution of tasks and instruments. A second characteristic of the policy that can impede the conformity of policy performances is the level of ambition of the policy. Highly ambitious policy that requires major adjustments in the implementing organisation, requires more time. In addition, highly ambitious objectives can lead to cynicism in the implementing organisation or resistance from target groups.

The policy theory also influences the conformity of policy performances. Hoogerwerf (2021) defines the policy theory as the whole of assumptions on which a policy is based. The correctness and acceptability of these assumptions are important for the course and outcomes of the policy implementation.<sup>12</sup>

The third factor that influences the conformity of policy performances concerns the implementing organisation. Policy implementation contains two forms of relations between organisations. First, implementation takes place in *horizontal policy networks* when the implementation depends on various market parties or private initiatives. Adequate policy guidance will mainly have to be established through binding agreements based on equal communication. Second, *vertical hierarchy* consists within the government. The vertical hierarchy can take on two forms: the vertical system of governance layers, and the political-administrative relationships between individual government agencies. As a certain degree of autonomy exists within each level of governance, the implementation process always involves some continued policy adjustment. Policy implementation through vertical interaction between government layers can therefore limit the degree of conformity, as the factually implemented policy may increasingly differ from the policy determined earlier. According to Coolsma & Van Montfort (2021), national policy implemented by municipalities therefore requires adequate communication between the responsible ministry and municipalities. However, this may be challenging, as the Netherlands consists of 342 municipalities (Rijksoverheid, 2023).

The fourth and final factor that influences the degree of conformity of policy performances are the characteristics of the policy implementers. Four characteristics of policy implementers can increase the degree of conformity: knowledge, ability, willingness, and obligation of the implementers. More *knowledge* of the policy content prevents interpretation of the situation based on personal insights of

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<sup>12</sup> Firstly, *normative assumptions*, can lead to resistance when the policy implementer or target group disagrees with these normative assumptions. Other important assumptions are *causal assumptions*, on perceptions about causes and consequences, and *final assumptions*, on the functioning of chosen instruments. Gaps, ambiguities or factual inaccuracies in these assumptions can lead to an increasingly experimental character of the policy, in need of continuous adjustment, and ultimately policy failure (Coolsma & Van Montfort, 2021).

the implementer, and therefore tends to increase conformity. The *ability* of the implementer concerns the implementers' competence and the access to resources such as legal powers, financial means, and technical resources. The *willingness* of the implementer comprises the motivation to implement the policy in a conforming manner. Relevant aspects to this motivation are the extent to which policy implementers agree with the policy objectives, the instruments they may apply, and the implementers' acceptance of the policy's imposed behavioural requirements. When the objectives and instruments of the policy increasingly diverge from the (personal) motives of the implementers, conformity tends to decrease. The *obligation* of the implementers concerns the extent to which they are forced to act in a certain way. Clear and strict internal guidance may leave little room for policy implementers' own judgments, and can thereby increase conformity. However, this may also have counterproductive effects, as implementers may resist this constraint.

## **2.5 Policy compliance & enforcement**

In this section, we aim to outline the mechanisms that influence the failure and success of policy compliance and enforcement. Policy compliance is often referred to as the Achilles' heel of policy (Mastenbroek & Versluis, 2021). Target groups may generally not comply with policy due to cognitive, instrumental, or normative explanations (Mastenbroek & Versluis, 2021). The *cognitive explanation* states that target groups are not aware of or do not understand the policy. The key factors of this explanation are the findability, a clear overview, the complexity, and the comprehensibility of the policy. The *instrumental explanation* sees individuals as rational actors who weigh the costs and benefits of different courses of action with regard to complying to the policy. These individuals make a rational decision that yields them the most 'utility', which can either entail compliance or non-compliance. The key factors of this explanation are: the effort required to comply, benefits of non-compliance in terms of time or financial gains, and potential costs of non-compliance in terms of financial penalties or reputational damage. The *normative explanation* assumes that normative considerations guide people in their actions, i.e., individuals strive to behave as 'appropriate'. One key factor of this explanation is whether the specific policy aligns with the persons' moral beliefs. The second normative factor concerns general loyalty to authority. This entails that people tend to comply with legislation if they perceive the political system that creates it as legitimate, i.e., they acknowledge the right of the government to make binding decisions for society.

These three (non)compliance explanations provide an important basis for effective enforcement instruments (Mastenbroek & Versluis, 2021). In general, a light enforcement instrument may suffice as long as heavier instruments are available that serve as a last resort. The lightest forms of enforcement are *informing*, *educating* and *convincing*. These instruments aim to improve the knowledge of the target group, influence their weighing of costs and benefits of non-compliance, or

influence their social norms. Especially for new policy, informing and educating are crucial (e.g. to reduce ignorance). However, a challenge is the increasing difficulty to reach different societal groups with a single communication tool. Therefore, a crucial condition for adequate enforcement, is the availability of information on the factual degree of compliance.<sup>13</sup> In line with this, heavier enforcement instruments include *overseeing* and *detecting* non-compliance, and subsequently *warning* and *sanctioning*. These instruments aim to strongly influence the weighing of costs and benefits of non-compliers. As all enforcement instruments have their own advantages and disadvantages, a combination of instruments based on the type of transgressor proves most effective (Mastenbroek & Versluis, 2021).

A more concrete instrument concerns the ‘Table of Eleven’ (Tafel van Elf), which was once developed on behalf of the Dutch Ministry of Justice (Mastenbroek & Versluis, 2021). This model is relatively comprehensive, as it includes each of the cognitive, normative and instrumental explanations for (non)compliance. Based on eleven questions, the enforcer can systematically identify both potential compliance bottlenecks, as well as opportune enforcement instruments. The Table of Eleven (table 1 below) contains five conditions for spontaneous compliance. If these five conditions are met, policy compliance will tend to occur spontaneously.

Table 1. The Table of Eleven. Source: Mastenbroek and Versluis (2021).

<b>Dimensions of spontaneous compliance</b>	
1.	Knowledge of policy (well-known and clear policy → higher chance of spontaneous compliance)
2.	Costs and benefits (low costs of compliance → higher chance of spontaneous compliance)
3.	Degree of acceptance (high acceptance of the policy → higher chance of spontaneous compliance)
4.	The target group’s loyalty to norms (high loyalty to authority → higher chance of spontaneous compliance)
5.	Non-government control (high chance of social control by family, nearby or competitive companies → higher chance of spontaneous compliance)
<b>Enforcement dimensions</b>	
6.	Report chance (high chance that non-compliance is reported → higher chance of compliance)
7.	Oversight chance (high chance of oversight by enforcer → higher chance of compliance)
8.	Detection chance (high chance that non-compliance is detected → higher chance of compliance)
9.	Selectivity (high frequency of selective and targeted oversight → higher chance of compliance)
10.	Penalty chance (high chance that detected non-compliers receive a penalty → higher chance of compliance)
11.	Penalty severity (high penalty → higher chance of compliance)

<sup>13</sup> This information is largely available for the compliance to the ELCP: the Dutch government has a public database that contains all registered office building energy performance certificates. However, for some buildings of which the registered function is ‘office’, the actual function may differ. Additionally, it is partially unclear which OB’s fall under the exceptions for which the energy label requirement does not apply.



If one or more of the first five dimensions display problems, the six enforcement dimensions will have to influence the costs-benefits weighing of non-compliers. However, the initial policy should still focus on favourable conditions for spontaneous compliance. Ensuring that citizens and companies judge positively on the legitimacy of the government can be particularly effective.

However, the access to enforcement instruments does not ensure actual enforcement in practice. To enable actual enforcement, four crucial conditions have to be met: an authorized enforcing organisation, sufficient expertise, sufficient capacity, and sufficient enforcement willingness. The individual enforcers should understand exactly what to enforce, as well as possess legal expertise on the procedures of the specific policy. Additionally, the enforcing organisation needs sufficient capacity to actually enforce the whole of regulations for which it is responsible. The final crucial condition for adequate enforcement is the willingness to enforce. Similar to target groups, we can consider enforcing organisations as strategic actors that maximize benefits and minimize costs. Even though enforcers are expected to enforce loyally and devotedly, personal political considerations can play a conflicting role. Enforcers may also build up a sense of connection with the target groups they have to oversee, which decreases their urge to enforce strictly.<sup>14</sup> Another factor that influences the willingness to enforce, concerns the political pressure. Low political pressure and a low political support base to enforce strictly generally influence the attitude and considerations of the enforcing organisation towards lower willingness to enforce, and vice versa.

The preceding demonstrates that enforcers generally must set priorities on where to direct their attention, and what to initially overlook. There are too many regulations for the number of enforcers available to oversee them all. Therefore, there must be an appropriate balance between the costs of enforcement and the benefits of improved compliance and the consequent reduced risks.

## **2.6 Policy evaluation**

The final phase of the policy process concerns policy evaluation. Policy evaluation comprises the assessment of the observed content, processes or effects of a policy, based on specific criteria. We will cover this phase in Section 3 on methodology, where we discuss best practices for policy evaluation.

## **2.7 Conceptual framework**

We schematically represent the key processes and factors of the policy phases discussed in the preceding sections in figure 1 below.

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<sup>14</sup> The general term for this is regulatory capture. See section 1.2.

