

EUROPOLITICS

A child in a white jacket and brown boots is climbing a green rope structure in the foreground. In the background, a modern apartment building with balconies and potted plants is visible. The scene is set outdoors on a playground.

***EU rethinks role
of social housing***

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Editorial

EU gradually recognises key role of social housing

By Marc Meyer

The economic crisis hitting numerous countries in the European Union with various degrees of severity, bringing with it unemployment, social instability, poverty, indeed misery, casts a harsh light on the homelessness crisis and the tough living conditions of the poorly housed, and, by extension, makes clear the role of 'social housing' both in humanising modern society and providing it with stability. In this way, the economic crisis has made clear once again the responsibility owed by public authorities and by 'social landlords', those bodies that assume the responsibility, in accordance with Article 34 of the European Charter of Fundamental Rights, for providing "social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices".

Recent and expected changes in EU legislation and regulations, as well as European case law, bear witness to the already greatly increased attention being paid, compared to the recent past, by European decision makers to services of general economic interest (SGEIs) and, in particular, to social SGEIs.

Thus, the mechanisms for controlling the financial compensation granted by public authorities to these 'social landlords' for carrying out their task, such as constraints imposed in relation to government contracts, have been gradually and opportunely eased. This trend seems likely to continue and is indicative of the awareness of the need to remove obstacles, legislative and otherwise, to the accomplishment of these social aims of vital public interest, to the benefit of numerous isolated individuals and households and families who struggle to obtain decent housing.

However, unlike other social SGEIs, social housing is deeply embedded in the economic fabric and, as a result, it often comes into competition, if not conflict, with the interests of the private real estate sector. The Lisbon Treaty has brought with it vital recognition of the role of public authorities and of member states to define the outline of, and the model for, supporting financially their SGEIs and to coordinate them, taking into account individual cultural norms and national policies. And yet, the national con-

tours of certain social housing SGEIs have recently been brought into question by stakeholders in the private real estate sector who felt themselves to be negatively impacted. One area of contention that has only emerged recently relates to the fact that 'social housing' SGEIs only targeted people and families in precarious or fragile situations, their weak finances having kept them out of the 'normal' housing market. This was crystallised when claims and voluntary notifications from the financial compensation schemes were made to the European Commission regarding tasks that have a broader general interest missions, the end point of which is generally social mixing aimed at preventing 'social housing ghettos'.

Stakeholders in the real estate sector having formally brought a case, the Commission was forced to take a position. It decided in favour of schemes targeting certain social groups, thereby calling into question the other approaches of 'social housing' SGEIs. Certain states, supported by social housing bodies, perceived this approach as an encroachment on their prerogatives with regard to the definition of 'their' SGEIs. Such a dispute led Sweden to exclude social housing from the category of SGEI. Another, involving the authorities in the Netherlands, led to an 'arbitration' request being made to the EU Court of Justice. The latter called for the settling of a sensitive debate, in which each side was passing the buck, but irrespective of the judgement, it will have the merit of clarifying the responsibilities of both the EU executive and the member states and put an end to the legal uncertainty in which 'social housing' and private real estate developers find themselves.

More generally, the scope of matters related to social housing also seems to be growing wider, all the more so since the Commission, to protect the eurozone from any further turmoil, is working on a system for monitoring housing markets with a view to preventing the formation of 'real estate bubbles', the dangers of which are clear to see. A praiseworthy initiative in itself, but one that risks, if precautions are not taken, creating added complexity, if not added handicaps, in respect of the development of social housing, which is so vital in these times of great economic difficulty. ■

STATE OF PLAY**'Social housing': A term that covers a range of approaches**By *Sophie Petitjean*

The concept of social housing varies widely from one member state to the next, as evidenced by the different terms used by states: 'housing at moderate rent' in France, 'not-for-profit housing' in Denmark and 'people's housing' in Austria, to give a few examples. This heterogeneity, which results from the different national histories and cultures as well as the absence of a common framework at European level, also concerns the principal characteristics of social housing, namely its financing, target population, allocation criteria, ambitions, management mode, and so on.

OVERVIEW

Generally speaking, there are three categories of available housing: low-cost rental housing, private rental housing and privately owned housing.

While the public powers were behind the strong growth in housing after World War Two, today's market tends to be dominated by private players: limited-profit or not-for-profit companies, and associations. According to Jesus Leal, professor of urban sociology in Madrid, public sector housing organisations are widespread in France, Belgium, Italy, Poland, Finland and Sweden. They operate primarily at local or intermediate level (France and Italy) or, more rarely, at national level (Luxembourg, Northern Ireland and Portugal).

Social rental housing (as opposed to the sale sector, which does not build up housing stock) is particularly well-developed in the Netherlands, where it accounts for 32% of overall housing. Austria, Denmark, the United Kingdom, Sweden, France and Finland also have a highly developed public and social housing sector. The German model is relatively atypical in that the social rental sector is limited in time and in terms of its percentage of total housing (only 6%). At the opposite end of the spectrum are the Southern European countries and most of the states of Central and Eastern Europe – apart from the Czech Republic and Poland – which have an extremely low percent-

age of social rental housing. Greece has no social rental housing but offers low-cost housing for sale. The same is true in Spain, where 82% of residents own their dwelling. In these countries, the concept of social housing refers primarily to social measures to facilitate home ownership.

COMMON CORE ELEMENTS

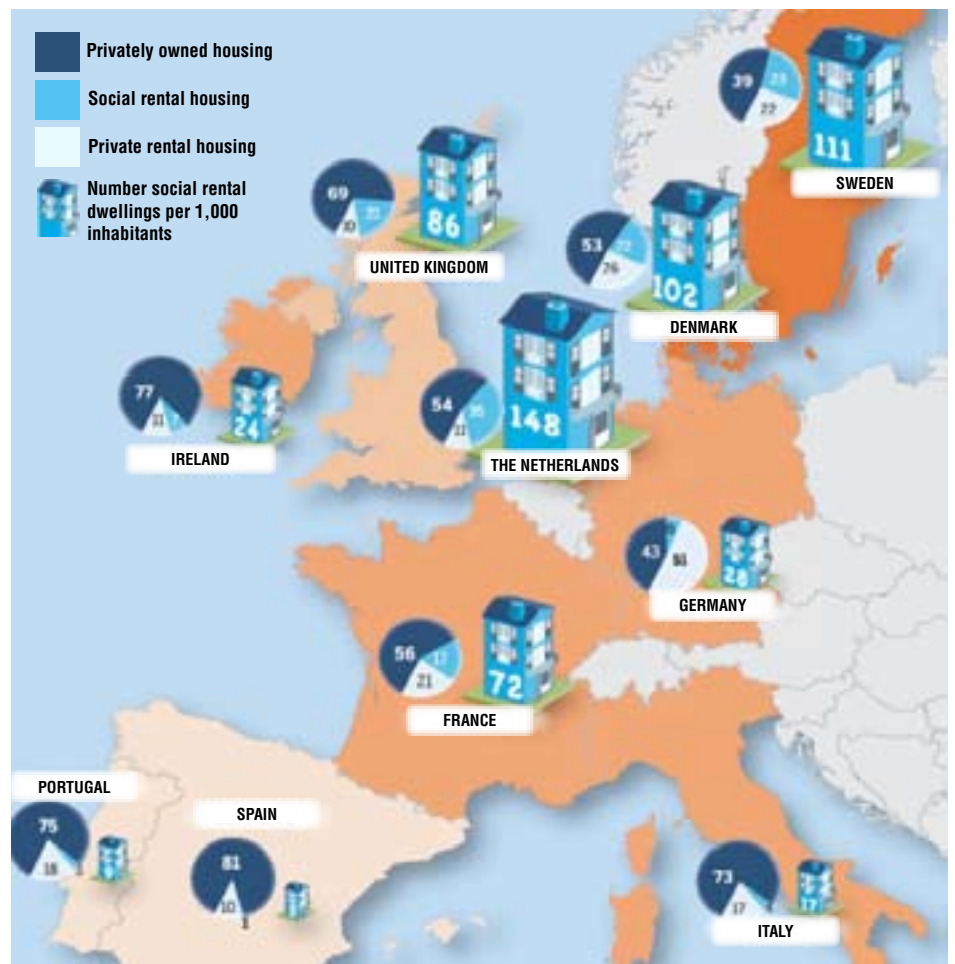
Given this wide range of situations, CECODHAS Housing Europe, the European federation of social, cooperative and public housing, defines financial affordability and the existence of rules for the allocation of dwellings as the two elements that constitute the core common features of social housing in the EU.

Three different approaches can be identified in the EU in terms of the target public: 1. a 'universal' approach in which social housing is open to the entire population, as in Denmark, the

Netherlands and Sweden; 2. a 'generalist' approach characterised by the setting of income ceilings and priority criteria for access to social housing; this approach is implemented in Germany, Austria, Belgium, Spain, Finland, France, Greece, Italy, Luxembourg, Poland, Portugal, the Czech Republic and Slovenia; 3. and a 'residual' or targeted approach, in which social housing targets the neediest. This concept is applied in Bulgaria, Cyprus, Estonia, Hungary, Ireland, Latvia, Lithuania, Malta, Romania, the United Kingdom and Slovakia.

SECTOR'S ECONOMIC WEIGHT

Due to national characteristics, it is very difficult to evaluate the economic scope of the social housing sector in Europe. Low-cost rental housing accounts for more than 50% of the rental market in certain member states (the Netherlands, Austria, the United



Kingdom and the Eastern European countries, which do not have a well-developed rental sector) but makes up only a marginal part of the market in others.

The different European federations nevertheless evidence certain economic clout. The EU representation of Union sociale pour l'habitat, for example, speaks on behalf of 800 social housing bodies that own and manage 4.2 million housing units in France. According to their figures, this corresponds to 450,000 households accommodated each year, 11,000 volunteer managers and a total of 70,000 employees. The Austrian federation of limited-profit housing associations (GBV) represents 191 housing suppliers across the country (99 cooperatives and 91 capital companies), which are responsible for renting 522,000 housing units and managing 240,000 owner-occupied dwellings and 35,000 municipal dwellings.

Despite these figures, the supply of social housing generally fails to keep up with demand. And the economic

and financial crisis has only made matters worse. According to Union sociale pour l'habitat (USH), severe budget cuts in Portugal, for example,

This heterogeneity results from the different national histories and cultures as well as the absence of a common framework at European level

have brought housing programmes to an abrupt halt, interrupted the payment of public funds for projects under way and caused banks to withdraw supplemental financing.

Other examples: the budget for promoting new social housing in England has been slashed by 63%, and in Scotland the budget for social housing investment has been cut by 40%.

According to recent statistics, Euro-

peans spend an average of more than one fifth of their income (22.9%) on housing. In 2009, 17.8% of the European population lived in overcrowded dwellings and 6% suffered from severe housing deprivation.

In spite of these failings and this precariousness, the European Union currently only "recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources," as stated in Article 34 of its Charter of Fundamental Rights. It considers that each member state must determine the scope of social housing "in accordance with its traditions, culture and state intervention". "The Commission's role is limited to checking the absence of clear errors in the classification of service of general economic interest," said Social Affairs Commissioner László Andor in mid-2010, in response to critics. Many stakeholders denounce the Commission's lack of ambition, which leads to legal vagueness for providers of social services. ■

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INTERVIEW WITH VIT VANICEK, PRESIDENT OF CECODHAS HOUSING EUROPE

“The ideal model is decent housing affordable to all”

By Sophie Petitjean

CECODHAS Housing Europe, the federation of public, cooperative and social housing, is concerned about recent budget cuts that threaten the social housing sector. For the organisation's President, Vit Vanicek, it is essential to offer decent housing to all citizens at an affordable price even if this means providing housing allocations to the most vulnerable households to help them pay their rent if it is too high. The organisation, which represents 43 national and regional federations in 19 member states, defends a model that provides adequate housing to all citizens. It is counting on the EU's country-specific recommendations and the future financial instruments to permit social landlords to continue to play this role, at a time when waiting lists continue to grow.

