



Private Real Estate's Common Position on a European Pillar of Social Rights

Comments on the preliminary outline of the European Pillar of Social Rights, supplementing the public consultation and necessary policy considerations

By the European Historic Houses Association (EHHA), European Landowners' Organization (ELO), European Property Federation (EPF) and International Union of Property Owners (UIPI)
(description of each in Annex)

December 2016

Our associations represent housing providers as well as citizens who live in their own house. As such, we represent 7 out of every 10 (70.1 %) persons in the EU-28 who live in owner-occupied dwellings. Our members also shelter a large part of the 19.1 % of the tenants who are housed at market price rent.¹

Our sector welcomes the establishment of a European Pillar of Social Rights to provide a reference framework for the assessment and screening of the employment and social performance of participating Member States, to drive reforms at national level and serve as a compass for renewed convergence within the Euro area. We acknowledge the fact that the Pillar touches both, areas where the EU shares competence to legislate and others where Member States are solely responsible. This is the case for housing policy.

On housing, we consider that the preliminary outline is well drafted, depicting the social importance of the sector, the challenging reality as well as the need for adequate and secure housing, while striking the right balance in protecting the rights of the different actors of the sector and respecting the current *EU acquis*.

Housing is at the core of our members' activity. It is for them of utmost importance to contribute to the provision of secure, adequate and affordable housing. In order to fulfil this challenging task, they need to be able to acquire and supply housing on a level playing field that respects their rights, while imposing the appropriate level of duties.

Therefore, in relation to the ongoing consultation on the establishment of a European Pillar of Social Rights, we would like to make the following supplementary remarks to reconcile the phrasing of the current chapter on housing with the preliminary outline of the Pillar of Social Rights.

¹ Eurostat, Housing Statistics 2015, http://ec.europa.eu/eurostat/statistics-explained/index.php/Housing_statistics.

1. Housing is primarily a national competence

While housing markets make up a large and systemic component of any economy with impact on employment, labour mobility and public finances, it must be underlined that housing policy remains outside of EU legislative competence. Also in the future, housing policy should remain primarily a national competence as Member States are best equipped to legislate on those matters to ensure that all national and regional particularities are properly taken into account.

2. Ensuring a level playing field in the housing sector

The preliminary outline of the EU Social Pillar rightly states that “*Access to social housing or housing assistance shall be provided for those in need (..)*”. We welcome this statement as it respects the present *Acquis* and EU primary law in the field of State aid.

Successful promotion of access to housing can only be achieved if a level playing field is created, ensuring that all market players providing such services have the same opportunities. For that, it is of paramount importance for that the Commission’s current notification exemption for services of general economic interest remain in place unchanged. Only if that exemption is granted exclusively to “*social housing for disadvantaged citizens or socially less advantaged groups, who due to solvency constraints are unable to obtain housing at market conditions*”² will it be possible to avoid serious distortions of competition caused by social housing companies competing with private landlords for middle-income tenants.

Social and municipal housing companies have long since grown out of their historic position as special housing providers for the disadvantaged. They have adapted to the levelling out of the old ‘social categories’ by taking on a more diverse and complex tenant base. That diversity is in itself a factor of European social progress and is to be welcomed as long as this is done in the framework of the existing State aid rules. At the same time, private sector housebuilders, investors and landlords have moved in the same direction, seeking to develop business opportunities across the population’s income spectrum.

A successful housing policy that addresses social needs is one that enables both of these increasingly intertwined sectors to flourish and thereby develop more and better housing. The key to that is the creation of a **genuine level playing field for housing providers**. Service of general economic interest notification exemptions are possible provided that the services are not offered by the market and under the condition that the services are reserved for people with limited resources. State aid must be rigorously focused on promoting affordable housing for those unable to access housing at market conditions, no matter what the legal status of the provider is. The aid must go indiscriminately to all those who can deliver affordable housing, be it public, semi-public or private. To do otherwise is to distort competition on socially mixed housing markets to the detriment of those most in need.

For housing, the concepts of ‘level playing field’ or ‘freedom of competition’ are the means by which public and private bodies can be made to compete in achieving the common good: quality affordable housing. This is why the EU legislator must continue and enhance its crucial role, ensuring that State aid energises all market actors to compete in increasing the affordable quality housing stock.

² Recital 11 of Commission Decision 2012/21/EU on the application of Article 106(2) TFEU to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest states.

There is also a European political imperative: Access by all to quality housing is a fundamental tenet of the social market economy which defines the Union and distinguishes it from other parts of the world. At the same time, Eurozone budgetary constraints, Memorandums of Understanding and EU Economic Governance have imposed harsh limits on State and municipal investment in social housing and in direct financial housing support to citizens. The only way forward is by developing a policy framework that incentivises all market players toward the affordable housing goal. This debate has already begun at the level of EU Economic Governance under the imperative of achieving better results from the use of scarce public funding and promoting labour mobility, as lack of adequate and affordable housing necessarily also creates a barrier to labour market adjustment and job uptake. In the light of the ever-growing demand, many European cities and towns struggle with a limited capacity to supply additional affordable and quality housing.

3. Removing restrictions to supply in the housing sector and rental market distortions

We agree with the statement of the preliminary outline according to which “restriction to supply in housing sector and rental market distortions are contributing to the lack of availability.”