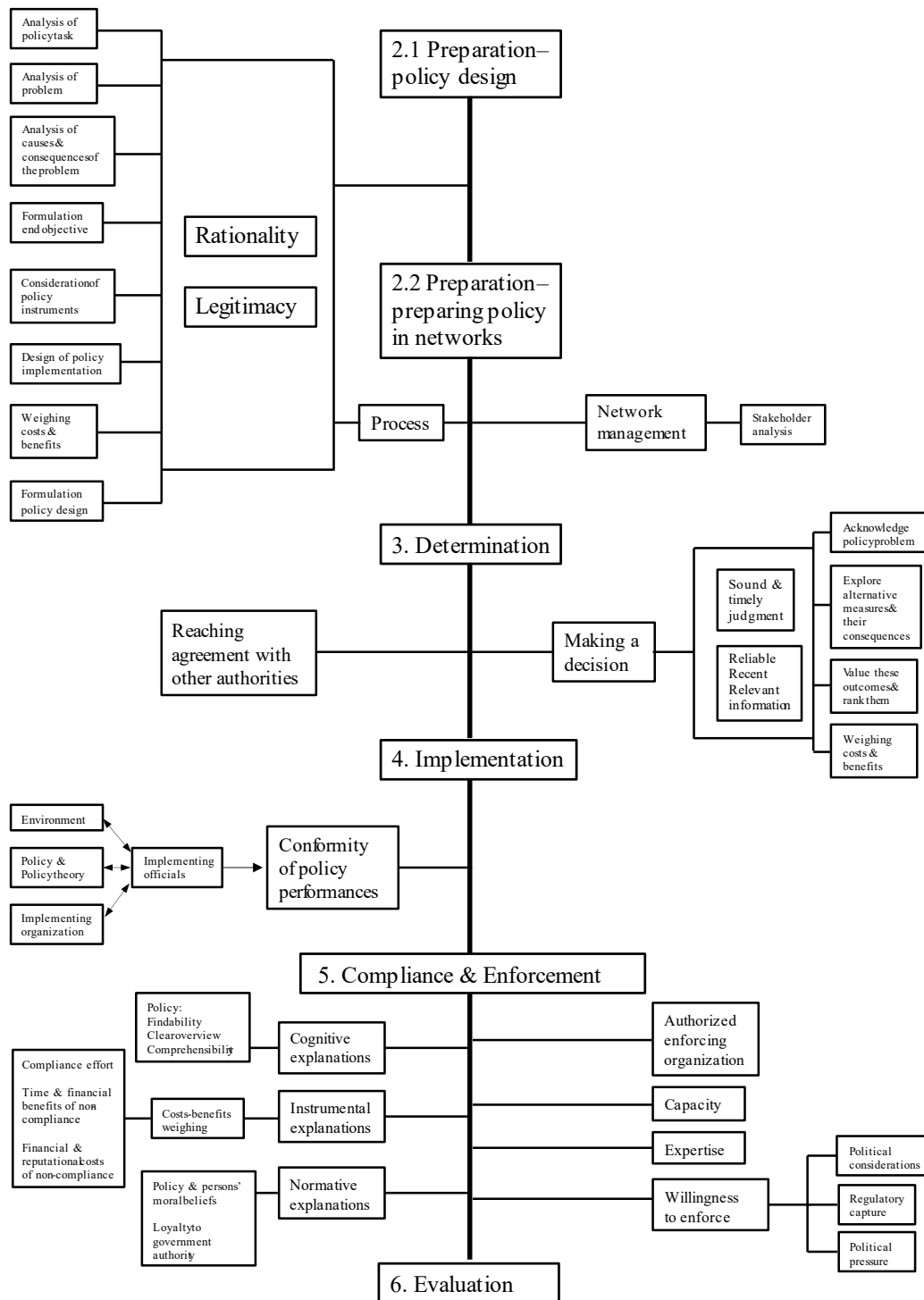


Figure 1. Conceptual framework that represents the processes and factors of the various policy phases Source: author.

For each policy phase we discussed, figure 1 outlines a relatively complete overview of the key steps, processes, factors and conditions that are relevant to policy and its (un)successfulness. Evidently, the figure can only represent so much of the theoretical framework while maintaining clarity.

Additionally, being knowledgeable of the aforementioned theoretical framework is important for

understanding the conceptual framework. Essentially, the figure aims to schematically represent the entire theoretical framework as constructed above. Even though the figure simplifies reality, it does depict the complexity of the policy process and the multitude of factors that influences the policy process and ultimately the policy's (un)successfulness.

## 2.8 Hypotheses

Based on our existing knowledge of the policy together with the theoretical and conceptual framework as constructed above, we propose the following hypotheses.

*H1: The following factors explain the unsuccessfulness of the Dutch energy label policy thus far:*

- The element of reaching agreement with other authorities has not been met (policy determination phase in figure 1 above).
- The policy theory of the Dutch energy label policy is not sound (implementation phase in figure 1 above).
- There is low capacity and willingness to enforce the policy (compliance and enforcement phase in figure 1 above).
- Non-compliance behaviour of OBO's due to the lack of information about the policy, the weighing of costs and benefits, and the loyalty to government authority in this specific context (compliance and enforcement phase in figure 1 above).

These factors originate from policy theory and are discussed in the previous sections. The following news sources have documented issues of the Dutch policy that relate to these factors (Vastgoedmarkt, 2023; VNG, 2022; NOS, 2022a; Vastgoedmarkt, 2022a).

*H2: Institutional investors show the highest level of compliance to the energy label policy, as opposed to the government and private investors, based on the following considerations:*

- Annual reports of Dutch institutional investors in OB's show a high degree of attention given to the energy label of their OB's (Bouwinvest, 2022; ASR Real Estate, 2021; NSI, 2022).
- Although the government may be expected to lead the way in terms of complying to their own policy, news articles suggest that the government lags behind in terms of complying to the requirement of energy label C for their OB's (NOS, 2022a; Vastgoedmarkt 2022a).  
Additionally, news articles suggest that the shortage of government staff can be another reason why the government cannot take a leading role in major contemporary challenges in the built environment, such as the energy transition (Vastgoedjournaal, 2023).

The above hypotheses contain factors that are based on the theoretical framework outlined in the preceding sections. The reasons to hypothesize that these factors answer our research questions, are suggestions made in news articles, and therefore do not constitute scientific insights and evidence. In the remainder of this research, we aim to fulfil the aim of this research and test the previous hypotheses.

## **3. Methodology & Data**

### **3.1 Policy context**

In this section, we provide context of the ELCP.<sup>15</sup> This information is derived from the explanatory memorandum of the ELCP: BZK (2018).

The reason for the ELCP is the Energy Agreement for Sustainable Growth, which was signed by over 40 parties in 2013. These parties also agreed to strive for an energy-neutral built environment by 2050, with the intermediate step of achieving label A for all buildings by 2030. In addition, the goal from the coalition agreement of 2017 was added: a 49 per cent reduction in CO<sub>2</sub> emissions by 2030. The National Energy Outlook in 2015 revealed that two out of the five objectives of the Energy Agreement could not be met in a timely manner. It was found that autonomous energy savings of OB's in the following years would be too limited compared to the set saving goals. Therefore, additional measures were devised to achieve the intended energy savings targets. The ELCP for offices per 2023 is one of those measures.

According to the explanatory memorandum of the policy, a formal label requirement was necessary because it was found that the voluntary measures, fiscal benefits, and subsidies at that time were insufficient to achieve the required energy savings. An energy label C minimum was chosen because a less stringent label would not achieve the set savings goals.

The ELCP applies to all Dutch OB's. However, the following four OB's are exempt from the requirement:

- Office buildings with an LFA for office functions less than 50% of the total LFA of the building to which the office building belongs
- Office buildings where the total LFA of office functions and ancillary functions thereof in the building to which the office building belongs is less than 100 m<sup>2</sup>
- National monuments

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<sup>15</sup> Throughout this research, we refer to the energy label C policy as ELCP.

- When the measures necessary to achieve energy label C have a payback period of more than 10 years, measures that have a payback period of up to and including 10 years suffice. In those cases, the corresponding energy label suffices.

According to the explanatory memorandum of the ELCP, the main underlying reason for these exceptions is to prevent certain office building owners from having to make unreasonably high investments (BZK, 2018). However, we assume that these exceptions to some extent devalue the government's objectives. Of the total 144 million m<sup>2</sup> office space in the Netherlands, the Dutch national land registry agency (Kadaster) reports that 53 per cent of the floor area is 'highly likely' to be subject to the requirement, 35 per cent is 'likely' to be subject to the requirement, and twelve per cent is exempt from the requirement (Kadaster, 2022). These qualifications are based on the address function indicated by the Basic registration of Addresses and Buildings (BAG). However, these numbers are not entirely accurate and should therefore be considered as indicative (Kadaster, 2022). These exceptions therefore appear to devalue the government's objectives to some extent, but nevertheless, the requirement appears to target the vast majority of Dutch office space.<sup>16</sup>

### 3.2 Qualitative approach

Because the aims of this research match those of an ex-post policy evaluation, we consider an approach for researching and evaluating policy as outlined by Winter (2021). Winter (2021) outlines an explanatory *effectiveness approach* to assess a policy. As this research primarily aims to explain, we will shortly outline this effectiveness approach. Winter (2021) defines a policy's effectiveness as the contribution that the application of chosen policy instruments makes to the policy objectives. The effectiveness approach essentially comprises a causality approach, which requires conditions that are practically unfeasible in a societal context.<sup>17</sup> Thus, a commonly used alternative involves the use of qualitative data (such as interviews), to establish the plausibility of the relationship between the policy instruments and the observed change (or lack thereof) (Winter, 2021). Therefore, this research makes use of a qualitative approach through semi-structured interviews with key stakeholders.

Qualitative research entails large advantages in understanding phenomena such as the complex functioning of policy instruments (Sofaer, 1999; Hennink et al., 2020). By employing qualitative methods, researchers can delve into the intricacies of the research issue and emphasize and understand the research phenomenon's context (Sofaer, 1999). Open-ended questions enable in-depth exploration

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<sup>16</sup> We cannot determine the share of OB's of the total Dutch built environment.

<sup>17</sup> These conditions comprise (1) a correlation between the intervention (use of instruments) and the observed changes in the target variables; (2) the change must follow the intervention over time; and (3) the influence of third variables must be excluded. This experimental approach to policy evaluation often is not feasible due to legal and ethical reasons. Both legally and ethically, a policy cannot create a control group by excluding part of the target group.

of the experiences, perspectives, and motivations of key stakeholders involved in various phases of the policy process (Sofaer, 1999). Qualitative research can thereby uncover the broad range of factors that shape the policy outcomes and the context in which these factors operate. This approach allows researchers to capture the nuanced and multifaceted nature of the policy process, going beyond numerical indicators (such as the percentage OB's compliance to the ELCP), to understand the underlying reasons and mechanisms at play. Moreover, qualitative research facilitates the identification of unanticipated and unintended outcomes, shedding light on the complexities and potential gaps between policy intent and result. By providing rich and contextually grounded data, qualitative research contributes to a comprehensive understanding of the factors influencing policy outcomes, and is thereby able to inform more effective policy interventions (Sofaer, 1999).

We collect qualitative data by conducting semi-structured interviews and collecting policy documents. Semi-structured interviews are the most widely used method for qualitative data collection (Kallio et al., 2016). This method entails a set of predetermined open-ended questions, whereby other questions can emerge from the dialogue (DiCicco-Bloom & Crabtree, 2006). This approach constitutes a flexible yet focused approach, allowing us to investigate the intricate factors contributing to ELCP's results (Kallio et al., 2016). This flexibility enables us to capture emerging factors and unexpected insights, allowing for a comprehensive exploration of the factors influencing the ELCP outcomes. Another advantage of semi-structured interviews constitutes the verbal expressions provided by respondents, which provides additional insight into respondent's perceptions (Kallio et al., 2016). We base our interview questions on our theoretical framework of Section 2, as advocated by (Kallio et al., 2016).