What are the main components of an efficient social housing model?

An efficient social housing model offers an adequate housing solution to all citizens. A perfect one would eradicate housing exclusion from its more severe forms - overcrowding or housing deprivation. It would also play a role in stabilising housing markets and making housing sustainable in the long term. I think the Austrian model is complying with the main goals I have just described, based on incentives to all housing market players. The social housing sector in Austria is diversified, with private non-for-profit, public and cooperative actors, depending of the local situation. The financing mechanism is interesting because it is a 'closed bottle' financial channel where people can save money in housing banks, which will issue social housing bonds. It gives to your saving a direct impact on improving local housing markets. The Nordic countries are also a good model, which provide generous housing benefit and where housing providers are in a market playing field.

In general, the more universal the systems are, the best. Not because they are open to all, in reality priority criteria always apply and allocation processes are well defined, but because it happens in countries with a strong social protection system. Indeed, what is necessary is to be able to maintain a

certain level of affordability. In Central and Eastern European countries there are no clear rules concerning social housing.



Vanicek: “Europe is definitely more a facilitator than a barrier”

What is the role of the EU in such diversity? Do you consider it as a facilitator or a barrier?

Indeed, the concept of social housing varies, and it is precisely why I would not consider a European framework relevant. Because the market does not deliver decent and affordable housing for all, public authorities intervene, but the way they do, the scope of the activities the finance to impact the housing market is depending on national and regional context. About the role of the EU, since the publication of the proposals for the future Structural Funds 2014-2020, Europe is definitely more a facilitator than a barrier. The proposal includes housing as eligible specially with an earmarking for energy efficiency refurbishment projects, but also recognise that it is a needed social infrastructure. Furthermore, it calls for Community lead approaches to develop local areas. The entire proposed framework is just the right way to look at local development and social cohesion.

What are the main problems faced by your federations on the ground and that Europe could solve?

Currently THE common concern is

the austerity measures adopted by many member states and affecting all our members. Whether on the cut of housing benefits (UK, France); or by taxing social housing enterprises (NL, FR) and mostly by stopping all new housing projects (SP, IT). The main problem is how these budget cuts are decreasing the capacity of social housing providers to supply more housing when indeed the waiting lists are growing. We identify two roads: first, work with the Commission and the Parliament on their country recommendations within the new 'European semester'. The scoreboard of macroeconomic imbalances agreed by EU institutions imposes on member states that housing prices should not increase more than 6% a year. Well, this will not be possible if affordable housing supply is not boosted. In addition, our sector is employment intensive, for rehabilitation programmes for example, €1 invested in the retrofit of housing generates €1.22 of public revenue. So we need to advocate and convince the EU institutions that not all public spending shall be cut. The second road we have decided to work on is to look at financial instruments, whether EU or global, that we could mobilise to invest in the sector. This work looks at many different options, like mobilising Structural Funds, the EIB...

Do you support the idea of using the housing market as an indicator to control macroeconomic stability?

Yes, it is a necessary first step. The housing and the financial markets are linked and we need to have a very close look at the way they evolve. That housing prices are key to macroeconomic stability is not contested by any economist. Housing expenditures in households have never been so high and they reduce the capacity to consume other goods. Housing is an asset for homeowners but can also be transformed into negative equity when market crashes become a major social issue. Affordability of housing would be a better indicator, however, to include in the scoreboard than housing prices only. And we want to contribute to the analysis of the policies needed to reach this objective. ■

INTRODUCTION

Problems divided and rules relaxed

By Sophie Mosca

Social housing, despite falling under missions of general interest defined exclusively by member states, is being assigned an increasing role by different EU policies, particularly in the fight against exclusion, social and territorial cohesion and the fight against climate change. This corresponds to the aims of “a social market economy” clearly reaffirmed in the Lisbon Treaty and takes on greater importance in the context of a crisis. Players in the social housing sector are therefore closely concerned by EU initiatives. They keep the EU initiatives under close check to ensure that their specific needs are catered for and their activities are not hindered. They have also been able to take advantage of certain clauses, or specific funds allocated under these EU policies with the aim of reducing the costs of rented households.

In the absence of a housing policy at EU level, subjects which concern social housing at the top level are spread between several of the Commission’s directorates-general (DGs), between different European Parliament committees, between different Council of Ministers’ services, the EU Committee of the Regions or the Economic and Social Committee (EESC).

SIGNIFICANT PROGRESS

One would have expected these subjects to be driven by the Directorate-General for Social Affairs and yet while it acknowledges the specific nature of businesses with social vocations it is currently focused on the publication of a communication on social entrepreneurship (in collaboration with the DG for the Internal Market), rejecting the implementation of a legal framework specifically for social services of general interest. In practice, the most significant progress in the housing sector has been achieved by other DGs, frequently due to the personal involvement of certain commissioners anxious to protect the specific nature of the sector.

As a result, the DGs concerned with energy performance are those responsible for energy and climate action

with the legislative proposal on energy efficiency and for regional policy for everything covered by the European Regional Development Fund (ERDF). Since 2009, thermal renovation of social housing and access to housing for disadvantaged persons are eligible for ERDF funding, which in turn has led to a significant decrease in the energy bills of these households. Moreover, this trend looks set to continue for the new 2014-2020 budget programming period and fulfill the obligations envisaged in the proposal for a directive on energy efficiency of 3% annual renovations of social housing (see separate articles).

RESTRICTIONS

Courses of action open to social housing bodies and their contractual relations with their economic partners are also governed by EU public procurement regulations, legislation applicable to public-public cooperation or to concessions, as many domains are under revision by DG Internal Market. The challenge facing them is to maintain the current level of flexibility while excluding certain restrictions by means of dispensatory measures to account for the specific management requirements (see separate article).

Specific characteristics that need to be defended on a financial level are also spread out over different services. The sensitive question of maintaining reduced VAT rates for social housing, questioned by certain member states, is being dealt with by DG Taxation and Customs, which is currently preparing VAT legislative proposals for 2012.

Initiatives impacting on the credit market, such as the future directive on property lending, intended to standardise the methods of calculating interest rates, or the directive implementing the prudential rules in banking fall under DG Internal Market and Financial Services (see separate article).

Finally, the ‘heaviest’ dossier in finance terms impacts on the EU’s competition policy: it concerns state aid for services of general economic interest (SGEI), including social housing (see separate article). In this respect, public aid for social housing is considered as exempt from competition

rules and the internal market and falls under the control of DG Competition.

QUESTIONS

The legislative framework exonerates players in the social housing sector from notifying the Commission about these state aids and while DG Competition in the ‘Almunia package’ (announced for 20 December) intends to introduce more flexibility by abandoning the restrictive definition of this social service in the 2005 regulations, it nevertheless calls into question, on the basis of complaints and via the control of the manifest qualification error, the perimeter of their action. This has provoked an outcry from social housing organisations, within the Parliament, the Committee of the Regions and the Economic and Social Committee, and even from some member states. An appeal is also currently pending before the EU tribunal (see separate articles).

This explosion of dossiers requires intensive legislation and policy monitoring by social housing organisations and some all-round lobbying to draw attention to the specific nature of the sector, which private promoters contest vigorously as being the source of distortion of competition. Social housing has important political consequences at both national and EU level, particularly during the financial crisis where it acts as a buffer. In this respect, the proposals from DG Economic and Financial Affairs for reinforced economic governance in the eurozone[*to be verified*] also include a clause on the specific monitoring of the housing market.

The fact that there is no coordination between the different services dealing with social housing results in regrettable inconsistencies despite claims by the Commission that it keeps a check on these inconsistencies within the College of Commissioners (see interview with Commissioner Andor).

Most surprising is the fact that no “impact assessment” has been carried out for these characteristics (economic weight, funding, etc), so dominant in the different EU policies. An oversight, which has been the subject of repeated demands from the sector. ■

SOCIAL SERVICES OF GENERAL INTEREST

SSGI talks making headway

By Sophie Petitjean

Faced with the prospect of fragmentation (see page 7), the idea of recognising the specificities of services of general interest “for the purposes of social protection, social and territorial cohesion, national solidarity and the implementation of fundamental rights,” such as social housing, has gradually emerged from European discussions. It was even one of the work priorities for the Belgian authorities during their Presidency of the Council of the European Union, in the second half of 2010.

The term ‘social services of general interest’, which is nowhere to be seen in the EU treaties, appeared for the first time in 2004 in a white paper on services of general interest published by the European Commission. It covers a concept that was then to be further clarified in two Commission communications, one published in 2006 specifically devoted to social services of general interest and the other in 2007 about services of general interest. These reference texts lead one to define social services of general interest as covering both legal or complementary social protection regimes as well as services considered as essential due to the role in prevention and cohesion that they play. However, while the 2006 communication recognises the organisational characteristics of these social services (ie the principle of solidarity, personalisation, the absence of a profit-seeking goal, citizen capacity, cultural and local anchoring, the asymmetric relationship), the second one completely abandons any idea of specific treatment for social services of general interest.

“The Commission decided not to open a Pandora’s box for member states, who would take advantage of this opportunity to ask for the exercise of their social competences to be excluded from the scope of the treaty,” said lawyer and lecturer Stéphane Rodrigues. Nonetheless, the calls for a clear legal framework for social services of general interest have not died down. The European Parliament, the Committee of the Regions and some member states have increased the number of initiatives in favour of

recognising the specificities of social services of general interest.

VARIOUS PRESSURES

Backed by the Committee of the Regions, the European Parliament has adopted several non-binding resolutions calling for the specificities of social services of general interest to be recognised. For example, the report by Irish MEP Proinsias De Rossa (S&D), adopted in July 2011, invites the Commission to come up with a common definition of services of general interest “that is acceptable” and to recognise the responsibility of member states and local authorities in the organisation, funding and provision of social services of general interest. It is also calling for the establishment of a multilateral, high-level working group that is “open, flexible, transparent, broadly representative of stakeholders and focusing on the implementation of reforms”.

The more recent (November 2011) resolution by German MEP Peter Simon (S&D) on state aid for services of general economic interest states that the particular mission and nature of social services of general interest must be protected and clearly defined and therefore calls on the Commission to assess the most efficient way to reach this objective “by taking account of the possibility of sectoral regulation”.

Belgium also called, throughout its Presidency of the Council of the EU, for a specific approach in favour of social services of general interest and for the establishment of a special group for ongoing dialogue on this issue (see interview with Laurette Onkelinx). For this purpose, it organised, on 26 and 27 October 2010, the third forum on social services of general interest in the presence of Commissioners László Andor (employment, social affairs and inclusion) and Joaquin Almunia (competition) as well as a representative of their colleague, Michel Barnier (single market and services), and then submitted a series of conclusions on social services of general interest for the approval of EU member state ministers.

Thanks to these initiatives, Belgium

started a single reflection process within the Commission (see separate articles), even if its attempts did not reach a concrete conclusion. The work of the Forum on Social Services of General Interest has generated 15 recommendations but the content of these was largely watered down due to pressure from representatives of the UK, Sweden and the Netherlands and the conclusions adopted afterwards by the Employment and Social Affairs Council, in December 2010, have suffered the same fate.