We collect policy documents produced by government bodies in the context of the ELCP. These documents include the explanatory memorandum of the policy and informing letters to municipalities and OBO's.

We do not follow a quantitative approach. This has multiple reasons. First and foremost, our main aim is to *explain* why a policy outcome differs from its intended outcome. This explanation may contain various factors that are unquantifiable, and yet unidentified. Although quantitative data are most suited for answering the third sub-question regarding owner type, we are unable to attain a proper dataset. This would require data on the owners of OB's. These data can be obtained from the Kadaster. However, acquiring a sufficient amount of data is very costly. Additionally, this process is highly time intensive since the data need to be requested one address at a time. We attempted to compose such a dataset by hand, but this time-intensive effort yielded insufficient data quantity and quality. Additionally, the Kadaster published a report regarding the 1 October 2022 status quo of the OB's ELCP, including a differentiation per owner type (Kadaster, 2022). Although the insights provided by this report are suboptimal for this research, we are unable to provide additional

quantitative insight. As we nevertheless aim to answer our third sub-question, we discuss the insights provided by this report in Section 4.5.

### **3.3 Semi-structured interviews and respondents**

Our main qualitative approach comprises semi-structured interviews with key stakeholders in the Dutch ELCP. We have interviewed a wide range of stakeholders, who altogether cover all discussed policy phases. We have conducted a total of eleven respondent interviews via online videocalls. The interview duration ranged from 30 minutes to 75 minutes. The interviews were conducted between April 17 and June 6, 2023.<sup>18</sup> The interviewed respondents are listed in table 2 below. Since not all respondents were involved in all policy phases, we also denote the policy phase(s) in which the respondents were involved or had knowledge about. As a result, along with the specific situation of each respondent, not all respondents received the same set of questions. Consequently, as demonstrated in Section 4, for some processes of the policy, only a subset of respondents was able to provide input.

Some respondents require clarification. For the policy advisor of the Ministry of BZK (#1, BZK), the ELCP is his/her portfolio. BZK started working at the Ministry of BZK in Q1 2021, and therefore was not directly involved in the early policy phases. However, BZK mentioned he/she has been well-informed about earlier courses of events regarding this policy. Next, the drafter of the implementation guide (#2, IPLO) works at the Information Centre Living Environment (IPLO), which is a government agency that provides additional policy guidelines for implementing organisations. IPLO has drafted the implementation and enforcement guideline (I&E guideline) for the ELCP for Dutch municipalities, which was published in July 2022 (IPLO, 2022). The four interviewed (#6-9) municipalities represent a wide spectrum of Dutch municipalities in the context of the ELCP. The large municipality (#6) is a clear front runner in terms of implementing the ELCP. The very large municipality (#7) qualifies as a front runner, but slightly less than the municipality of respondent #6. The medium sized municipality (#8) is a ‘medium adopter’ of implementing the policy, and the small municipality (#9) must be qualified as a ‘laggard’. The previous qualifications are based on the interviews as well as public news sources. The abbreviations for these municipalities are based on their implementation progress; MUN1 being the front runner, MUN4 being the laggard. Further, the interviewed institutional investor (#10), is a front runner in terms of energy efficient OB’s. Their portfolio features 90 per cent energy label A or better. Finally, the sustainability advisor (#11) works at a real estate company that owns 70 OB’s in the Netherlands. At the time of the interview, June 2023, this company owned four non-compliant

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<sup>18</sup> In the context of the ELCP, no significantly impacting events occurred during this period.

OB's in their portfolio, meaning these OB's do not feature energy label C or better, whilst these buildings are not exempt to the policy.

Table 2. List of interview respondents

#	Respondent function	Organisation	Organisation type	Policy phase(s) involvement / knowledge	Respondent abbreviation
1	Policy advisor	Ministry of Internal Affairs and Kingdom Relations (BZK)	Government - policy maker	All phases	BZK
2	Drafter implementation & enforcement (I&E) guide	IPLO	Supporting government agency	Implementation Enforcement	IPLO
3	Asset manager	National real estate company (Rijksvastgoedbedrijf)	Government – real estate department	Preparation Compliance	RVB
4	Policy advisor	Association of Dutch Municipalities (VNG)	Interest group for Dutch Municipalities	Preparation Implementation Enforcement	VNG
5	Former director	IVBN	Interest group for Dutch institutional real estate investors	Preparation Compliance	IVBN
6	Municipal official	Large Dutch Municipality (200k – 300k inhabitants)	Municipality	Implementation Enforcement	MUN1
7	Project leader ELCP	Very large Dutch municipality (> 500k inhabitants)	Municipality	Implementation Enforcement	MUN2
8	Municipal official	Medium sized Dutch municipality (100k inhabitants)	Municipality	Implementation Enforcement	MUN3
9	Municipal official	Small Dutch municipality (20k inhabitants)	Municipality	Implementation Enforcement	MUN4
10	Expert	Dutch institutional investor in office buildings	Institutional real estate investor	Compliance	INS
11	Sustainability advisor	Publicly traded real estate investor	Real estate investor	Compliance	REI

The selection of respondents was based on multiple criteria. The foremost criterion was whether the respondent might provide experiences, knowledge or opinions that can be relevant to explain the functioning of the ELCP, such as IPLO as drafter of the I&E guide, and VNG as representative of all implementing organisations (municipalities). Also, the criterion for the overall selection of



respondents was that all policy phases had to be covered. Another criterion pertained to the various types of office building owners that had to be questioned; the government, institutional investors, non-institutional real estate companies, and private investors. The latter owner type has not been covered, as due to numerous unsuccessful attempts, we were unable to schedule an interview with the Dutch interest group for private real estate investors (Vastgoed Belang). Yet, we did succeed in interviewing a real estate investor (#11) of which not all OB's comply to the policy. Further, the author attended a physical meeting partially focused on the ELCP, meant for municipalities.<sup>19</sup> Through this meeting, we approached three municipalities and BZK, with whom we scheduled interviews. For the municipalities at the meeting, we approached a front runner, a medium adopter and a laggard. Finally, three respondents (#3, #5, #11) were approached based on acquaintances from the author's professional network. Six organisations did not respond to e-mails or phone calls. We argue that all but one of these organisations, Vastgoed Belang, were sufficiently replaced through interviews with other organisations. We elaborate on this in Section 3.6.

To formulate our interview questions, we have operationalised the theoretical framework from Section 2. The interview questions were therefore based on the various policy phases. Since these questions form an elaborate list, we present these in the appendix.

### **3.4 Data**

In general, we consider the obtained qualitative data of proper quality and richness. The respondents were able to provide informative and insightful answers to the posed questions. Out of the total of 235 interview questions posed, 94 per cent of the questions was sufficiently answered. Six per cent could not be properly answered (thirteen questions). The main reason for this was the lack of involvement of the respondents in the specific situation addressed by the question. For example, the policy advisor of the Ministry of BZK was unable to provide extensive details regarding the policy preparation phase. Another example pertains to the asset manager of RVB, who, due to confidentiality, could not provide data on the energy labels of OB's owned by the national government. Furthermore, some questions had to be rephrased, as the respondents were unable to fully comprehend them. Yet, all questions, including rephrased questions, were phrased as neutrally as possible.

The interviews were recorded using computer software. Prior to posing interview questions, all respondents were asked their permission for recording the interview. All respondents gave their

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<sup>19</sup> This physical meeting was organised by IPLO and VNG, and was meant for all municipalities from the southern region of the Netherlands (IPLO, 2023).

permission. Subsequently, the recordings were transcribed. The following section elaborates on the data analysis.

### **3.5 Data analysis**

The interview transcripts were imported into a qualitative data analysis software program: Atlas.ti. To analyse the interview data, we coded the transcripts. Coding enables the identification of categories, patterns, factors and relationships (Clifford et al., 2016; Hennink et al., 2020). We adopted both deductive and inductive codes. Deductive codes are predetermined based on existing concepts and variables from the literature, and were based on the theoretical framework of Section two (Hennink et al., 2020). Conversely, inductive codes, also known as open coding, emerge from the analysis of the acquired data (Hennink et al., 2020). In our analysis, inductive codes pertained to concepts or factors that were mentioned by respondents, but do not exist in the literature as discussed in Section two.

The applied codes enabled us to provide insights by analysing respondent input about each concept or factor across all interviews. Each code enabled us to examine what each respondent mentioned regarding that specific code. In doing so, we could also examine the context in which the respondent's statements were made. This enabled us to identify the key statements associated with each code. Based on this analysis, we were able to identify patterns for each mentioned concept or factor, similar to a trend line in a graph. These patterns provided us with insights into the primary explanations for the current unsuccessfulness of the ELCP. The context, as indicated by the respondents, was consistently taken into account throughout the analysis. Ultimately, the analysis enabled us to construct the results of this research.

With regard to the policy documents at described in Section 3.2, we adopt the same analysis method.

### **3.6 Limitations & Ethics**

The data collection of this research is subject to several limitations. First, we were not able to interview the ideal set of stakeholders. The main limitation in this regard is that we were unable to conduct an interview with Vastgoed Belang. This interest group represents private real estate investors. Private real estate investors constitute an important owner group with regard to Dutch OB's. Additionally, some respondents mentioned that private investors predominantly own non high-end OB's, which are more likely to feature a poor, or no, energy label. Therefore, an interview with Vastgoed Belang could have yielded valuable insights. Vastgoed Belang also did not publish any comments or opinion regarding the ELCP. However, we did manage to interview a real estate company that owns four OB's that did not comply to the energy label policy (REI).<sup>20</sup> This respondent

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<sup>20</sup> Throughout this research, we use the abbreviations of table 3 to refer to respondents.

provided valuable explanations as to why their OB's do not comply, as well as valuable explanations why OB's in general do not comply to the policy . OB's Additionally, multiple other respondents have provided similar explanations. Therefore, we argue that these statements by other respondents partially compensate for the absence of an interview with Vastgoed Belang.

Second, as explained in Section 3.4, some respondents were not able to properly answer posed questions. The main limitation in this regard is that BZK was not employed at the Ministry during the initial policy phases. Although BZK could provide some insights regarding these phases, the respondent was unable to offer extensive details. Therefore, we could not obtain a comprehensive understanding of how the policy preparation and determination phases unfolded at the Ministry of BZK. Yet, based on statements by BZK and other respondents, as well as policy documents, we were nevertheless able to provide insight regarding the initial policy phases.

With regard to ethical research, we have adopted four important ethical principles, as outlined by Baarda et al. (2015). These principles constitute: participant briefing, voluntary participation, anonymity, and prevention of adverse effects for participants. Participant briefing consisted of an e-mail in which we described our research and the topics we aimed to address in the interview. Voluntary participation was clear to all and prior to each interview we asked permission to record the interview. Anonymity was upheld by refraining from using personal names, and refraining from using organisational names as much as possible. To exclude adverse effects, the respondents were anonymized, ensuring that their statements could not be attributed to them.

## **4. Results & Analysis**

In this section, we analyse the obtained data from our interviews. For each section, we discuss processes and factors per phase that influence the ELCP as described by the respondents. In addition, we discuss these processes in the light of the existing literature of Section two. We largely follow the structure of policy phases as outlined in Section two. We answer our third sub-question in section 4.5. We synthesize the results in the seventh paragraph, where we answer our second sub-question. We finish each paragraph with a schematic outline of the main results per policy phase.

### **4.1 Policy Preparation & Determination**

In general, respondents agreed that the ELCP itself is an adequate instrument. All respondents were asked to assess the rationality and legitimacy of the policy. As discussed in Section 2.1, rationality and legitimacy constitute the most commonly used criteria to evaluate the general quality of policy (Hoogerwerf, 2021). Respondents were asked the following question:

*“Do you think the decision for an energy label C requirement is rational and defensible, when considering the objectives and underlying rationale of the policy?”*

Of all ten respondents, nine respondents described the rationality as high. Respondents answered the question with *“a resounding yes”*, or *“I think’s its rational and well defensibleOB’s”*. The remaining respondent (INS) described the rationality as low, because he/she considers the policy as *“too mild, you should consider actual energy consumption”*. INS hereby indicates that a minimum energy label does not guarantee actual reduction of energy consumption. However, BZK mentioned *“the energy label system is the only objective way to assess a building’s energy performance, because if you consider actual energy consumption, there is no baseline”*.

Respondents were asked the following question with regard to the legitimacy of the policy:

*“How acceptable is the policy for those involved? Those involved can be anyone: OBO’s, implementing officials, enforcers etc.”*

Nine out of ten respondents described the legitimacy as high. Respondents answered the question with *“Yes, it’s acceptable, of course”* or *“yes, (reaching) energy label C is very easy”*. However, MUN4 mentioned: *“the State shifts many tasks to municipalities. And the municipalities are expected to handle it all. Whether this is realistic is questionable”*. The municipal official hereby questioned the acceptability of the policy for municipalities.

The main deviation in the policy design phase appears to be the absence of the design of the policy implementation. This conflicts with Hoogerwerf (2021), who suggests that the design of policy implementation should be part of the policy design phase. In this context, BZK was asked whether the preparation phase contained thought regarding implementation and enforcement by municipalities:

**BZK:** *“A little bit, but too little in that regard... the policy makers said they really assumed that all OB’s would have energy label C by January 1, 2023. So I said: really? So that genuinely was the expectation. So there was not given any thought to the possibility that some OB’s would remain on January 1, 2023. Eventually, of course some thought is given to it, by the ATR, which is the assessment committee for the implementation burdens (for municipalities)”*.

The latter statement, that the implementation burdens are assessed by a committee, is also mentioned by another respondent and the explanatory memorandum of the policy. However, this constitutes a general assessment of the burdens for municipalities, and does not contain a design of *how* a municipality can or should implement and enforce the energy label policy. The design of the policy implementation started in 2021, as indicated by BZK, when asked when there was given more thought to the policy implementation:

**BZK:** *“I believe I started it more or less, around 2 years ago (Q2 2021). That was when the preparation for oversight (implementation & enforcement) just started. That’s when I started working*

*with IPLO to write the implementation and enforcement guideline, aiming for a nationally consistent approach to oversight. Essentially, my goal, or rather the main underlying goal, was that municipalities would start to take action”.*

Indeed, IPLO mentioned that the Ministry of BZK instructed IPLO in 2021/2022 to develop a guideline for implementation and enforcement, and that the underlying goal was to stimulate municipalities to take action with regard to oversight and implementation of the ELCP. This I&E guideline was not published until July 2022, approximately half a year before the energy label requirement effectuated (IPLO, 2022). BZK also mentions that *“the idea was that municipalities would engage in stimulating oversight beforehand. So in that regard, it perhaps should have been published a year earlier, so that municipalities could have done more about that”*. We consider the consequences of the timing of this I&E guideline in the following sections.

With regard to the phase of preparing policy in networks, a relevant factor to mention, is that essentially all respondents were involved. This stakeholder involvement predominantly occurred through interest groups, such as the Association of Dutch Municipalities. Even though we have not interviewed Vastgoed Belang, the IVBN respondent mentioned this organisation has also been approached during the policy preparation phase. One potential stakeholder group which we did not interview, pertains to owner-occupiers. Owner-occupiers are not specifically represented by an interest group. Therefore, we cannot confirm if this potential stakeholder group was involved. However, our analysis does not suggest owner-occupiers to be an important potential stakeholder group. Therefore, based on our analysis, we do not consider impediments to the ELCP regarding the phase of policy preparation in networks.

With regard to the policy determination phase, two factors are relevant to this research. First, it is noteworthy that, even though no direct question was asked about it, three respondents mention that the ELCP is essentially a pilot policy: a similar energy label requirement has never been implemented before. This notion indicates that the policy effects were unknown. The second important factor is the access to reliable, recent and sufficient information with regard to policy determination (Herweijer, 2021). According to the explanatory memorandum of the policy (BZK, 2018), at the time of policy determination in 2017/2018, the estimate as to how many of the OB's did already feature energy label C or better, was based on the BAG. However, the BAG appears to contain incorrect information. Out of six interviews where the subject was discussed, all six respondents had experienced incorrect information in the BAG. IPLO describes this as:

**IPLO:** *“The BAG is lagging behind enormously, it's abnormal. We are now truly realizing this. We have conversations with the Ministry like: our registrations are not up to date, but nevertheless we want to increasingly base policies on the BAG.”*

Thus, the ELCP was based on (partly) incorrect information regarding the status quo of energy labels for OB's at that time. This incorrect information may have influenced important decisions for the policy and its strategy. As mentioned, the access to reliable, recent and sufficient information is crucial (Herweijer, 2021). Therefore, we argue that this factor may play an important role in explaining our research question. We discuss further implications of this impediment in the following sections.

**Schematic outline**

We present the main results for the phases of policy design, policy design in networks and policy determination schematically in figure 2 below. Based on the analysis in this section, we consider factors that positively influenced the functioning of these policy phases (left columns), as well as factors that negatively influenced the functioning of these policy phases (right column).

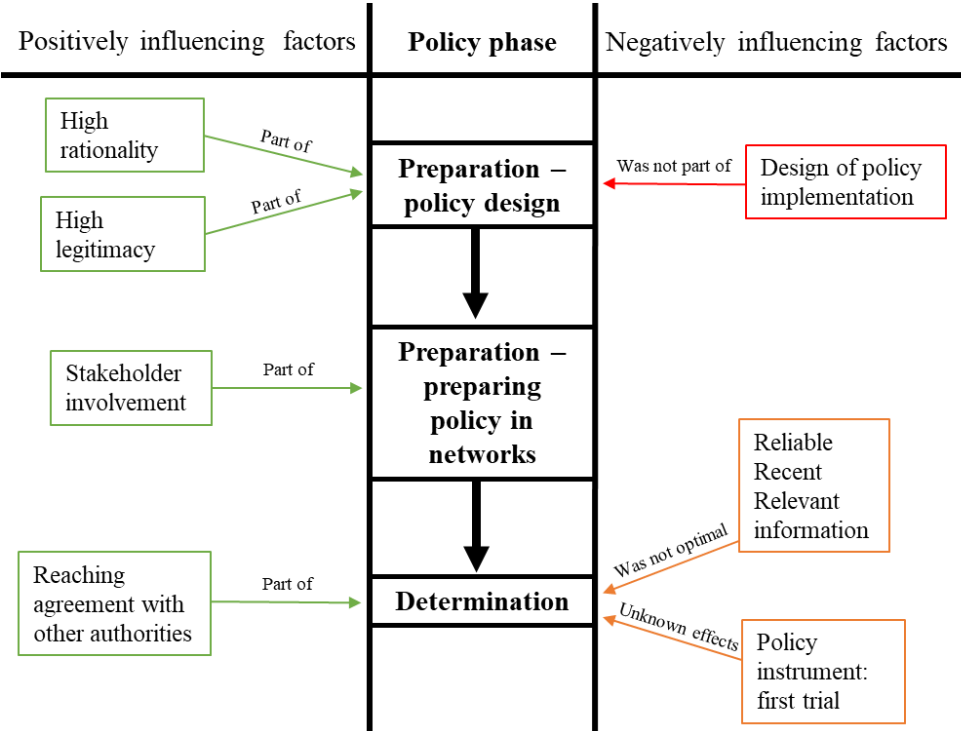


Figure 2. Schematic presentation of the main results on the phases of policy design, policy design in networks and policy determination. Viewing direction: top to bottom. Source: author.

**4.2 Policy Implementation**

The phase of policy implementation for the ELCP mainly concerns the objective-oriented actions of Dutch municipalities, i.e. the *policy performances* (Section 2.4). For the implementation phase of the ELCP, we found that it is primarily important if and when a municipality takes implementation action, i.e. whether and when a municipality starts the policy performances. We therefore first discuss important factors that influence whether a municipality takes timely implementation action. In the subsequent section on policy enforcement, we discuss factors that influence the effectiveness of

implementation and enforcement (I&E) by a municipality once it has started taking action. We make this distinction because we have observed significant overlap between the I&E phases, which for the ELCP should be considered as one integrated phase. This is because the policy performances of municipalities in the implementation phase, also fall under the enforcement actions, and vice versa. This is the case because for the ELCP, there is no actual enforcement (closure of OB's) yet: respondents unanimously agreed that municipalities will not close OB's at this stage.

Mainly environmental factors and factors related to the implementing organisation influence whether and when a municipality starts taking implementation action. An important factor comprises the political governance and support base for the policy. Out of seven interviews where these factors were discussed, all seven respondents indicated that the political governance and support base is an important factor that influences whether a municipality takes implementation action. The political governance can function both supportive and restrictive. An example of the supportive functioning is the large municipality of MUN1. This municipality is one of the nationally front running municipalities in terms of the ELCP. This municipality started taking action 2-3 years ago by determining which OB's fall under the requirement and actively informing the office building owners. This municipal official was asked:

*“Does the political governance influence the implementation of the energy label C policy?”*

**MUN1:** *“Yes...we had a combination between Green Deal Offices (another policy) and energy label C.... and the alderman really wants to take action on Green Deals...So yes, the package was really well-received by the politicians”.*

An example of the restrictive functioning of the political governance is MUN4. This municipality has decided to postpone oversight and enforcement to January 1<sup>st</sup>, 2024. The municipal official was asked:

*“The decision to postpone oversight and enforcement, is that a political decision as well?”*

**MUN4:** *“Yes that's a political decision. The board of Mayor and Aldermen has decided to postpone it to January 2024”*

**MUN4** explained: *“The government and not communicating well, that is an important factor (for the postponement). So if communication starts a year in advance, they cannot expect it to directly trickle down from the municipality to OBO's and for them to take immediate action. The government may say: they could have been aware. But that is, of course, easier said than done.”*

VNG also indicated that multiple municipalities have not yet taken action due decisions of the board of Mayor and Alderman.