Broadly speaking, the SSGI Forum’s recommendations call on the Parliament, the Council and the Commission to: 1. recognise social services of general interest; 2. consider the SSGI Forum as an investment in the future; 3. create an environment that favours the quality and performance of social services of general interest; 4. put in place a European quality volunteer framework for social services; 5. have a multisectoral, cross-cutting approach and at several levels; 6. recognise the need to have common rules; 7. clarify the principles of checking state aid; 8. adapt the rules of the ‘Altmark-SSGI package’ applicable to providers of social services of general interest and local authorities; 9. review the modalities for the calculation of overcompensations of public service in the framework of checking state aid; 10. recognise the need for legal and political clarification; 11. set up an inter-institutional and inter-branch dialogue on social services of general interest; 12. set up a legal instrument suited to social services of general interest; 13. promote alternatives to public contract tendering procedures for the provision of social services of general interest; 14. strengthen the social aspect and orientation of public tenders; and 15. prioritise quality as a main criterion and social inclusion as a main objective. As for the conclusions of employment and social affairs ministers, they are restricted to inviting the Commission to provide them with more precise information on the application of the EU regulation to social services of general interest and to proceed to an assessment of this application to improve legal certainty. ■

SOCIAL ENTERPRISES

Executive finally recognises specific traits

By Sophie Petitjean

Until now, the European Commission has categorically refused to adopt a single definition of 'social housing' and to recognise its specific characteristics. However, in the last few months it seems to be showing greater flexibility regarding the social sector. On 25 October, it adopted a communication entitled

companies "whose main objective is to have a social impact rather than make a profit for their owners or shareholders". It can mean "businesses providing social services and/or goods and services to vulnerable persons (access to housing, health care, assistance for elderly or disabled persons, inclusion of vulnerable groups, child care, access to employment and training, dependency management,

communication invites stakeholders to begin reflecting on the eventual need for European status for other forms of social enterprise, such as non profit-making associations and/or a possible common European statute for social enterprises.

INFORMATION PROBLEM

At the Third Forum on Social Services of General Interest, which took place on 26-27 October 2010 in Brussels, the European Commission said that the problems encountered by public services with a social aim resulted "more from a lack of information than the current rules". Therefore, at the end of 2010, the Commission published a guide on social services of general interest¹.

This document, which updates a 2007 document, provides guidance for member states on funding services of general interest while respecting state aid rules. The Commission clearly shows that these rules do not mean imposing a particular model of public services, but rather ensuring that funding does not exceed necessary levels. The guide also responds to the questions raised



The Commission's communication demonstrates a revolutionary change in approach

'Social business initiative: Creating a favourable climate for social enterprises, key stakeholders in the social economy and innovation'. This communication demonstrates a revolutionary change in approach; previously, the Commission had never concerned itself with this sector, or come up with any concrete proposals to support its development. While the communication does not include any legal proposals, it does give recognition and visibility to social enterprises on Community territory, via three key objectives: 1. facilitating the access of social enterprises to private funding; 2. improving the visibility of social entrepreneurship; and 3. improving the legal environment.

ELEVEN KEY ACTIONS BEFORE 2012

The communication, a joint effort from DGs Internal Market, Employment and Enterprise, begins with a definition of social enterprises as being


etc); and/or businesses with a method of production of goods or services with a social objective (social and professional integration via access to employment for people disadvantaged in particular by insufficient qualifications or social or professional problems leading to exclusion and marginalisation) but whose activity may be outside the realm of the provision of social goods or services".

Next, the Commission suggests 11 key actions, including the simplification of the application of rules on state aid for social services and local services, and the creation of a European legal framework for joint investment funds. Furthermore, it foresees the introduction, from 2014 onwards, of an explicit investment priority for 'social enterprises' in the rules on the European Social Fund (ESF) and the European Regional Development Fund (ERDF) in order to provide a clear legal basis (see separate articles).

From a long-term perspective, the

by several stakeholders concerning the allocation of services of general interest to external service providers and the method of calculation of the compensation due to these providers.

Simultaneously, the Social Protection Committee published a 'Voluntary European quality framework for social services', which establishes quality standards based on the following general principles: availability, accessibility, affordability, personalisation, general nature, continuity and the prioritisation of results. This 'framework' also introduces quality principles for the relationship between service providers and users, as well as quality standards for relations between service providers, public authorities, social partners and other stakeholders. ■

 (1) The document is available at ec.europa.eu/services_general_interest/docs/guide_eu_rules_procurement_en.pdf

INTERVIEW WITH LAURETTE ONKELINX, BELGIAN MINISTER FOR SOCIAL AFFAIRS

“We weren’t aiming for the Moon, but even so”

By Sophie Petitjean

During its EU Presidency, in the latter half of 2010, Belgium pressed for a broad concept of ‘social services’ covering the entire population. A year later, the time has come to take stock: although she would have liked “to go further,” Belgian Minister for Social Affairs and Public Health Laurette Onkelinx says real progress was made, including the conclusions adopted by the European Union’s Council of Ministers and the 15 recommendations of the Forum on Social Services of General Interest (SSGIs).

SSGIs were one of Belgium’s priorities when it held the EU Presidency during the latter half of 2010. What did you wish to obtain and why?

Players who carry out general interest missions on the ground are confronted with a labyrinth of rules and interpretations that does not make their task any easier. Today, a national or regional subsidy does not exist under EU law: it is state aid unless it complies with various extremely complex rules that in fact are applied very little in practice. This affects them directly: financing, the way they are selected or not by the public authorities, competition from profit-making operators and so on¹.

During our six-month Presidency, we weren’t aiming for the Moon considering the Council’s political configuration, but we hoped for a strong reassertion by the Council of the importance of SSGIs, a European recognition of quality through a European framework as well as an invitation to adapt current internal market rules to recognise fully the specificity of SSGIs: the general interest mission, service to the community, cohesion and the solidarity they offer. What Belgium seeks is a positive approach that enables the public authorities to continue to provide and regulate these services, to ensure their quality and accessibility with requirements, for example, in terms of qualification and number of persons. We drafted conclusions that presented

very concrete options on the adaptation of public procurement rules but also concerning state aid and freedom to provide services.



Onkelinx: “I would have liked to go further”

What concrete results did you obtain?

First, I think that we raised the level of the debate with the Third Forum on SSGIs, which drew up 15 clear recommendations. Next, the Council adopted conclusions on the subject. Although I would have liked to go further, these conclusions at least take the debate forward, which was not so easy considering the barriers we faced.

Stock-taking has to be done intelligently and over the longer term, analysing whether we were able to influence, for example, the agenda of the other European Union institutions. I think that there are signs pointing in this direction. For example, the European Parliament’s own-initiative report on SSGIs includes many of the options suggested by the Belgian Presidency and Commissioner Almunia has begun to take the reality of social services into account. In connection with the latter, Belgium has not yet officially announced its position but my services have a mixed reaction concerning social services in particular: while the exemp-

tion from notification has been extended to social services other than housing (and hospitals), the concepts refer to a very minimalist interpretation of what constitutes a social service of general interest: those reserved to target groups and for essential needs (are there any non-essential needs in the social sector in Europe with the crisis?), although Belgium has always defended a broad concept of social services, available to the entire population.

Belgium has long pressed for the introduction of a framework regulation on social services of general interest. What should its main components be?

It is true that, ideally, a regulatory approach can be a partial response to a social issue, since it permits the application of similar principles and mechanisms across Europe. Without prejudice to a collective response to this subject, I think that this framework regulation could contain a legal definition of SSGI, the rights of users of these services, the rights of member states and communities to determine the organisation and financing of these services, for example the level of social coverage, the universal scope or target groups. We might also imagine the setting of a European quality threshold based on the voluntary quality framework, specific provisions on the non-market sector compared to market activities, justifying differences of treatment, but also arrangements for cooperation between public authorities and non-market players, acceptable restrictions to free movement, exemption of social services from state aid rules or certain aid thresholds. This framework regulation could also contain an approach encouraging the positive promotion of these services, which are of crucial importance during crisis periods and it could identify best practices for European citizens. ■

(1) The Belgian authorities are preparing an web-documentary illustrating the problems relating to social services of general interest

TAXATION

Uncertainties about reduced VAT rates

By Tanguy Verhooseel

Will plans for an overhaul of the European value added tax (VAT) system being concocted by the European Commission limit member states' opportunities to set reduced VAT rates for the construction, delivery, transformation and renovation of social housing? Some fear this prospect may be in the works and are preparing for it, yet politically it seems hard to imagine that the 27 are ready for such a revolution.

In its green paper of 1 December 2010 on "The future of VAT", a system it hopes to make "simpler, more robust and efficient," the European Commission mentions the patchwork of reduced rates applied by the 27 – in the field of social housing they range from 0% in the United Kingdom to 25% in Sweden – but adds that this diversity "does not seem to disrupt the single market". It nevertheless raises certain questions. To simplify the system, would it be advisable to abolish reduced rates purely and simply, to establish a European database of the goods and services concerned in the different member states or to draw up "a compulsory and uniformly applied reduced VAT rates list in the European Union"?

In a resolution adopted on 13 October 2011, the European Parliament opts clearly for the latter option. It urges the Commission "to submit, by the end of 2013, a report comprising a binding list of common goods and services [...] that are eligible for a reduced

VAT rate or an exemption under the VAT Directive".

The Commission includes this idea in its communication on the future of VAT, published on 6 December. It also calls for "the abolition of those reduced rates which constitute an obstacle to the proper functioning of the internal market," but does not present a list.

How will the European Commission manoeuvre when it presents its legislative proposals, theoretically in 2012?

Stakeholders are preparing for battle.

In its contribution to the Commission's green paper, Union sociale pour l'habitat, which represents some 800 social housing bodies in France, expresses its opposition to any change in the current scheme.

It campaigns for the continued use of reduced rates (even if they are dissimilar) for social housing. Their abolition or the application of a compulsory uniform rate at European level is not justified, argues the association. On the one hand, the present situation does not affect the working of the single market because, by definition, the provision of housing is a service that cannot be relocated. On the other, member states' "trustee and social" choices

must be respected because, in the absence of a European social housing policy and harmonisation of aid in this sector, the subsidiarity principle applies: each member state must remain free to determine its own social choices, its intervention priorities and its public aid mechanisms. "Reduced rates contribute to the achievement of the tasks assigned to social housing bodies as services of general economic interest," as laid down in the EU treaty, argues Union sociale pour l'habitat.

The association is also opposed to the introduction of VAT on household rents, arguing that it is not justified because it would add further pressure on the least favoured persons. It is clear that the share of rent in the household budget rises with the level of poverty.

In this general context, how will the European Commission manoeuvre when it presents its legislative proposals, theoretically in 2012? It is not likely to be insensitive to developments in the EU, where the drive to increase fiscal revenues is racing full steam ahead. Italy, for example, has decided to abolish the reduced rate applied to social housing, while France has opted to raise it from 5.5% to 7%. But will the executive take the step of initiating a Copernican revolution, which would have to be approved unanimously by the 27 and would particularly affect a sector that provides large numbers of jobs, during this period of high unemployment? ■

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ENERGY EFFICIENCY DIRECTIVE**Social housing refurbishment may fall victim to negotiations**By **Tamás Kugyela**

While a final agreement on the European Union's common energy efficiency policy could come as late as summer 2012, current negotiations suggest that social housing is likely to fall out of the scope of EU-wide compulsory measures. A strong point of the draft directive is the obligation to renovate, in an energy-efficient manner, 3% of the total useful floor area of public buildings every year is sought to be amended by member states so that it only apply to the largest state-owned edifices.