The other main factors that influence whether a municipality takes early I&E action, concern the municipal capacity and the willingness of the municipal officials. According to IPLO, some

municipalities indicated they had sufficient capacity, and therefore decided to take early action. MUN1 of the large municipality that took early action, also mentioned that interns have greatly contributed to enlarge the implementing capacity, and enable early implementing action. With regard to the willingness of municipal officials, MUN1 mentioned the following:

**MUN1:** *“If we didn’t strongly agree to it (to the policy), we would not have delved into it as deeply.”*

When MUN1 was asked whether there was sufficient willingness to start implementation, the respondent answered “Yes”. Correspondingly, MUN4 of the small municipality that postponed implementation mentioned that municipal officials at his/her municipality did *not* agree to the policy, hence the postponement.

Another important factor, in line with the political support base, is whether implementation and enforcement of the ELCP are on the public and political agenda, as well as the communication from the Ministry to municipalities on the ELCP. The following descriptions illustrate this:

**BZK:** *“Often times it features in the media, that few offices comply, but that actually helps a lot... I might receive some parliamentary questions, but ultimately I’m also happy with it, because it generates more attention, and more urgency to take action for office building owners and overseeing authorities. And maybe, in hindsight, we could have done more in terms of communication”*

MUN1, when asked why implementation of the policy entered their municipal agenda:

**MUN1:** *“Getting more sustainable increasingly becomes, or has become increasingly important.”*

**MUN3:** *“The local newspaper has recently published quite negatively about how municipalities implement this. However, such coverage does help in a way”*

*“If the meeting<sup>21</sup> we recently had from the Association of Dutch Municipalities had taken place two years ago, we might have felt a greater sense of urgency and we had been able to take action earlier.”*

Another factor that relates to the previous factors, and that we argue to be of great importance to the overall effectiveness of the ELCP, is the timing of the policy implementation design. We have already mentioned the absence of the implementation design in the policy design phase in Section 4.1.

However, we argue that this absence impacts the policy’s functioning in subsequent phases. In terms of taking timely implementation action, we argue that the aforementioned factors of this section<sup>22</sup> may either influence a municipality to be a ‘front runner’, a ‘medium adopter’, or a ‘laggard’. The non front

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<sup>21</sup> In May 2023, the Association of Dutch Municipalities, together with IPLO, organised multiple meetings for municipalities, where, among other issues, the ELCP was discussed. The author attended one of these meetings.

<sup>22</sup> The political governance and support base, the municipal capacity and willingness of the municipal officials, the public and political agenda, and communication from the Ministry to municipalities.



running municipalities therefore needed some form of stimulation to nevertheless take implementation action. In July 2022, this has come in the form of the I&E guideline. The stimulating function of the I&E guideline was mentioned by two interviewed policy advisors.

**IPLO** (drafter I&E guideline): *“The hope was also that municipalities would become more inclined to take action more quickly (due to the guideline). They might think: oh this is ready to go, I can start working with this, instead of having to think through the whole process.”*

A similar description to the above has been given by BZK. From the descriptions provided by many respondents, it is evident that many municipalities currently follow the I&E guideline, which was published in July 2022. Subsequently, MUN3 and MUN4 noted that the timing and communication about the I&E guideline should have been done earlier and better. They stated that if the I&E guideline, a stimulus, would have been published and communicated earlier, it would have aided their municipalities in taking implementation action earlier. MUN4 provided some context in this regard:

**MUN4**: *“Yes, I have read the guideline... However, if you see that they (the Ministry) are only now coming up with that guideline, it indicates that progress is very slow everywhere.”*

Based on the preceding, we argue that this stimulus for non-front running municipalities, in the form of the I&E guideline, was published and communicated too late. This is also acknowledged by the policy advisor of the Ministry of BZK:

**BZK**: *“the idea was that municipalities would engage in stimulating oversight beforehand. So in that regard, it perhaps should have been published a year earlier, so that municipalities could have done more about that”.*

We discuss the further consequences of this seemingly poorly timed I&E guideline in Sections 4.4 and 4.7.

### **4.3 Policy Enforcement**

This section discusses the main factors that influence the effectiveness of the I&E process once a municipality has started taking action. As we consider the phases I&E as one integrated phase (discussed in the previous section), these factors influence the effectiveness of both the I&E of the ELCP.

First, two factors that influence the process of I&E concern the municipal capacity and willingness. In the previous section we discussed that these factors influence whether and when a municipality undertakes I&E action. These factors also influence the effectiveness of the actual I&E itself. Mastenbroek & Versluis (2021) also mention these factors (Section 2.5).

With regard to the municipal I&E capacity, the general statements were that (1) capacity may be an issue, but it also depends on whether priority is given to the ELCP, (2) capacity of legal professionals may be particularly limited once strict enforcement starts, (3) small municipalities experience more capacity issues than large municipalities.

With regard to municipal I&E willingness, the general statements were that: (1) municipalities are not willing to actually close down OB's, (2) municipalities strongly prefer informing and stimulating office building owners, (3) the political support base and the public and political agenda are important, (4) municipalities are more willing to start the I&E process when they believe it requires relatively little effort, and (5) small municipalities are more subject to regulatory capture than larger municipalities.<sup>23</sup>

Since municipalities are not willing to close down OB's, the municipalities that *have* started taking I&E action, have been informing and stimulating office building owners. A factor that greatly impeded this I&E process, is the reliability of information about which OB's should comply to the policy. Municipalities have received a list containing OB's inside their jurisdiction that should comply to the policy. This list is based on the BAG (discussed in Section 4.1). As mentioned, the BAG contains incorrect information. Respondents explained this significantly impeded the I&E of the ELCP:

**VNG:** *“The list appears to be inaccurate. I often hear that the list is incorrect. There are OB's missing on that list, as well as buildings listed that are not OB's. This makes enforcement very challenging.”*

**MUN3:** *“We took the list and starting working with it. It turned out that hair salons and residential houses were on that list as well. That was not a good list.”*

Out of five respondents who had experience or knowledge of the implementation process, all five considered this list as an impediment to effective I&E. Even though this impediment was not insurmountable, respondents indicated that it caused I&E to take significantly more time.

Another factor that impedes the I&E process concerns the reachability of office building owners. The latter issue was mentioned by five out of five respondents who had experience or knowledge of the I&E process. One statement include:

**VNG:** *“You have to be sure that you have got the correct owner, that can be difficult, because an owner can sometimes literally be located in the Cayman Islands.”*

The factors mentioned in this section influence how effective and smooth the I&E process progresses. However, for the overall effectiveness of the ELCP, we argue that it is more important *whether* and

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<sup>23</sup> Regulatory capture signifies that enforcement bodies are less willing to enforce strictly, as it may damage their relationship with the target groups and/or hurt the enforcement body or local economy financially (Section 2.5).

when a municipality initiates I&E action, as discussed in the previous section. We discuss this in the final section of the results chapter, where we consolidate and synthesize the main results of this research.

**Schematic outline**

We present the main results for the integrated phases of policy I&E schematically in figure 2 below. The left column depicts factors that influence *whether and when* a municipality takes I&E action, which decides whether a municipality is a front runner, medium adopter, or a laggard. The right column depicts the factors that influence how smooth and effective the I&E unfolds once a municipality has already started taking I&E action.

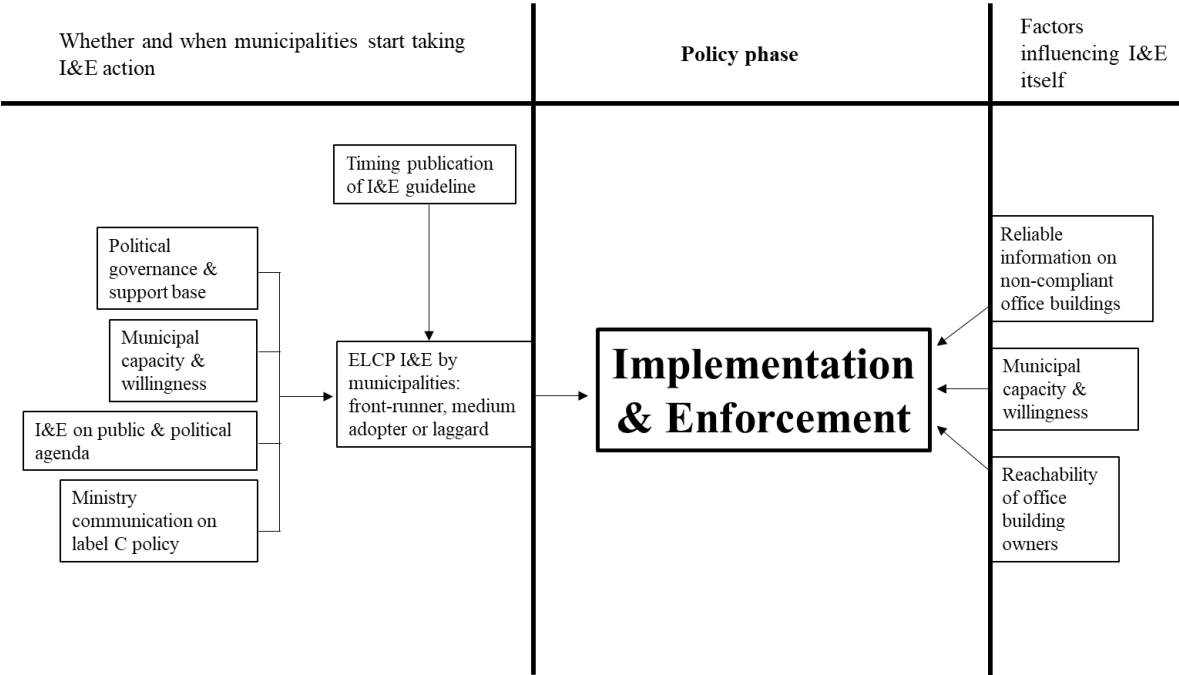


Figure 3. Schematic presentation of the main results for the phases of policy implementation & enforcement. Source: author.