The proposal for a directive on energy efficiency was published on 23 June and its major requirements include committing energy suppliers to achieve 1.5% savings in the annual consumption of their customers, a 3% annual renovation rate for the public sector, and a call to develop high efficiency co-generation and district heating and cooling (CHP-DHC). However, it fails to introduce a binding energy efficiency target for member states, notably a 20% savings goal enshrined in the 'Europe 2020' strategy; a move many environmentalists believe will blunt the whole scheme.

Although the document grants considerable flexibility to member states in conceiving their own energy efficiency action plans, many countries are eager to reduce compulsory targets and/or narrow their scope. Finland and the

Czech Republic commented, at the 24 November Energy Council meeting, that the targets were not cost-efficient. Britain complained earlier that

as its number one priority, is an ardent supporter.

The original recommendation would make the 3% renovation target applicable only to public buildings with a total useful floor area of above 250 m². The latest Council working document, responding to member states' comments, would raise this threshold to 500 m². Another demand concerns exemptions for historically important buildings. Even the first version could lead to housing associations being exempted from these obligations, given that the living space is often smaller in social housing, as the European Economic and Social Committee points out. In its opinion published on 26 October, the consultative body suggests that energy efficiency targets should also have a social objective, "establishing measures to help reduce the energy bills of poorer households through incentives to upgrade the energy performance of their homes".

This view coincides with the current standpoint of the European Parliament's Committee on Energy (ITRE), which is considering an amendment proposing that member states should adopt "a proactive policy in supporting deep refurbishment done in particular in the social housing sector." In general, the report, drafted by Claude Turmes (Greens-EFA, Luxembourg), aims to strengthen the original document and may call for binding national energy savings targets to be made part of the directive. The issue is highly contested: the report has received approximately 1,800 amendments so far. The committee vote, which will give the mandate to the rapporteur to start negotiations with the Council, is scheduled for 24 January 2012.

Prior to that, the Polish Presidency will prepare a new draft text, which will be discussed in a working group before the end of the year. ■



The EESC suggests that energy efficiency targets should also have a social objective

the building renovation proposals were "likely to result in considerable extra expenditure for member states," while the Netherlands opposes any binding targets whatsoever. On the other hand, Italy and France back the plan with minor changes; Denmark, whose 2012 spring EU Presidency takes on the topic

Turmes: 6% renovation rate would be more relevant

Speaking at a conference, on 10 October, EP rapporteur Claude Turmes argued that more ambition is needed on social housing renovation in the EU. With electricity prices per kWh constantly increasing in the next decades, wider actions are needed now. With a 3% rate, it would take 33 years to finish the refurbishment: twice this would be more relevant. Turmes emphasised the importance of deep renovation which last longer and generate savings much quicker, especially in poorer regions. He pointed to the example of France, where a market has already emerged for energy efficiency investments.

GOVERNANCE

EU steps in to prevent housing bubbles

By Sarah Collins

The European Commission is preparing to step up surveillance of housing markets in an attempt to prevent the kind of crash that sent the Irish government begging for aid from the EU and IMF to bail out banks heavily exposed to the property market. In the pipeline are a series of proposals on mortgage credit and capital requirements, but beginning on 13 December, the Commission will also begin monitoring house prices, part of an agreement to increase scrutiny on macro-economic policies that could leak to other countries, causing strains across the EU.

SCOREBOARD

It will do this via an 'imbalances scoreboard', where levels of debt, investment, wages and house prices, amongst other things, will be reviewed over time. An alert will be flagged if prices rise more than 6% year on year, which could prompt an in-depth investigation by the Commission if

other warning signs - such as high credit growth or private sector debt - appear at the same time. This report will look at the factors driving house price growth, which EU sources say will include social housing. "Social housing is not usually - if ever - a source of a bubble, and in any event its role evolves slowly over time, but it is one factor in shaping overall developments in housing markets," said one source, who did not wish to be named because the plans are still in the early stages. "The Commission needs to understand social housing developments in member states if we are to be in a position to have a full picture of factors driving house prices in each country."

Price movements will also be examined by banks under a provision in the new Directive on capital requirements (CRD4). It is still unclear exactly how the scoreboard and any subsequent recommendations to address imbalances will affect social housing, although in its latest quarterly report on the eurozone, the European Commission comes down against encouraging

home ownership through 100% mortgages and tax relief, and suggests instead a focus on rentals and shared ownership.

This is where other EU regulations come into play, with the bloc attempting to crack down on lax lending practices and asking banks to boost high-quality capital reserves. The Directive on mortgage credit places stringent requirements on lenders to investigate the creditworthiness of their clients when offering loans, potentially increasing costs and workload for housing associations, who say they should either be exempt from the rules or be allowed to offer larger mortgages at favourable interest rates under a special 'social clause'. Meanwhile, an overhaul of the CRD4 is in train, which gives national regulators the power to set higher risk weights for mortgage assets and forces lenders to hold only 'highly liquid' assets, still to be defined by the European Banking Authority. The directive also sets limits on mortgage lending, which cannot exceed a percentage of the losses incurred each year. ■





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REGIONAL POLICY

Structural Funds: More and more favourable rules

By Isabelle Smets

From the point of view of the Structural Funds there is no doubt: EU legislation over the past two years has evolved very favourably for the funding of social housing. And this trend is expected to continue during the next programming period (2014-2020).

In 2007, however, when the regulations relating to the Structural Funds for the 2007-2013 period were introduced, the possibilities for EU co-financing were at their lowest. It was not possible to finance investments in the housing sector except

ways this is a consequence of the financial crisis and the 'European economic recovery plan' adopted in 2008 with a particular focus on improving energy efficiency in buildings. In concrete terms, this meant that member states were invited to reshuffle operational Structural Funds programmes in order to allocate a bigger share to investments into energy efficiency, notably in dealing with social housing. In making its proposal, the Commission emphasised that it presented a way to increase Europe's potential for "sustainable growth" to promote its competitiveness, to improve its

low-income households, it ultimately left it to member states to define the eligible housing categories.

The results in several member states have been positive. France is a frequently mentioned example. In a report transmitted, on 18 May 2011, to the president of the European Commission, the Union sociale pour l'habitat (USH – Union for Social Housing) said that these measures had generated, in less than 22 months, more than a billion euro of investment in social housing in France. "50,000 households with modest incomes will benefit in a tangible manner from these measures by

significant reduction in their heating bills," wrote Thierry Repentin, president of USH, to José Manuel Barroso. And provided the programming remains constant, he calculates that more than 100,000 households will receive support from the European Union by 31 December 2012. The reduction in heating bills for the households in question is estimated to be 40%, the equivalent of an annual increase in purchasing power of between €306 and €1,000 per household. Applied to 50,000 households, the estimated increase in purchasing power would be between €18 million and €54 million per year.

It's a fact: the report given to the Commission shows that French regions have made huge changes to their operational programmes to be able

to benefit from this measure. The funding which they could then claim had already been 97% allocated (this sum calculated excluding the overseas regions) and many regions had already obtained the maximum 4% ceiling. Projects supported by the ERDF already represented a total investment of €1.013 billion on 1 March 2011, seven times the amount ERDF committed. "ERDF was therefore fully active in its role as lever in the mobilisation of co-financing," claimed the USH, and the target of improved energy per-



The future cohesion policy 2014-2020 will allow regions to develop more ambitious thermal renovation and social housing projects

in the 'new' EU member states with such strict conditions imposed that new initiatives were often discouraged. But the rules have evolved with time.

2009 A PIVOTAL YEAR

The changes came in 2009 when the EU institutions adopted an amendment to the European Regional Development Fund (ERDF) regulation allowing all member states to invest money from the Structural Funds in renovating houses for better energy consumption. In some

knowledge and know-how in the energy efficiency domain and to show solidarity with low-revenue households in the crisis period.

The new rules, however, specify a maximum ceiling on how much member states can invest: 4% maximum of the total contribution of the ERDF. Using this funding, public authorities are able, for example, to finance the installation of double glazing, roof isolation, boiler replacement, etc. Although the Commission's intention was to specifically target

formance has been achieved. “Based on a survey of the energy labels before and after the thermal renovations in projects supported by the ERDF, we notice that high energy consumption social housing in the E, F and G categories has almost disappeared,” says the report.

Success has also been registered in the United Kingdom. The latest figures published by CECODHAS, the European federation of social, cooperative and public housing, indicate that 70% of the funding theoretically available has been allocated.

These are not the only two member states which have been able to reprogramme their funding but they are the two countries where it has been most successful. In other members states the results have been somewhat mixed. This is generally explained by the complexity of the approach, which has discouraged many operators, explained the USH – and also the timing. For many member states it proved to be very difficult to change the rules halfway through the programme, ie the money had been allocated elsewhere and reprogramming it for housing would have meant taking it away from other projects. “This was a real problem for regions that had already pre-selected their projects,” confirmed Julien Dijol, policy coordinator at CECODHAS. So why did not France experience these problems? “Because France anticipated the change in legislation.” According to Dijol, the French government was behind these measures from the start and in fact it was the French Presidency of the European Union, in the

second half of 2008, that carried the dossier. It was a priority for France and for that reason many projects were already in the pipeline just waiting for the green light from the European Commission.

CONFIRMATION IN 2014

Nevertheless, bad timing will no longer be a valid excuse after 2014 since in the proposal for the new programming period budget, presented in October 2011, the Commission confirmed the eligibility of housing expenditure in all member states. It also increased the ceilings previously imposed on funding in this sector. Exit the 4% cap on thermal renovation. The sector is delighted “The future cohesion policy 2014-2020 will thus allow regions to develop more ambitious thermal renovation and social housing projects,” announced the USH. And this is in line with the Commission’s proposal

to renew 3% of social housing every year from 2014 (proposal for a directive on energy efficiency).

And to top it all – promoting energy efficiency in the housing sector is explicitly mentioned as one of the ERDF’s investment priorities within the framework of the objective of moving towards a low-carbon emission economy. In terms of the funding that will be allocated there is reason to be optimistic because now there is mention of a floor rather than a ceiling.

In the more developed regions of the EU it is no less than 20% of ERDF funding – minimum – which is expected to be allocated to projects aimed at a low-carbon emission economy. This is significantly lower in less developed regions – 6% minimum – but 6% of a financial package that is in other ways larger than those of the more developed regions. ■

Marginalised communities

Another amendment to the ERDF regulation, introduced in 2010, targets more specifically housing in the marginalised communities, notably the Roma.

It allows for the funding of renovation projects, in all member states, of the communal sections of multi-family homes or the renovation and changes to the use of public buildings intended for low-income households.

This includes, for example, converting buildings belonging to local authorities into social housing. As with housing expenditure allowed in the ‘new’ member states, governments are limited to providing a maximum of 3% of the ERDF contribution for concerned operational programs or 2% of the total ERDF contribution.

It has been agreed that these interventions in the housing of marginalised communities should be seen as part of an integrated approach, which includes other actions, such as education, health, employment and ‘desegregation’.

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STATE AID**Rules more flexible but definition challenged**By *Sophie Mosca*

The European Commission's proposal for revision of state aid rules on services of general economic interest (SGEI) for 2012 introduces less binding provisions for social housing and reconsiders the restrictive scope of earlier measures.

On the other hand, DG Competition's decision making practices call into question the boundaries of the public service mission carried out by social housing bodies, although the definition of social housing remains the exclusive competence of member states. This interference poses a fundamental problem: how far does the Commission's control go?