**4.4 Policy Compliance**

The phase of policy compliance mainly concerns the *primary policy effects*, i.e. the behaviour of office building owners in response to municipal policy performances. For the ELCP, we argue that compliance by OBO’s and I&E by municipalities are very much interrelated. We explain that the factors influencing I&E, discussed in the previous section, are also highly relevant for the compliance of OBO’s. In this section, we mainly focus on factors related to OB’s that *do not* comply to the

ELCP.<sup>24</sup> That is, in line with our research aim, our focus is to explain why non-compliant OB's do not comply, as opposed to why complying OB's do comply.

The first factor concerns the exemplary role of the government with regard to ELCP compliance. In the period leading up to January 1<sup>st</sup>, 2023, and the first months of 2023, there has been much debate about numerous OB's owned by Dutch governments that do not comply to the energy label C requirement (Kadaster, 2022; Vastgoedmarkt, 2022a). Therefore, four respondents were questioned about this matter. All four respondents emphasized that the government has an exemplary role. The respondents indicated that the government not taking on its exemplary role, is an impediment to the effectiveness of the ELCP. BZK described this as:

**BZK:** *“That is a significant impediment to this policy. That is important to mention: that government agencies do not take up their exemplary role.”*

*“So yes, that exemplary role, ... that is being taken on insufficiently.”*

*“There are also municipalities that told me they do not comply themselves, and that therefore they do not want to take implementation action.”*

**REI:** *“There are many owners who, when they read this, of course won't do anything (performing retrofits).”*

**IVBN:** *“It would be a bloody shame if still many of those (non-compliant) OB's are owned by the government.”*

For the consequences to overall compliance of the ELCP, we again mention the notion of Mastebroek and Versluis (2021), that policy should focus on favourable conditions for spontaneous compliance (Section 2.5). They mention that in this context, it is particularly effective to ensure that the target group judges positively on the legitimacy of the government. Based on the description given by respondents, the government did not ensure that the target group judges positively on their legitimacy. We argue that the opposite is the case, and as a result, unfavourable conditions were created for spontaneous compliance in this regard. Based on respondent statements, this is especially relevant for OBO's that already experience little positive stimuli to comply to the ELCP.

A second factor of importance concerns the personnel shortage of energy advisors and installers in the Netherlands. Four respondents mentioned this factor is important for the extent to which office building owners currently are able to execute retrofits. However, respondents acknowledged the ELCP was announced years ago, and that the current personnel shortages therefore do not constitute a main explanation for unsuccessfulness.

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<sup>24</sup> For the exemptions to this requirement, we refer to Section 3.1 of this study.

Although the previous factors are important in explaining non-compliance, we argue that the most important explanation for non-compliance, is the **estimated enforcement threat**. This implies that OBO's who do not yet comply, estimate the level of threat that the municipality will enforce their office building. This notion is based on the following description given by respondents:

**BZK**, when asked for the main explanation for non-compliant OB's:

*“An explanation, of course, is anticipating the non-enforcement by the municipality.”*

**REI**: *“Regarding the actual execution of energy efficiency measures for our OB's, we wait until we receive a notice from the municipality.”*

*“Many owners know the municipality has set a new deadline for office building owners, or they just wait until they receive a notice.”*

**MUN1**: *“What we heard from office building owners: well, there will be no enforcement anyway, so we won't do anything.”*

*“But by telling them: come on guys, take action. Because of that, I think many people thought: shit, they (the municipality) are really going to take action in that regard (enforcing).”*

**MUN2**: *“We see that if we do not take follow-up action steps, non-compliant office building owners do not take action.”*

**INS**:

*“Of course enforcement should be stricter! If there is no enforcement, why would we (referring to non-compliers) take action? We are Dutch, we do not follow! We are a bunch of stubborn people, compared to foreigners”*

This notion shows similarities with the Table of Eleven depicted in Section 2.5 (table 2). The notion that the estimated enforcement threat is an important explanation for non-compliers, mainly applies to OBO's that receive insufficient stimuli for spontaneous compliance. These stimuli for having a green energy label constitute financial stimuli, such as higher real estate value and higher rent, saving on energy costs, and the high difficulty to obtain financing for non-compliant OB's. Another stimulus comprises reputational damage for non-compliant OB's. The previous stimuli were mentioned by five respondents. We argue that if these stimuli are insufficiently present, or insufficiently perceived by an OBO, the notion of estimated enforcement threat mainly applies. This is, among other statements, based on the following statement:

**REI**: *“Many office building owners actually just wait until they receive a notice (from the municipality), or if there is a very appealing business case for the office building. Otherwise, the building just remains in its current state, even though it does not comply to legislation.”*

As can be read in the respondent descriptions above, how high an OBO estimates the enforcement threat, depends on whether the relevant municipality is a front runner or a laggard in terms of I&E of the ELCP. We discuss the underlying mechanisms of this interrelation in the final two parts of this chapter. However, first, we discuss the compliance differentiation by owner type, which is the subject of our third sub-question.

### Schematic outline

We depict the main results for the phase of compliance in figure 4 below. The main factors for the compliance phase are shown in black. To show the interrelated context of the factors of the previous I&E phase, these factors are shown in grey.

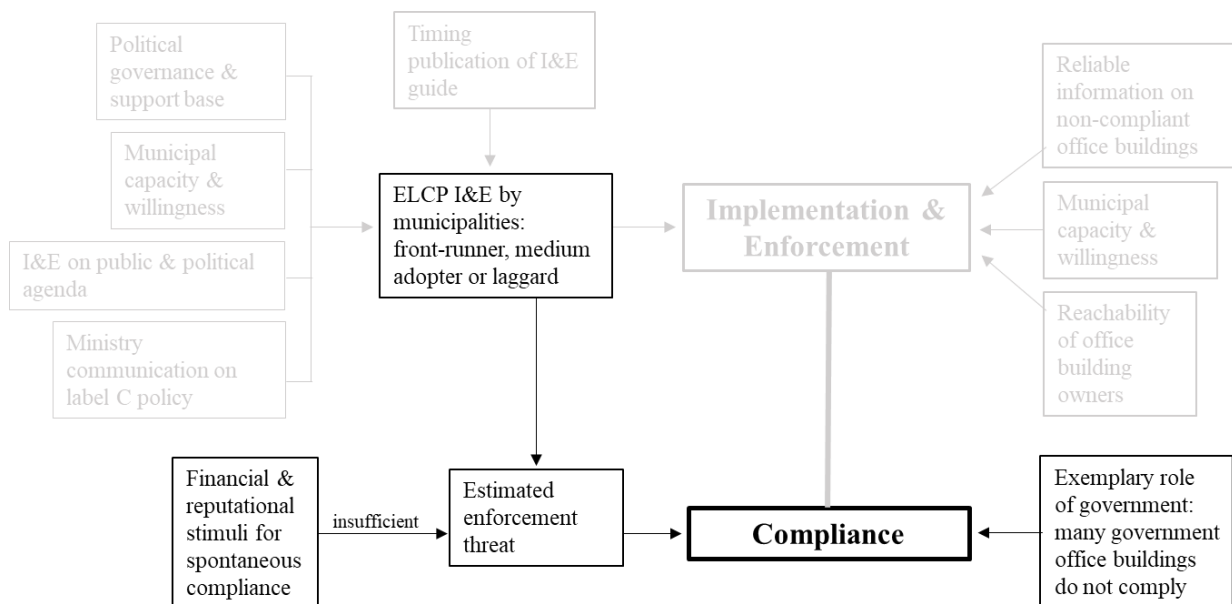


Figure 4. Schematic presentation of the main results for the phase of policy compliance (black) and the context of the phases of I&E (grey). Source: author.

### 4.5 Policy Compliance per owner type

In this section, we aim to answer our third sub-question. Due to quantitative data limitations, we rely on the report from the Kadaster regarding the status quo of office energy labels as of October 1, 2022 (Kadaster, 2022). As this report is based on BAG, the data are partially inaccurate and therefore “should be considered indicative” (Kadaster, 2022, p.3). Additionally, the Kadaster adopts a different classification of owner types than we prefer: the Kadaster groups all market actors into one category, whereas we prefer further subdivision between institutional investors and other market actors, since we observe large differences in this category. Nevertheless, we discuss the reported findings and depict these in figure 5 below.

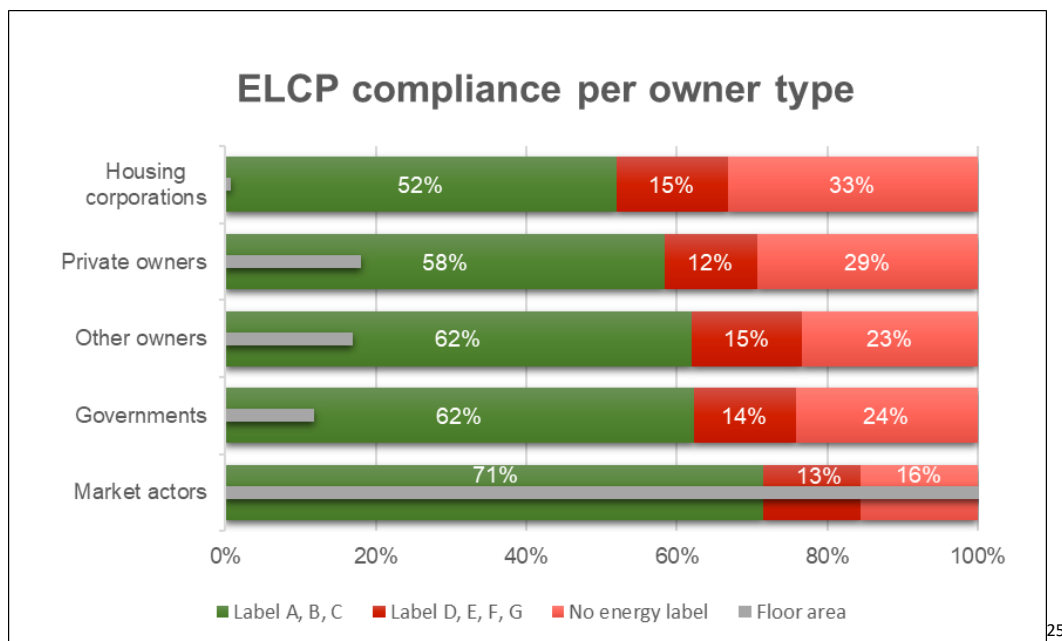


Figure 5. Percentage distribution of energy labels by owner type & comparison of total office floor area per owner. Data source: Kadaster (2022). Graph source: author.