DIVERSITY OF AID

It is a given at EU level that social housing is a general interest objective since it addresses a fundamental right - access to housing - recognised in the Charter of Fundamental Rights. It thus belongs to the category of SGEI.

Social housing associations address this need by making up for the market's inability to cover the right to housing of the neediest citizens. Within the framework of their public service mission they are bound by the rules applicable to state aid for SGEIs. These bodies have obligations in terms of social prices (rent ceiling) and the grant of housing units (according to arrangements determined in each member state), which bring about costs (lower revenues and management costs related to unpaid bills, for example). Public aid compensates for these public service obligations and specific costs and can consist of reductions on the price of public land, fiscal exemptions, guarantees, subsidies, etc.

The following table gives an overview of the types of financing for social housing in 2005 (based on EU data for 15 member states). It reveals the diversity of public interventions, which represent a sizeable share of the financing of social housing bodies.

These various forms of aid obviously procure an economic advantage for the beneficiary and thus prove contrary to the principle of 'undistorted competition' in the single market. But if these

arrangements are necessary and proportionate to proper accomplishment of the general interest mission of social housing, under certain conditions they can be judged compatible with EU law pursuant to Articles 14 and 106.2 of the Treaty on the Functioning of the European Union (TFEU).

*Social housing is a
general interest objective
since it addresses a
fundamental right
- access to housing -
recognised in the Charter
of Fundamental Rights*

These public service compensations come within the realm of co-financing practices between national, regional and local levels and their amounts vary in terms of the target public and the nature of specific needs. Some are "directly defined on the basis of calculating an equilibrium rent or a loss of income linked to a social pricing scale, whereas some aid is granted to cover all or part of the additional costs incurred by the social constraints in terms of tenure of households with specific needs," explains CECODHAS Housing Europe, which represents 43 national federations in 19 member states.

The rules on state aid to SGEIs, spelled out in 2005 in the wake of the Court of Justice Altmark ruling (Case C-280/00), are made up of three texts that form what is known as the 'Altmark' or 'Monti-Kroes' package. They establish the conditions in which compensation granted to an association or undertaking charged with providing a public service is considered compatible, without the obligation of prior notification to the Commission, but also the cases where compensation not coming within this scope may nevertheless be authorised.

Given the limited risk of distortions of competition due to the territorial nature of the activities of these social housing bodies and the reinvestment of profits from rents and sales in the provision of

new housing, the Monti-Kroes package dispenses them from the notification obligation provided they meet the following restrictive definition: undertakings in charge of social housing "providing housing for disadvantaged citizens or socially less advantaged groups, which due to solvability constraints are unable to obtain housing at market conditions".

DEFINITION

This restrictive definition of the scope, seen as the heritage of a liberal approach, nevertheless has the consequence of excluding social housing having an objective of social diversity or a 'universalist' aim, as described by Laurent Ghékiere, representative of Union sociale pour l'habitat, which groups nearly 800 French social housing undertakings.

Competition Commissioner Joaquin Almunia reversed this trend with the revision of these rules he began upon his arrival at DG Competition, in February 2010. The new version of the rules is set to be unveiled on 20 December 2011. Almunia abandons the 2005 restrictive definition of social housing in the draft decision on notification of SGEI and integrates it in a broader category of services that satisfy "essential social needs". Moreover, he maintains the exemption of notification without threshold conditions for social housing by extending it to these other social services. As for certain social services that do not correspond to this definition but are managed by social housing bodies, such as city planning in the Netherlands, they would be part of the so-called *de minimis* draft regulation, which lays out specific criteria for turnover, sum of aid [...] below which the aid could be exempt from notification given the low impact they have on exchanges in the EU.

On the other hand, the decision making practices of the Commission's DG Competition, which through its monitoring of the absence of "obvious error" in the classification of an SGEI called into question the Swedish model of social housing following complaints received in 2002, led Sweden to decide,

in 2007, to liberalise social housing. The Swedish authorities removed social housing from the category of SGEI by revoking authorisation for municipal bodies previously responsible for this service. Since 1 January 2010, housing aid must be notified systematically and is therefore limited in time and capped with reference to a maximum aid intensity determined by regional maps drawn up by the Commission (see separate articles).

In 2002, the Netherlands, whose rules are also based on a broad concept of social housing, received a similar response from DG Competition. A controversy followed over the income thresholds introduced following nego-

tiations between the Dutch authorities and the Commission, which mobilised both social and non-social (or private) housing stakeholders and the EU institutions. Housing foundations backed by other European 'colleagues' and private developers brought two actions for annulment of the Commission's decision before the Court of Justice. The court was also asked about a similar case by a Belgian court. The ECJ is expected to rule in 2012 (see separate articles).

Commissioner Almunia has stated with respect to these Swedish and Dutch cases that the Commission did not take the initiative to undermine the definition of social housing public service in these countries, but that it was asked to

intervene through voluntary notification and complaints, which required its analysis by virtue of its duty to control the absence of obvious error of classification of an SGEI (see interview below).

MORE FLEXIBILITY

The European Parliament adopted, on 15 November, by a large majority (488 to 134 with 17 abstentions) a resolution drafted by Peter Simon (S&D, Germany) that "asserts emphatically that public services must be of high quality and accessible to all sections of the population". It highlights MEPs' concerns over "the restrictive stance taken by the Commission, which in relation to state aid for social housing associations classifies the services provided by such associations as social services of general interest (SSGI) only if they are reserved for socially disadvantaged persons or groups, this restrictive interpretation being at odds with the higher goal of fostering an appropriate social mix and universal access". Françoise Castex (S&D, France) welcomes this position, noting that it "demonstrates the progress of the EP's debates on this subject, thanks to two years of work by the Public Services Intergroup" that she chairs.

For the Committee of the Regions, the definition proposed in the Almunia package is a source of confusion. In its opinion on this reform, adopted on 12 October on the basis of the report by Karl-Heinz Lambertz (PES, Belgium), the CoR recommends a return to the definition of social services contained in the Services Directive. Taking a bolder stance than the EP, the CoR also endorses another demand of social housing associations, namely that the reinvestment of profits in social housing in the financing of new SGEI must be taken into account, with a view to easing the Commission's control.

This question added to tension in the debate over the Almunia package. Certain member states rejected what they see as an attempt by the EU executive to interfere in their prerogatives in terms of defining public services.

During the final weeks of consultation, November 2011, they obtained the postponement, until spring 2012, of measures on the regulation introducing de minimis rules. ■

Social housing co-financing in the EU

	Public authorities	Grants	Loans with low interest	Public guarantee	Land access	Tax exemption	Low rate VAT	Private funds	Shareholders
Belgium	Federal			•		•	•		
	Regional	•	•	•	•	•			•
	Local	•	•	•	•	•			•
Denmark	National	•	•	•		•			
	Local	•		•		•			•
Germany	Federal	•							
	Länder	•	•	•					•
	Local	•		•	•				•
Spain	National		•			•	•		
	Autonomies		•						
	Local				•				•
Estonia	All *		•	•	•		•		
Finland	National	•	•	•					
	Local	•	•	•					•
France	National	•	•	•	•	•	•	•	•
	Regional	•							
	Departemental	•							•
	Local	•		•	•	•			•
Greece	National			•			•	•	•
	Local								
Ireland	National	•	•	•		•	•		
	Local								
Italy	National					•	•	•	
	Regional	•	•						•
	Local	•			•	•			
Luxembourg	National	•	•	•			•		•
	Local	•							
Netherlands	National			•		•			
	Regional	•							
	Local	•			•				
Austria	Federal								
	Länder	•	•	•					
	Local				•	•			
Poland	All *		•		•	•			
Portugal	National		•	•	•	•	•		•
	Local	•			•	•			•
Sweden	National	•		•		•	•		
	Local	•		•					•
United Kingdom	National	•					•		
	Regional	•				•			
	Local	•			•				

INTERVIEW WITH JOAQUIN ALMUNIA, COMPETITION COMMISSIONER

“Commission has not defined Dutch social housing”

By Sophie Mosca

The new legislative package on state aid for services of general economic interest (SGEI), which will replace the ‘Altmark package’, is expected in the last days of December - except for the de minimis regulation, for which a proposal is foreseen for April 2012. In this interview, the Commissioner for Competition, Joaquín Almunia, explains the Commission’s aims in revising this package, particularly social housing measures. He gives his views on the general framework of the package, expanding on a discussion started in a previous interview with EuroPolitics, as well as covering the subject of social housing.

What are the Commission’s aims in revising the Altmark package?

Six years have passed since the Commission adopted the Altmark package on the control of aid for SGEIs. Based on practical experience of this system, and the views of member states, service providers and users, the Commission judged it timely to carry out a review of this package. We want to protect the existence of these SGEIs, and establish simpler, clearer rules, which also take into account the efficiency of services for citizens. Nevertheless, we must distinguish between services which, given their nature or small size, do not impact the market, and those which can cause competition distortion. For the first, we propose establishing more favourable de minimis rules. Public aid of less than €150,000 will no longer be subject to controls. Regarding the largest SGEIs; all those of a social nature will be exempt from notification, and the current definition of social nature – which includes social housing and hospitals – will be broadened. For SGEIs likely to have an impact on the market, we clarify the fourth criterion of the Altmark judgement: the evaluation of the level of compensation based on an analysis of the costs of an average, well-managed and suitably equipped company. However, the Court of Justice will always have the final say.

We have a third objective; to reward providers of successful SGEI which offer better ser-

vices at better prices. This efficiency incentive already exists in the transport sector.

Why introduce a threshold of 10,000 inhabitants in the de minimis rule exempting small public services from notification?

Following consultation with member states, SGEI providers and networks of local authorities, it was decided that a community of 10,000 inhabitants has the capacity to provide the necessary accounts documents certifying the accounts of the service in question, under transparency conditions which allow us to see how public money is being managed. We are not asking for much, and the procedure should be quick if the right information is provided.

Why is investment aid not taken into account in the calculation of over-compensation, since hospitals and social housing are by their very nature linked to such funding?

The rules will consider state aid for the duration of the contract between the government and the SGEI provider, rather than on an annual basis, so as to bring long-term investments into the picture. Expenditure that is staggered over time will thus be better distributed.

You propose eliminating the restrictive definition of social housing in the current package. Is this aimed at defusing controversy over the Commission’s decision regarding Dutch social housing?

I cannot discuss a Court of Justice case, but what I can say is that while this case has been very time-consuming for my services and caused a great deal of debate, in fact

the definition of a public service for social housing in the Netherlands is a matter for its national authorities. It was not the Commission which established this definition, it was the Dutch government – in a subsidiarity exercise under the treaty. The Dutch



Almunia: “We want to protect the existence of these SGEIs”

authorities fixed a threshold limiting access to social housing to those with annual revenue of under €33,000, not the Commission; this was my response to a Dutch minister who asked me what I thought of this threshold. I am not a Dutch politician, but when there is a complaint against a national system for public services, in this case for social housing, it is my responsibility as competition commissioner to examine whether the system conforms to rules on state aid for SGEIs.

Doesn’t this lead to extreme situations, such as that of Sweden, which has taken social housing away from public services in order not to have to change its broad definition of social housing?

This is a debate for each individual member state. Some countries have very broad and ambitious social housing policies, thanks to their economic capacity. Others do not, for political or economic reasons. It is not up to the Commission to provide a definition of social housing policy. It is the Commission’s responsibility, when it receives a voluntary notification or complaint, to check compatibility with the rules it is in charge of applying, and with the qualification of an SGEI, the absence of ‘obvious error’. ■

PUBLIC PROCUREMENT/CONCESSIONS

Social housing favours more flexibility

By Sophie Mosca

In the context of general restrictions on public finances in Europe, social housing organisations are required, more than ever, to keep a tight control on spending. In order to achieve the mission of public service with which they have been charged they are nevertheless subjected by EU directives relating to public procurement to obligations such as advertising, competition and respect for equal treatment of partners - all of which are costly. Also as part of the modernisation of the 204 directives (2004/17/EC on public procurement procedures for public works contracts and 2004/18/EC for public service contracts) launched by the Commission and which is expected to result in proposals, on 20 December, these organisations have been highlighting the specific nature of their sector in order to have the laws relaxed. They responded in a similar fashion to the directive on concession contracts, expected on the same date, insofar as they are either bidders in public procurement calls for offers or adjudicators for example when maintaining their buildings.

PRIORITY PUBLIC-PUBLIC PARTNERSHIPS

The new public procurement directives should be better suited to respond to economic evolutions, satisfy the objectives of a 'social market economy' and 'sustainability' (stipulated, one in the Lisbon Treaty and the other in the 'Europe 2020' strategy), clarify the frontiers between service and public works markets and lastly improve legal certainty of actors in the line of case law of the EU Court of Justice.

The social housing sector would like the texts to be adapted to take into account its specific nature starting with a reduction in the inherent waiting periods in current procedures, which cause delays in making housing available to the intended beneficiaries, thus depriving them of rental income. Moreover, only a small number of companies respond to the calls for tender by social housing organisations. This means that competition is minimal and the profit margins in

terms of price are limited.

These organisations also maintain that pooling resources or sharing them with local authorities reduces management costs and improves the effectiveness and quality of the public service. Recognised by the EU Court of Justice as "public bodies," they argue that since they are not likely to impact on the economy, this mutual sharing of basic administrative services (accounting, human resources, training, legal and litigation services, communication, financial management, computer services, etc) or expertise for complicated presentations should be considered as public-public cooperation and therefore not subject to public procurement rules.

In the Teckal judgement (C-107/98), the EU Court of Justice delivered a verdict on the "in-house" procedure accepting that certain public works or service contracts signed between public bodies can be excluded from public procurement rules if, on the one hand the body executing the contract is controlled by a public entity (as it would do for its own services) and, on the other hand, the executing body does most of its work with its partner. After having refused the "in house" qualification due to the presence of private capital in the contracting body (Stadt Halle (C-26/03) and Austria (C-480/06) judgements), the court recently added an extra nuance to this position in the name of "considerations and requirements relating to the pursuit of objectives in the public interest" (Commission-Germany, C-480/06). A better perspective for the social housing sector in which most major players have access to private capital except that the Commission does not intend to include this case law in the directives which are expected to be adopted by the end of 2011 and enter into force in 2013. The Commission feels that it is not stable in the absence of any precise litigation related to social actors partly "using" private funds. The latter seem therefore to be condemned to living in a 'grey area' hoping that a litigation case does not come and turn the situation against them. The only other option would be

to mobilise the European Parliament as co-legislator to obtain the explicit exclusion of these public-public cooperation.

PUBLIC PROCUREMENT

The other approach adopted by social housing organisations is to target the relaxation of public procurement rules. They already benefit from special conditions for complicated land development operations involving different players and sophisticated presentations but are asking for more changes: on the one hand, a substitution of the existing pre-emptive checks by retrospective checks for fair competition and at the initiative of the buyer (ie theirs), and on the other hand an increase to the €249,000 threshold below which the directive on public procurement service contracts passed by contracting authorities other than "central government authorities" does not apply. But according to recent statements by Michel Barnier, the commissioner responsible for the internal market and financial services, this subject is not on the agenda.

CONCESSIONS

When it comes to concession contracts, social actors are not very keen on stricter EU legislation since the existing legislation gives them the flexibility that they lack with public procurement rules.

They feel that there is no need for specific rules for concessions which could potentially contradict the national framework in certain member states where this type of contract is widespread (France, Italy Germany, etc). They fear that excessive restrictions or complexities might put authorities off using this tool. They are also fighting for public-private partnerships to be excluded from the scope of this future directive or for more relaxed measures similar to the exemption already included in the public procurement directives.

At the very least the future directive should guarantee the necessary flexibility for this type of operation to fulfil its mission and to be adapted to the specific realities of each member state. ■

Court to rule on definition of social housing

By Sophie Mosca

The European Commission has brought into question the relevance of a national definition of the public service of providing social housing in response to questions raised by member states wishing to notify a state aid scheme for this sector and in connection with complaints for distortions of competition. As the guardian of state aid rules, the executive has the duty to control whether there is any “manifest error” of classification of a public service of general economic interest (SGEI) and has thus assessed the compatibility with EU rules of national definitions of social housing public services. The Dutch case crystallised the opposition between proponents of an open concept of such a service and those defending a more category-based approach, where social housing is reserved to least favoured persons. The Commission’s response in favour of the latter has created a climate of legal uncertainty. The EU General Court has been asked to rule on this sensitive debate that calls into questions the limits of the control exercised by the Commission’s Directorate-General for Competition. Preliminary questions submitted to the EU Court of Justice by a Belgian court have also been raised with reference to this case.

DUTCH DEFINITION UNDER REVIEW

The Commission, asked by several states through voluntary notification to rule on the compatibility of their social housing system with state aid rules for SGEIs, first endorsed, in 2001, systems targeting disadvantaged populations, like those in Ireland and the United Kingdom providing aid to facilitate ownership.

The question became more problematic when the Commission had to rule on models based on wide access with an objective of fostering a social mix, like the Swedish and Dutch models.

Based on a notification by the Netherlands in the early 2000s, the Commission expressed reservations, in July 2005, about state support for social housing undertakings composed of: 1. state guarantees; 2. public financing; 3. availability of municipal land at below market prices; and 4. loans from a municipal bank (Bank Ned-

erlandse Gemeenten, BNG). It considered that these measures introduced overcompensation with respect to the public service mission vested in the foundations that manage social housing, which makes up 32% of total housing stock. The executive considered this scheme to be incompatible with EU state aid rules because it does



The EU General Court has been asked to rule on this sensitive debate that calls into questions the limits of the control exercised by the Commission’s Directorate-General for Competition

not target “socially disadvantaged persons” and does not introduce clear separate accounting between the public service activities and the more commercial activities of social housing bodies.

In this context, in 2007, IVBN, an association of institutional investors, lodged a complaint against the Dutch system, arguing that it gave rise to a distortion of competition on the market of well-to-do renters. The complaint sparked things off because the position defended was in full agreement with the EU executive’s approach. After a preliminary investigation, the Commission concluded that the Dutch support measures for this sector were incompatible with EU law, arguing that since the services are accessible to well-to-do persons, they no longer qualify as a public service mission of general interest. The decision was followed by a negotiation between the Commission and the government to determine an income ceiling, €33,000 per year, above which access to social housing in this state would be refused, save for a marginal share of 10% of total housing stock. Dwellings with a rent of less than €648 per

month are still considered as social housing. Housing stock not targeting the disadvantaged population must be placed on the open market.

This agreement was sealed by a decision dated 15 December 2009 (C/2009/9963) concerning existing aid as well as new measures in support of social housing

undertakings in declining urban regions, which were approved.

CHALLENGES

The Commission’s decision was challenged in three separate actions for annulment before the General Court: the first was lodged on 1 April 2010 by the BNG to object to measures concerning it, the second on 29 April 2010 by a group of 133 Dutch social housing foundations defending the initial objective of fostering a social mix, and the third by the IVBN, in reaction to corrective measures it considered insufficient to ensure fair competition (Cases T-151/10, T-202/10 and T-201/10).

The first case was removed from the register after clarifications with respect to the bank’s missions. In the second, the Dutch social housing foundations maintain in substance that the Commission exceeded its competence by imposing on the Netherlands a new definition of social housing in line with its views and erred in deciding that a member state must define the service of general economic interest on the basis of an income threshold. They

also challenge the Commission's request for an exhaustive list of buildings categorised as social property, which means that those not included no longer fall within the category of services of general economic interest. The Commission is also deemed to have erred in its assessment of certain types of aid and was erroneous and negligent in concluding that the letting of social housing to persons with a relatively high income is part of the public service mission of social housing corporations. The applicants also claim that the EU executive failed to examine whether there is a "manifest error" in the definition of services of general economic interest contained in the current Netherlands system of social housing funding. It is also accused of erring in law by failing to distinguish between the definition of a service of general economic interest and the manner in which it is financed.

For the private investors, on the other hand, the decision does not go far enough on either existing or planned aid. On the former, they dispute the Commission's

analysis with regard to the obligation for social housing foundations to set a rent below the ceiling of €648 set by the law and argue that the definition of the target group for social housing provision is unsubstantiated and incorrect.

The private investors argue that the EU executive failed to obtain sufficient safeguards against overcompensation and failed to address their complaint concerning aid provided by the housing investment fund (Woningsinvesteringsfonds) and the Nederlandse Waterschapsbank.

They also seek an "objective limit on the construction costs of housing that is to be funded by aid" and argue it committed a procedural error by failing to initiate the formal investigation procedure, thus depriving them of the right to make their views heard.

BELGIAN CASE

The Belgian Constitutional Court referred a case on a similar subject to the EU Court of Justice, in April 2011. The 12 questions raised aim to establish the compatibility of an executive order by the

Flemish housing minister obliging private promoters who apply for a building or subdivision permit for any project with more than 50 flats or ten individual houses to provide 20% of the land to social housing bodies or to sell certain dwellings at capped prices to social rental associations, or to pay them compensation of €50,000 for each dwelling not provided.

The private promoters behind the complaint consider that the order establishing this obligation runs counter to EU state aid rules because it was not notified to the Commission. They refer clearly to the decision on the Netherlands and argue that the properties they must make available to Belgian social housing associations are meant for "a wide range of private individuals" and not a specific target population. They also consider that the executive order infringes the Services Directive, freedom of establishment and the principle of freedom to provide services since it obliges them to provide a service that will not be beneficial to them, but will be for the social sector. ■

THREE QUESTIONS TO MEP SOPHIE IN'T VELD

"Blaming the Commission is pure Brussels bashing"

By Florence Martin

Sophie In't Veld (ALDE, Netherlands) was rapporteur, in 2005, on a non-legislative parliamentary resolution on state aid in the form of public service compensation. She presents here her opinion on the case in the Netherlands, the results of the 2009 decision on the incomes limit and the role the European Commission should play with regard to state aid.

Do you think the 2009 decision agreed between the European Commission and the Dutch government is satisfying?

The problem is that the housing market in the Netherlands is profoundly distorted. Both renting and buying are heavily subsidised, pushing up prices. For the income group between €33,000

and €43,000 approximately, it is near to impossible to find affordable housing in the private sector. But this prob-



In't Veld: "The housing market in the Netherlands is profoundly distorted"

lem is a result of the sick Dutch housing market, not of any decision of the European Commission.

What should then be the role of the European Union?

It is for the Dutch government to decide on the organisation and financing of the social housing sector. The Commission merely verifies for manifest errors or violations of the treaty rules. The Commission does not decide, nor does it impose any specific solutions. Blaming the European Commission is pure Brussels bashing, and distracts from the real problems and the need for tough reforms of the housing sector.

What should be the priorities of the Dutch government?