Figure 5 is based on 1 October 2022 data for OB's that are "highly likely to be subject to the ELCP", i.e. highly likely to not be exempt (Kadaster, 2022, p.7). Figure 5 tells two stories. First, we can observe that market actors exhibit the highest percentage compliance rate, followed by government parties, and so on. Second, the grey bars show that market actors own the vast majority of office stock that is highly likely to be subject to the ELCP.

Although the differences are not substantial, we can observe some differentiation among owner types in terms of compliance to the ELCP. Although our own analysis is not able to confirm this, we are able to provide some more detailed insight. Based on respondent interviews and annual reports of institutional investors (Bouwinvest, 2022; ASR Real Estate, 2021; NSI, 2022), we assert that institutional investors exhibit the highest compliance rate. Respondents IVBN and INS mentioned that institutional investors are clear front runners in terms 'green energy labels', which also can be inferred from the mentioned annual reports. The respondent INS explains this by indicating that their shareholders demand sustainable buildings and compliance to legislation.

Further, based on respondent interviews, it appears that the majority of non-compliant OB's owned by governments, are owned by smaller governments such as municipalities. The asset manager of the national real estate company described this as:

**RVB:** *"Municipalities of course have less capacity and capability than we do."*

<sup>25</sup> Under the category of 'other owners' the Kadaster (2022) includes associations and foundations, excluding housing corporations, and owners that can otherwise not be systematically categorised.

**BZK:** *“Some municipalities told me they do not comply themselves and therefore do not want to take implementation action.”*

However, we cannot provide strong evidence for the notion that mainly office building owned by smaller government bodies do not comply to the ELCP. Nonetheless, we do provide some additional insights and answer our third sub-question.

#### **4.6 Non-phase specific factors**

Across the interviews, respondents also mentioned various factors that do not correspond to a specific policy phase, as well as general statements regarding their perceived effectiveness of the policy.

Four respondents<sup>26</sup> who represent OBO’s were asked whether the ELCP itself, and its announcement, influenced the energy labels of their OB’s, i.e. whether the policy had an influence on how ‘green’ the energy labels of their OB’s are. All four respondents generally mentioned the policy positively influenced the energy labels of their OB’s. Respondents mentioned:

**INS:** *“Yes, of course. It functions as a trigger.”*

**REI:** *“Yes, reasonably.”*

The real estate investor (REI) with four non-compliant OB’s mentions the policy also had an effect on them, but not a strong effect. This corresponds with their non-compliant OB’s, while the experienced trigger of INS also corresponds with their front running position in terms of compliance and energy efficient OB’s. Why the policy functions as a trigger for this institutional investor, can be explained by the statement of INS that their shareholders demand compliance to this policy. This aligns with the notion presented in Section 4.3 that potential reputational damage can serve as an important stimulus for certain office building owners to comply with this policy.

Another factor that was mentioned by three respondents, is the co-occurrence of other related policy. This other policy comprises the Portfolio Approach (RVO, 2023). Organisations that own more than twenty buildings can voluntarily participate in this portfolio approach. By doing so, they can encounter the benefits of increased flexibility as long as the average energy label of their entire portfolio reaches a certain threshold. Therefore, it is not mandatory for each office building in the portfolio to have an energy label C. Participation in this portfolio approach can thus partially exempt the obligation of complying with the ELCP. Two of three respondents acknowledged this portfolio approach could

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<sup>26</sup> These respondents (abbreviations) were: (1) expert of an institutional investor (INS), (2) asset manager of national real estate company (RVB), (3) former director of IVBN (IVBN), and (4) sustainability advisor of real estate investor (REI).



influence compliance to the ELCP, but they did not experience this as negative. The other respondent, a municipal official, did experience this as an impediment:

*MUNI: "Some large property managers told me they participate in the Portfolio Approach, so we still have until 2026... That is something I have really been mad about. I think they just have to comply."*

In general, based on the data, we consider the co-occurrence of this policy as a fifth exception to the ELCP. However, our analysis do not suggest this exception to play a large role in explaining the ELCP's effects.

#### **4.7 Synthesis of results**

In this section, we synthesize the results and provide the main explanations for the thus far unsuccessful ELCP. We thereby answer our second sub-question. The line of reasoning follows the order of the policy phases. For each policy phase, we discuss the main factor(s) of influence to the ELCP, and subsequently elaborate on how these factors permeate to successive policy phases. The integration of these factors forms an interconnected network of factors that collectively explains why the ELCP has proven unsuccessful thus far.

For the policy preparation phase, we consider the absence of the design of policy implementation as the most important factor. As described in the previous sections, the policy design in the preparation phase did not contain a design of how the policy should be implemented by municipalities.

Respondents mentioned that a ready-made implementation strategy that is available in an early stage, significantly contributes to municipalities taking early implementation action.

For the policy determination phase, we consider the information on which the choice for the energy label C instrument was based, as an important factor. This information entails the BAG, which contains incorrect information. This incorrect information may have influenced important decisions with regard to the ELCP and its strategy.

For the integrated I&E phases, we first consider four factors that appear to determine whether a municipality takes timely I&E action. These factors comprise the political governance & support base, the municipal capacity & willingness, whether I&E are (high) on the public & political agenda, and the communication from the Ministry on ELCP to the municipalities. If the conditions regarding these factors are favourable to a municipality, it will likely lead to the municipality taking early I&E action, i.e. being a 'front runner', or slightly less; a 'medium adopter'. However, if the conditions regarding these factors are unfavourable to a municipality, it will likely lead to the municipality not taking early implementation action, i.e. being a 'laggard'.

As the Ministry of BZK recognized many municipalities to be a laggard, they drafted the I&E guideline together with IPLO. The purpose of this ‘deferred’ policy implementation design was to stimulate municipalities to take action in implementing the ELCP before 1-1-2023. However, as multiple respondents indicated, the publication and communication of this I&E guideline occurred too late. Numerous municipalities that already experienced insufficient stimuli with regard to the four factors of the previous paragraph, therefore essentially had no timely substitutive stimulation to take I&E action. Many municipalities therefore took no (timely) I&E action. Without this I&E action, office building owners did not receive indications that the municipality would take action on the ELCP and actually enforce the ELCP.

For the municipalities that actually did start to take I&E action, two main factors impeded the I&E. First, the information regarding OB’s was not reliable. Municipalities used information to identify non-compliant office building based on the BAG, which contains a large amount of inaccurate information. Second, OBO’s of OB’s that did not feature energy label C or better were often difficult to reach. Next to the previous impediments to I&E laggards, these two factors also impeded medium adopters and front runners. As a result, even fewer OBO’s received indications that municipalities would take I&E action on the ELCP and actually enforce it.

For the ELCP compliance, the most important factor concerns the estimated enforcement threat. Due to the absence of stimuli through early I&E action, and the absence of a substitutive and timely I&E guideline, many OBO’s received little to no indications that municipalities would take action on the ELCP and actually enforce it. In addition, the government not taking on its exemplary role with regard to the ELCP reinforced the assumption that little action would be taken with regard the ELCP. OBO’s that themselves also received few stimuli, in the form of financial stimuli or potential reputational damage, therefore altogether received too few stimuli to execute energy efficiency measures and comply to the ELCP. As a result, many OBO’s have not taken action to achieve a better energy label. Ultimately, we argue that this resulted in the relatively high non-compliance rate of 45% on January 1, 2023, and the unsuccessfulness of the ELCP thus far (RVO, 2023). We depict these factors in figure 6 below.

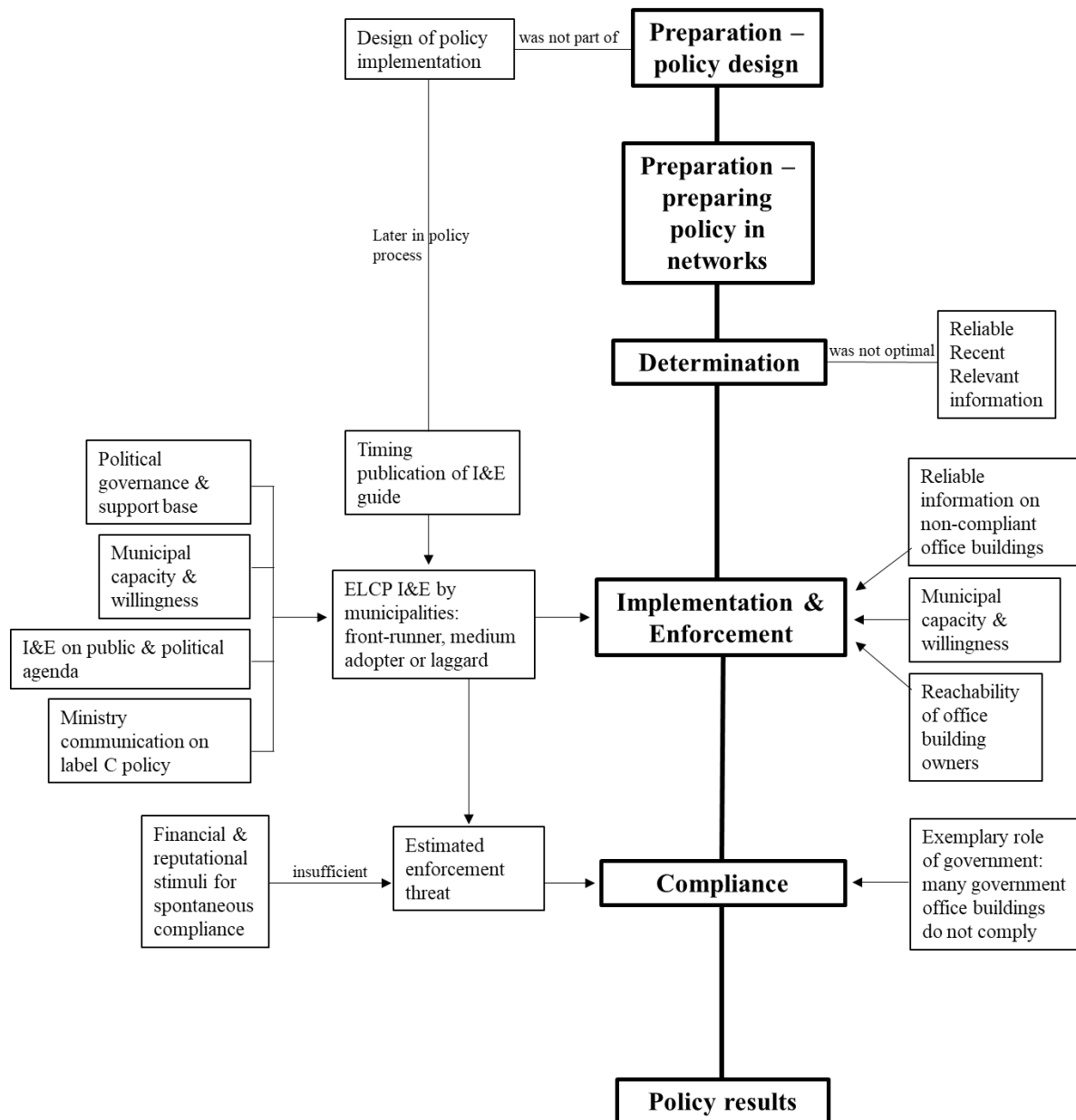


Figure 6. Schematic outline of the main results of this research. Viewing direction: top to bottom. Source: author.