Rather than calling for widening the scope for subsidised housing, it should be the highest priority to sanitise the Dutch housing market. Subsidies should be progressively reduced and redirected more towards people and less towards institutions. ■

INTERVIEW WITH FREEK OSSEL, AMSTERDAM ALDERMAN FOR HOUSING

Commission's decision hinders social mix

By Florence Martin

Freek Ossel explains to Europolitics the philosophy of the Dutch policy on social housing and the consequences of the 2009 decision on income limits in Amsterdam.

After 100 years of social housing in Amsterdam, what is your assessment of the situation with regard to social mix?

Amsterdam has been striving to become an 'undivided city' for many years. A city with mixed neighbourhoods: a blend of poor and wealthy, young and old, where people on low incomes are still able to live in the desirable neighbourhoods. While a socio-economic disparity still exists, the 'undivided city' policy has been successful so far. Corporations have always played an essential role by allocating rental accommodation to various income groups and by facilitating urban renewal in less desirable districts further away from the city centre, such as Noord, Nieuw-West and Zuidoost.

Is social mix threatened by the EU definition of public service and the rules on incomes' limit?

I believe so. Some 90% of rental properties costing less than €652 per month have to be allocated to people on low incomes (under €33,614 per year). This will result in a high concentration of low-income tenants occupying housing corporation properties. And in the long term, to 'homogenised' neighbourhoods and segregation. Alongside mixed neighbourhoods, we want to offer Amsterdammers the chance to find a suitable property for each phase of their lives. This is currently hindered

by the EU regulation. The construction of dwellings offering a mix of cheap and medium-priced rental properties is hampered. Corporations are forced to split the cheap section and the medium-

be reduced, and vice versa. Finally, the 'Koopgarant' scheme allows buyers to purchase certain accommodation from a housing corporation with a discount.



Ossel: "We applaud the Commission for providing member states the freedom to decide themselves which groups are eligible for social housing"

priced section and hence secure a more expensive loan. This means that hardly any properties are being built in the middle segment, neither by other market parties.

Too rich to benefit from social housing, too poor for the private market - what is planned for them?

Approximately 45,000 Amsterdammers are on low to medium incomes, ie annual income between €33,614 and €43,000. With a huge demand for housing, rental prices in Amsterdam are on the rise, beyond the protected rental limit of €652. The monthly rental price of such accommodation often exceeds €1,000. To assist them, we want to offer housings of upper rents between €652 and €800. We are also discussing with the Amsterdam Tenants' Association the possibility of flexible rental. A market-related rental price could be set for a property, but corporations would offer discounts to households that are unable to pay the full price. If the tenant's income increases, the level of discount would

A total of 133 Dutch social housing foundations sought the EU Court of Justice's annulment of the Commission's decision of 15 December 2009. The government is urged by the parliament to reopen negotiations with the Commission for an increased income limit. Do you support those initiatives?

We certainly do support these initiatives. However, it may not be necessary to increase the income limit for

the whole of the Netherlands. In most cases, market prices will be relatively low in areas of population decline. For areas where there are shortages, in Amsterdam for instance, property prices in the liberalised segment will become too high for people with an income above €33,614. So if the limit is raised to €43,000 in those areas, we can continue to guarantee a beneficial mix of low and higher incomes.

Is the broader definition of social housing as drafted in the recent legislative proposal from the European Commission on state aid for services of general economic interest a possibility to solve the dispute?

We applaud the Commission for providing member states the freedom to decide themselves which groups are eligible for social housing. It would certainly help us enormously if the Dutch state and/or the relevant minister use this freedom to set a higher income limit or differentiated limits. We can then continue to apply our 'undivided city' policy to Amsterdam. ■

INTERVIEW WITH KURT ELIASSON, CEO OF SWEDISH ASSOCIATION OF PUBLIC HOUSING COMPANIES (SABO)

Sweden: Social housing under “businesslike principle”

By Florence Martin

The EU concept of social housing does not create difficulties in countries that target the least advantaged, like Ireland, where 80% of residents own their housing. In Sweden, on the other hand, the universal approach to managing the social housing sector, which accounts for 22% of all housing, has led authorities to make a radical choice. The European Property Federation (EPF) lodged a complaint with the European Commission, in July 2002, disputing the practice of allocating state aid to house more well-to-do people. The Swedish government decided, in spring 2007, to abolish public service compensation for municipal housing companies in order to maintain its universal access. The law that entered into force on 1 January 2011 liberalises the public housing sector but is only partially applied to date.

There is a universal conception of the access to social housing in Sweden. What are its main specificities?

The corresponding sector for social housing in Sweden is called ‘allmännyttan’, which means ‘public utility’ or ‘for the benefit of all’. The housing companies are owned by the local authorities whose goal is to provide housing for all, regardless of gender, age, origin or incomes. The dwellings are normally allocated by time on a waiting list. Tenants must afford the rent, possibly thanks to a housing allowance, but, to avoid stigmatisation of the sector, there is no upper income limit to be eligible.

In practice, wealthy people are not the usual residents, but on the other hand many middle-income households live in public housing. For the Swedish population, there is no strongly pronounced separation between private and public rental housing, all the more so since rents do not differ a lot. This is because dwellings of equal ‘utility value’ should have about the

same rent, according to the ‘utility value’ principle.

The Swedish government decided to stop the financial subventions. What is the impact of this decision for the housing sector?



Eliasson: “This is a new concept in the Swedish law, the exact meaning is still under debate”

The phasing out of state subsidies for housing construction began already in the early 1990s. Following the European Property Federation’s complaint to the Commission, after state inquiry and much debate, the Swedish parliament passed a new law. The Municipal Housing Companies Act establishes their objective and ground rules.

Public housing companies must then promote public benefit and the supply of housing in the municipality for all kinds of people. To do so, they operate under ‘businesslike principles’. This is a new concept in the Swedish law, the exact meaning is still under debate. But it should imply that there is no direct support, either from the government or from the local authorities, no favorable loans, no special advantages in taxation or whatsoever. They should not apply the ‘cost-price principle’ any longer, but instead apply correct pricing, including a certain profit margin. Municipalities should then require a market-based rate of return on investments, based on industry practice and risk. But it does not mean

that the public housing companies have to maximise profits.

Will households access social housing at the same rental prices?

There is no immediate effect on rental levels but rents are expected to be gradually more differentiated: rents will increase more rapidly in attractive residential areas and a little, if at all, in less attractive areas.

The rent setting system has also been adjusted to be compatible with EU rules. In Sweden, rents are set in negotiations between the landlord and the Tenants’ Union. This negotiation system is maintained, but with a major change: the public housing companies cease to have a normative role in these comparisons. This was supposed to hold back rent increases in the private sector.

From now on, comparisons are instead to be made with negotiated rents in any comparable apartments – private or public. This seemingly implies a new scope for higher rents but the outcome depends on the relative strength of the Tenants’ Union and the landlords, respectively. And one has to bear in mind that the Tenants’ Union in Sweden is a very powerful institution with more than half a million members.

If a future EU legislation on state aid for services of general economic interest includes a broader definition of social housing, would you consider revising your decision on compensations?

We would consider using the new scope, but this would in fact not necessarily mean revising the decision. Already in the new law it is stated that subsidies which are compatible with EU rules could well occur. With a broader scope for compensation for SGEI within the housing sector, this might be part of a solution when it comes to providing public housing on declining markets, where it is not possible to provide affordable housing on market terms. ■

PRIVATE SECTOR'S POINT OF VIEW

Reserving social housing for the most needy

By Florence Martin

In defining public services for social housing by the 'disadvantaged' status of those who request this housing, the European Commission has opted for a 'residual' approach, which gives the advantage to private operators within the real estate sector. Reserving access to social housing only for the most underprivileged people also allows the private sector to capture the wealthier end of the rentals market; this is the nub of the disagreement between private and public operators.

If some of the share of social housing is allocated to tenants with sufficient income to access the commercial market, private operators say they will suffer from competition distortion, since the public sector benefits from financial compensation from public services. According to the subsidiarity principle, each member state is able to decide on its own criteria for granting access to social housing, and granting universal access to social housing is often defended with the argument that it promotes social diversity. However, the private sector responds to this argument by quoting the principle of equal treatment.

The European Landowners' Organisation (ELO) says "we must not hide behind arguments for social diversity in order to cover up competition distortion". For the ELO, it is even more important to provide decent, affordable housing for the most disadvantaged people because it allows the risk of debt "to be spread across the community, rather than being the sole burden of individual landlords". To satisfy the remaining demand, the European Union of Developers and Builders (EUPC) also calls for an end to the public sector monopoly. Compensation for public service should be granted to all real estate operators, whether private or public, the EUPC believes.

SOLUTIONS

Private real estate operators say greater 'mobility' is required when it comes to the allocation of social housing; in other words, housing should not be allocated for life, but instead, its use should evolve

in relation to the income of tenants and the size of the family. The ELO criticises situations where a couple is given "accommodation of 200 m² to house a family with four children, but stays there once the children have left". The allocation of social housing should become more fluid, says the ELO.

The ELO also praises the German model, where all landlords limit rents for the most disadvantaged tenants, while benefiting from subsidies or tax exemptions. This aid is temporary, since it is received for the duration of the time it takes to pay off the property – between 12 and 20 years, depending on the Länder. Public subsidies are supposed to fill the gap between these reduced rent levels and the normal cost of rental on the commercial market. Subsidies are reduced each year, while rents are gradually increased until they reach the normal level of the commercial market.

However, CECODHAS, the European federation of social housing, says the problem with this system is that not enough affordable housing is available.

Filiep Loosveldt from the EUPC suggests subsidising demand rather than supply. Aid would therefore be allocated to disadvantaged tenants, rather than landlords, in order to help them to pay the rent or repay a mortgage. They would also be able to choose whether to opt for public or private housing. Loosveldt adds that the provision of aid could be "made subject to quality criteria for the accommodation". The EUPC says this system would be more efficient, as it would put an end to long waiting lists.

WHY APPEAL?

- Sweden

It was the Swedish principle of 'utility value' which prompted the European Property Federation to lodge an appeal with the European Commission, in July 2002, bringing the issue onto the European stage for the first time. According to this principle, lodgings of the same utility value should be rented at the same price. In cases of conflict between tenants and landlords, explains Michael

MacBrien, director-general of EPF, judges would therefore be able to fix rents according to the amounts charged by social housing companies.

"The public sector sets index amounts for rents, while benefiting from subsidies," he complains. According to MacBrien, the issue of unfair competition should have been dealt with at the European level, since "for the last fifteen years, landlords have been investing outside national borders, and citizens of other member states are also discriminated against".

- The Netherlands

In 2007, after failing to convince the Dutch parliament, IVBN, the Association of Institutional Property Investors in the Netherlands, lodged a complaint with the European Commission.

According to Frank van Blokland, director of IVBN, social housing companies were "engaged in commercial activities which were far removed from their original purpose" and they had branched out into "profit-making activities," such as investing in commercial structures. Van Blokland also believes it is not possible to clearly define the activities for which social housing companies benefit from subsidies. He adds: "The government has clearly not been able to give a satisfactory response to the Commission." He contests whether it is still possible to rent 10% of social housing to the wealthiest sector of the population - those earning more than €33,000 a year. On the other hand, since the maximum rent for social housing has been fixed at €650, IVBN fears that rents will be kept artificially low – despite the fact that social housing accounts for 2.3 million out of three million properties on the rental market.

In reality, no-one was satisfied with this agreement. A collective of 133 Dutch social housing foundations and IVBN lodged an appeal for annulment with the Court of Justice. The Dutch parliament also protested, calling for negotiations to be re-opened, and the Socialist Party even threatened the interior minister with a vote of no confidence on the extremely sensitive question of income thresholds. ■

INTERVIEW WITH LÁSZLÓ ANDOR, COMMISSIONER FOR EMPLOYMENT, SOCIAL AFFAIRS AND INCLUSION

“EU rules already largely take into account the specific nature of social services”

By Sophie Petitjean

Social housing is a competence of national or regional governments, but certain decisions in this sector are more or less influenced by European policies. László Andor, commissioner for employment and social affairs, has pointed out on a number of occasions that he considers social housing to be an important tool in combating insecurity. He notes that the goal of bringing 20 million people out of poverty by 2020 is one of the EU's key priorities and that it is his role to ensure that its influence is positive. The commissioner adds that this preoccupation is reflected in recent EU legislative initiatives, whether the Structural Funds or state aid rules. Yet in spite of this favourable approach, Andor still refuses to consider a specific framework for social services.

Europe is facing a social housing crisis because of a growing demand and a decrease in funding. How does the European Commission comprehend the problem?

The financial crisis is strongly linked to a housing crisis. Imbalances in the housing sector are partly causes and partly consequences of the financial turbulence. It's clear that housing policy falls within the remit of national or regional governments, but some decisions can be influenced by European policy.

First of all, the Commission has proposed an increase in the percentage of European Social Fund (ESF) allocations for social inclusion from 13% currently to over 20% after 2013. And the rules for the Regional Development Fund (ERDF) were modified in 2010 to allow all 27 member states to invest in housing for marginalised communities in rural and urban areas.

At EU level, we are also taking action in the field of homelessness, especially through the exchange of good practices and recommendations to member states. For example, member states have

been recommended to develop comprehensive homeless strategies beyond the provision of simply temporary crisis accommodation to more comprehensive progression policies designed to help people move on to supported and/or permanent accommodation.

Other EU policy areas also touch on housing, for example, EU rules on state aid for services of general interest and the VAT Directive.

Our analysis shows a certain fragmentation of EU policy (for example encourage public-public partnerships versus competition). Why don't you coordinate the topic, as it is part of your portfolio?

Social housing is a complex issue, which involves different areas, under the remit of different commissioners. The decisions are taken by the members of the European Commission collectively. That's how we make sure policies in various relevant areas (such as innovation, urban development, cohesion) are coherent and each area is carefully considered. On top of that, the European Parliament and the Committee of the Regions have been actively involved in designing and implementing a more coherent approach together.

The Committee of the Regions and the European Parliament have already called on the EU, on a number of occasions, to recognise the specific features of social services of general interest, to no avail. What explains this refusal?

The overwhelming majority of EU member states categorise social housing as a general economic interest and EU rules already largely take into account the specific nature of social services. In particular, the treaty ensures that the specific mission of general interest is taken into account when applying the treaty rules.

As regards state aid rules, the Commission adopted a package of measures in 2005 (known as the SGEI package or

Monti-Kroes package), clarifying and simplifying the circumstances in which a grant of aid for the financing of services of general economic interest (SGEI) by public authorities in the member states could be compatible with the treaty.

The Services Directive, which applies to certain social services, contains a number of provisions which allow member states to take into account the specificities of social services of general interest.

Moreover, public authorities enjoy considerable latitude in the social services sector as only certain provisions of the directive on public procurement as well as the treaty principles of transparency and non-discrimination apply to contracts on social services. That is why we believe that there is no need for a specific EU legal framework on SSGI.

However, in order to further adapt the EU rules to the specificities of social services, the Commission is currently reviewing - after having carried out extensive public consultations - the state aid and public procurement rules. In this debate I am trying to ensure, for instance, that social considerations can be used as award criteria, or that the price is not the sole criterion for the choice of a service provider.

Are you planning to set up a high-level working group to find solutions to the problems that the SSGI is faced with, as requested by the European Parliament in July (De Rossa report)?

The Commission has undertaken thorough consultations on the reform of both state aid and public procurement rules. However, this dialogue should respect the different roles of the institutions involved. That's why we believe it would be better to use existing structures, including the Social Protection Committee (SPC), to continue discussions with stakeholders rather than creating a new multi-stakeholder high-level working group that brings together MEPs, various commissioners, the Council and the stakeholders. ■

INTERVIEW WITH THIERRY REPENTIN, PRESIDENT OF USH “Social housing more integrated into EU policies than ten years ago”

By Sophie Petitjean

The Union sociale pour l'habitat (USH, or Social Housing Association), which brings together some 800 French social housing bodies, has had a permanent representation in Brussels for ten years. And the situation has moved on considerably since 2001, according to the organisation's President, Thierry Repentin. He notes that this issue is increasingly taken account of in Community policies. He points out that the crisis will have to confront the supply of housing and its financial accessibility with new challenges which the EU will have to respond to. The USH advocates a social housing model that is geared to people in need who have difficulties accessing decent housing at an affordable price. And it wants to do this while avoiding the social specialisation of some blocks of flats, districts or territories and by preserving a mix of social groups and social cohesion.

After ten years in Brussels, how would you describe the change in European debates on social housing?

What surprised me the most is, on the one hand, the speed of change and the impact of EU law on social housing - I'm thinking in particular about single market and state aid rules - and, on the other, the gradual emergence of social housing in Community policies, especially those relating to economic and social cohesion and to combating climate change. The leveraging effect of these policies on territories, through the European Regional Development Fund (ERDF) and the European Social Fund, has been real since the implementation of the recovery plan presented by President Barroso in 2008.

Reduced VAT rates, leaving social housing out of the Services Directive, exempting notification of state aid in favour of bodies with moderate rent housing, the eligibility of heating renovation for social housing and access to housing for disadvantaged groups to ERDF funding are all examples of our full and total involvement in the Community legislative process.

What I note in particular is the closer and closer interconnection between what goes on in the territories and what goes on in Brussels. That signals a higher and higher degree of European integration. The two crises which we are faced with today, the



Repentin: “The debt crisis calls for new structural responses to growing needs in terms of affordable housing”

market crisis and the crisis of states and their debt, strengthen this interconnection between what happens locally and in Europe, including in the very definition of social housing and its role faced with the failure of housing markets.

The recent European Commission decisions regarding the Netherlands and Sweden did not please the USH. What role should the EU play in your view?

In our view, as a European competition authority, the Commission is not competent to define the missions given to social housing bodies by national or regional legislators in advance, unilaterally and without democratic checks. I doubt whether the Council and the European Parliament, if they had had to take a position, would have followed the Commission in its analysis of the public service of social housing and its area of intervention in the market.

These two issues refer back to collective preferences anchored locally that only the Community co-legislators are able to integrate. In any case, this decision making practice has affected the fundamentals of social housing: housing people in need with a mix of social groups while respecting public service obligations (the financial accessibility of housing, rules and allocation procedures in terms of priority of access and security of tenure of housing). It poses the

question of the democratic deficit, which characterises this type of European decision in the absence of a legislative reference framework. The issue of the opportunity of a legislative framework specifically for social services of general interest therefore remains open from this point of view. I fully share the vision of Vladimír Špidla, the former employment and social affairs commissioner, that we will get there sooner or later. It is a matter of political maturity in a complex and particularly sensitive issue.

What are the other big challenges to be surmounted for social housing?

We are faced with a concrete major issue: to respond to growing needs for affordable housing for European citizens faced with the economic crisis and the rise in unemployment and exclusion while we ourselves are directly hit by budgetary austerity measures and the reduction of public funds allocated for social housing. The debt crisis calls for new structural responses to growing needs in terms of affordable housing. The regulation of housing markets is a necessary step faced with the disastrous consequences of housing cycles and the ‘bubble’ phenomena for the stability of the eurozone but, above all, for households with modest income. The consolidation of specific circuits of financing for social housing is also necessary faced with the withdrawal of the banks and the volatility of interest rates. Europe can act very concretely by promoting, for example, new financial instruments based on ‘solidarity’ and by organising better macroeconomic surveillance of these ‘housing bubbles’.

We are also facing new issues. Here, we could cite the fight against ‘energy poverty’, which is growing, and the need to renew the pool of social housing that exists to strengthen its energy performance but also ageing populations, the adaptation of housing and the development of new services for dependents, access to housing for young people who are the first victims of the crisis and of being left out of the job market. Here, too, Europe can play a role as a driving force. ■

STATE AID

Social housing not only sector concerned

By Florence Martin

Other general interest social services that interact in one way or another with the private sector give rise to questions similar to those facing the social housing sector. For example, hospitals wonder whether they are in the same boat in relation to subsidies received as compensation for public service. They are automatically exempted from the obligation of notifying compensation to the European Commission, with no financial thresholds.

Hospitals and social housing have been faced with the same types of questions, when federations of private profit-making clinics in France and Germany, arguing unfair competition, complained to the European Commission over aid to the public sector. The executive dismissed their complaint, referring, as reported by Pascal Garel, director-general of the European Hospital and Healthcare Federation, to a "misunderstanding" of how the system operates.

In Belgium, Assuralia, the professional association of private insurance companies,

referred a similar case to the Commission in 2006, arguing that the hospitalisation insurance policies offered by 'mutuelles' constitute unfair competition. The Commission pointed out that these entities were in fact dispensed from prior authorisation but ordered the Belgian state to restore sound competition, to the displeasure of mutuelles, which consider that their hospitalisation insurance is based on a different philosophy. Negotiations opened between the two parties and the Belgian government resulted, in 2008, in a solution that was passed into law on 26 April 2010. ■

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Social Housing across Europe

At the initiative of Prefect Alain Régnier, France's interministerial delegate for accommodation and access to housing for homeless or inadequately housed people

Edited by Noémie Houard

Who makes the decisions on social housing in general and 'disadvantaged' people in particular? Where is the focus? How do the various government tiers and regulating bodies interact, and how do decisions ripple across Europe?

The financial crisis, the economic downturn, the European Union and more fundamental political changes have strengthened the pressures for change in social housing systems across the continent. How these are playing out varies according to each country's history and welfare scheme. In particular, a glance at European Community decisions suggests that the EU is gravitating towards the notion that social housing should be restricted to the people with income in brackets that bar them from housing at market prices. In most European countries, the economic downturn has accentuated the trends that had already been at work for years. The EU's interventions, more prominent local and supra-national authorities, as well as greater private-sector involvement in public-policy implementation, illustrate the shifts in public action and raise questions about the point of social housing, its governance and the connection between housing and the so-called 'disadvantaged'.

In the first section of the book, social housing in different welfare systems (United Kingdom, Germany, Finland, Spain, Czech Republic, Netherlands, France) is analysed. The second part addresses this issue from a transnational and multidisciplinary perspective to cast light on the question of whether such a thing as a European social housing model indeed exists. The third probes whether the notion of a 'French model' is actually relevant, putting the spotlight on each of the various facets of France's public policy in the social-housing realm in turn.

The authors: Jean-Philippe Brouant, Darinka Czischke, Jean-Claude Driant, Christiane Droste, Marja Elsinga, Benoît Filippi, Laurent Ghekiere, Noémie Houard, Marie-Christine Jaillet, Thomas Kirszbaum, Thomas Knorr-Siedow, Matti Kortteinen, Jesús Leal, Claire Lévy-Vroelant, Martin Lux, Peter Malpass, Pascale Pichon, Nicholas Pleace, Harry Schulman, Claude Taffin, Christian Tutin, Mari Vaattovaara, Gerard van Bortel, Didier Vanoni, Christine Whitehead.

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