The majority of the factors that we argue to be of influence, are not necessarily attributable to the policy makers of the ELCP itself. The ELCP itself is not able to influence the political support base or capacity and willingness of municipalities. However, one factor *is* attributable to the ELCP itself; the timing of the policy implementation design / the I&E guideline. As we describe above, the consequences of the absence of the policy implementation design in the preparation phase, and the subsequent late publication of the I&E guideline, appear to permeate and negatively impact throughout the entire functioning of the ELCP thereafter. We therefore argue that if the policy implementation design was shaped in the preparation phase, or if the I&E guideline was published earlier, the ELCP would have been a larger success thus far.

OB's To come back to our hypotheses; we can largely reject our first hypothesis. Only one of four hypothesized factors that explain the thus far unsuccessfulness of the ELCP appears to have had a large influence: the (low) municipal capacity and willingness to enforce. Second, we support the hypothesis that institutional investors show the highest level of compliance to the ELCP. However, due to quantitative data limitations and moderate reliability, we cannot confirm this with 100% certainty.

## **5. Conclusion & Discussion**

### **5.1 Conclusion**

This research investigated the energy label C requirement for Dutch OB's, which effectuated per 1-1-2023. Our aim was to explain why the realised policy outcomes differed so much from intended policy outcomes, as almost half of the OB's did not comply to the policy per 1-1-2023. We find that each policy phase contains factors that impede the effectiveness of this policy. The preparation phase did not shape the design of policy implementation. A substitutive implementation and enforcement guideline for municipalities was published too late. Combined with too few stimuli to take implementation action, this resulted in municipalities not taking timely action to implement this policy. Therefore, office building owners received no indication that municipalities would actually enforce this policy, and hence estimated the enforcement threat as low. Combined with too few positive stimuli for compliance, many office building owners therefore did not comply to the policy per 1-1-2023. Therefore, the energy label C policy has not proven successful thus far.

### **5.2 Results in context of the literature**

The explanations we provide for the unsuccessfulness of the ELCP thus far show some concurrence with the existing literature. Many factors discussed in section two do indeed, to varying degrees, influence the functioning of the ELCP. However, in addition to the literature, the explanations we provide entail the importance of the interrelatedness of the explaining factors. We have shown that the absence of the design of the policy implementation can have consequences that permeate throughout the entire functioning of the policy. The existing literature does not address this. Additionally, for this specific policy, we want to emphasize the importance of the contextual factors. An energy label requirement for buildings involves a large variety in both the target group as well as in implementing organisations. As literature shows, due to decentralisation, municipal capacity may fall short (section 1.2). Therefore, certain aspects of the policy process require specific attention, as general policy theory may not provide a clear direction. This research demonstrates that existing literature can largely be corroborated, but that interrelatedness of factors and the context of the target

group and implementing organisations can still lead to unsuccessful policy. We hereby provide additional insight to the literature. Future energy label requirements could derive valuable insights from these findings (see also Section 6.3 that follows).

### **5.3 Reflection**

The qualitative approach of this research enabled an in-depth and elaborate analysis informed by a wide range of stakeholders in the ELCP. However, we were not able to interview an interest group that represents a large amount of private real estate investors. We consider this a limitation. Further, some of our findings are based on assumptions. The notion that municipalities would have taken earlier I&E action if the I&E guideline was published earlier concerns such an assumption. Although this notion was indicated by respondents, we must acknowledge that respondents are also actors who may display situations in a way that is more favourable to themselves than what reality entails. In this context, our research therefore cannot provide certainty. Additionally, since the institutional context of municipalities and the target group may differ per country, we cannot provide certainty with regard to the generalisability of the findings to other countries. For example, OBO's in other countries may potentially be more inclined to strictly adhere to legislation. Yet, even *if* generalisability would be limited, the findings are nevertheless useful for the Netherlands, since the future involves more MEPS legislation. Additionally, we have provided as many insights as possible within the scope of our qualitative research.

### **5.4 Policy recommendations**

Our findings show various challenges in dealing with the ELCP hurdle. We propose several recommendations to lower this hurdle and enhance the effectiveness of similar future policies. For the current ELCP, we recommend to increase communication from the Ministry of BZK to bring the ELCP and its I&E higher on the public and political agenda. Ministry communication can also stimulate government bodies to take on their exemplary role. Reasons for this recommendations are twofold. First, we have shown that communication from the ministry, as well I&E higher on the public and political agenda, can promote municipalities to take I&E action. This increases the estimated enforcement threat by office building owners, which may increase compliance. Additionally, a more prominent position for the ELCP on the public and political agenda can itself influence OBO's to be

more inclined to comply, since they may perceive the ELCP as more important.<sup>27</sup> Second, figure 6 in Section 4.7 shows that essentially the only explaining factors that can currently be influenced by the Ministry of BZK, pertain to their communication and the I&E on the public and political agenda. The Ministry cannot directly influence the other factors, since these are beyond its reach and control.

The lessons learned from this research also have clear implications for similar future policies. We recommend placing significant emphasis on the design of policy implementation in the initial policy stages. This design should particularly take into account the context of implementing organisations, as this context can function impeding to the effectiveness of the policy. Timely development of an implementation strategy can alleviate the burden on implementing organisations and ensure early engagement in the implementation process. This creates the perception among the target group that the policy is taken seriously, thereby increasing their inclination to comply to the policy. In addition to this, energy label requirements also apply to government buildings. In this regard, we recommend that government bodies should devote added attention to their exemplary compliance role, as OBO's may critically assess this. Taken together, the aforementioned recommendations should contribute to more effective energy efficiency policies for commercial real estate, thereby contributing to the achieving urgent climate goals.

### **5.5 Recommendations for further research**

As we experienced quantitative data limitations to differentiate the results per type of OBO, we recommend future research to use accurate data and investigate the division of owner type with regard to policy compliance. Insights in this regard can better identify the exact pitfalls, enabling the development of a more tailor-made policy strategy.

As future European legislation will include minimum energy label requirements, we recommend investigating such policy in the European context. By considering the European context in relation to implementing organisations and target groups, research can provide additional and enlightening insights. This can contribute to more effective energy efficiency policies, and ultimately more future proof societies.

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<sup>27</sup> This claim is based on the notion by psychologist Cialdini (2016), who states that what is focal is perceived as more important. This signifies that if people perceive a topic to be prominent, e.g. through significant media coverage, they perceive the topic as more important.

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# Appendix

## Appendix 1: Interview questions

The following questions were posed to respondents. Questions were posed in Dutch.

### Policy preparation

Has the Ministry of BZK approached your organisation regarding the energy label C policy?

What, in your opinion, was the reason behind the consultation of your organisation by the Ministry of BZK?

What input has your organisation provided to the Ministry of BZK regarding the energy label C policy?

Do you know in which phase of the policy your organisation was approached by the Ministry of BZK, or the year in which this happened?

If your organisation was not approached by the Ministry of BZK, would you have considered it meaningful?

Considering the objectives and reasons behind the policy, do you find the choice of an energy label C requirement a rational and justifiable choice?

How acceptable do you find the policy for the stakeholders involved (implementers, office owners, etc.)?

Do you know if the policy preparation phase started with thinking from the end goal or from the instrument of label obligation?

Was there consideration during the policy preparation phase on how the policy should be implemented by municipalities?

To what extent have the proposals from consulted stakeholders been taken into consideration?

### Policy determination

What considerations were made before choosing the energy label C requirement?

On what information or previous experiences is the choice for the energy label C requirement based?

## **Policy implementation**

Do you believe that the policy is being implemented as intended?

What are your thoughts on the timing of the implementation and enforcement guideline published by IPLO?

How would you describe the attitude of municipalities towards the implementation of the energy label C policy?

When did your municipality start implementing the energy label C policy, and what actions has your municipality taken since then in relation to this policy?

Why did your municipality start the implementation / why has your municipality not started the implementation of this policy?

What efforts is your municipality making to ensure that all offices in your municipality comply with the energy label C policy?

What has been your role and the role of IPLO in the energy label C policy?

What does the implementation and enforcement guideline you have developed entail?

According to you, what is the influence of this implementation and enforcement guideline on the actual implementation and enforcement of this policy by municipalities?

How was the implementation and enforcement guideline developed?

What considerations were made in the development of this implementation and enforcement guideline?

Do you believe that this implementation and enforcement guideline influences how office building owners perceive the likelihood of enforcement?

In your opinion, did the publication and timing of this implementation and enforcement guideline impact the effectiveness of the energy label C policy?

## **Policy enforcement**

Do you think the following factors influence the effective implementation / enforcement / compliance of the energy label C policy? (Respondents were presented with a set of factors based on the literature for these questions)

How many of the offices that your municipality is responsible for monitoring comply and do not comply with the energy label C policy?

### **Policy compliance questions**

Since when has your organisation been aware of the energy label C policy?

What does your organisation think about how strictly or leniently the energy label C policy will be enforced by municipalities?

Multiple sources indicate that government-owned offices do not all comply with the energy label C policy. Do you think this fact influences how the policy is enforced by office owners?

Has your organisation made efforts to comply with the energy label C policy?

What efforts has your organisation made to comply with the energy label C policy?

If your organisation does not (fully) comply with the energy label C policy, is your organisation currently making efforts to meet the requirements?

What percentage of the offices owned by your organisation comply or do not comply with the policy, or how many offices do or do not comply?

Do you think the energy label C policy itself has influenced the energy labels / the compliance of your organisation's OB's?

Does your organisation stimulate office building owners to execute energy efficiency measures and comply to the policy?

### **Non-phase specific questions**

Which factors do you believe are primarily influential in the effective implementation/enforcement/compliance of the energy label C policy?

Have you experienced any factors that hinder or facilitate the implementation/enforcement/compliance of the energy label C policy?

### **General questions**

Which factors, in your opinion, are primarily influential in the level of success of the energy label C policy?

Are there any specific aspects that, in your view, could have been approached differently to achieve a more effective energy label C policy?

Are there any other points you would like to mention about the energy label C policy?