Rental market distortion can have strong social implications. In particular, it has been demonstrated that a well-functioning private rented sector and neutrality in housing policies can improve the functioning of the housing market – by promoting residential mobility, increasing housing options for households and generating competitive supply and affordable prices. The private rented sector can have positive effects on the economy and labour mobility and reduce inefficiencies and risks for owner-occupied and social housing.³

In housing, despite local particularities, there are only so many regulatory ‘solutions’ to the social problems caused by housing shortages. They have all been tested many times in many countries over a century. Policies designed to provide immediate relief to pressing social problems have created major bottlenecks and inefficiencies that have remained even though society and its problems have evolved. Yet, successive governments tinker with outdated policies supported by entrenched special interests without seeking broader solutions adapted to a modern society and economy. In many countries, housing policy and in particular **counterproductively detailed regulation and control of rental markets have become a major, systemic contributor to national macroeconomic imbalances, notably to budget deficits, further impeding labour mobility.**

The objective of rent control policy is to address market failure and protect tenants in pressured markets. But rent control appears to have a significant destabilising impact on the aggregate housing market. It limits rates of return to landlords, leading to reduced investments in the private rented sector and eventually to the decline in the size of the sector. It also diminishes residential and labour market mobility and reinforces inefficient use of the stock.

The European Commission’s Economic Governance analysis has already correctly identified a dysfunctional housing rental market as a significant contributor to macroeconomic imbalances. In some countries, rent control is an important aspect of this dysfunction, especially when it goes beyond capping increases in rent during the tenancy to regulate the initial rent between a landlord and a new tenant.

In the first instance, the system in Portugal was considered an extreme case marrying open-ended leases with rents frozen over decades, the benefit of which could be passed on to relatives.

³ De Boer R. and Bitetti R. (2014), *A Revival of the Private Rental Sector of the Housing Market? Lessons from Germany, Finland, the Czech Republic and the Netherlands*, Working Papers ECO/WKP(2014)66, OECD.

Following the specific requirements in the Memorandum of Understanding on Specific Economic Policy Conditionality of 17 May 2011, the Portuguese Government adopted Law 31/2012 to phase these controls out as part of a comprehensive reform of the housing rental market. However, if the new law was meant to make the housing market more dynamic by better balancing the rights and obligations of landlords and tenants, recent amendments and on-going changes are a major step backwards.

The second case, in Sweden, involves inter alia, straightforward initial rent control. It has been subject to constant attention from the Commission and specific recommendations under the European Semester procedure. Over the years, the Council's Specific Recommendations for Sweden systematically stressed the need to further improve the efficiency of the housing market through continued reforms of the rent-setting system.⁴

In an Economic Paper on Rental Markets in Europe published in 2014 by DG Economic and Financial Affairs,⁵ the authors demonstrate that rent controls appear to have a significant destabilising impact on the aggregate housing market, increasing the volatility of house prices when confronted with different shocks (e.g. shifts in population, disposable income, residential investment and long-term interest rates).

Therefore, they argue that when setting controls on both rent levels and rent increases, policy-makers should bear in mind their broader implications for housing market stability and consider them within the context of existing incentives for home ownership such as taxation incentives or macro-prudential measures. According to them, the drawbacks of rent control in terms of unintended consequences for housing market stability and negative effects on labour mobility. Social concerns such as the provision of affordable housing opportunities for young and low-income households and the prevention of homelessness require more targeted policies, which would be welfare-enhancing while not taking a toll on rental market efficiency.

We share this analysis, as do experts from the OECD and the IMF.⁶ Experience has shown that rent control generates a reduction of the rental housing market that cannot be fully compensated by public and social provision of housing, pushing households into homeownership, consequently increasing house prices and generating over-indebtedness.

Therefore and despite the fact that housing is not an EU legislative competence, we consider that EU Economic Governance is a historic opportunity for European and national authorities together with market actors to discuss common problems and solutions on the basis of an 'inconvenient truth':

- complex and multi-level rent regulation of housing negatively affects the interest of investors in investing in residential properties;
- causing an increasing drain on the exchequer as lack of income for private investors causes a maintenance and modernisation backlog in the rent controlled sector, giving rise to a growing need for public subsidies for urban renewal, energy-related improvements, etc.;

⁴ European Council (2016), *Recommendation on the 2016 national reform programme of Sweden and delivering a Council opinion on the 2016 convergence programme of Sweden*, http://ec.europa.eu/europe2020/pdf/csr2016/csr2016_sweden_en.pdf.

⁵ Cuerdo, C., Kalantaryan, S. and Pontuch, P. (2014) *European Economy, Rental Market Regulation in the European Union*, Economic Papers 515, European Commission.

⁶ IMF Staff Report, *Housing Recoveries: Cluster Report on Denmark, Ireland, Kingdom of the Netherlands—the Netherlands, and Spain*, IMF Country Report No. 15/1, <http://www.imf.org/external/pubs/ft/scr/2015/cr1501.pdf>.

- which creates a self-reinforcing effect by which the controls and regulation increase the need for further government intervention and support.

4. Striking the right balance between tenant and landlord rights to the benefit of the most vulnerable

The preliminary outline of the EU Social Pillar refers to the “*right to housing assistance so as to ensure a decent existence for all those who lack sufficient resources*” as provided in Article 34 of the Charter of Fundamental Rights.

For the most vulnerable, housing assistance intelligently understood implies striking the right balance between tenants’ and landlords’ rights. It is in the best interests of both parties to ensure that adequate and reasonable rules are in place for the owner to regain possession of a property in case of rent arrears and other legally defined reasons specified under national law respecting the right to property, a fundamental pillar of any democracy governed by the rule of law enshrined in Article 17 of the EU Charter.

In all European countries, conditions to evict a tenant are defined by law and need to follow a procedure that requires obtaining a court order followed by its execution by a bailiff. In most EU Member States, this is far from being a simple process and can become a lengthy and expensive procedure.

Tenants often accumulate further arrears in rent and other costs, making them more vulnerable to homelessness, while landlords risk falling behind on mortgage payments due to lengthy and costly court procedures. The result is not only financial damage to both landlords and tenants, but also an increasing reluctance of landlords to rent out properties to vulnerable households or formerly homeless persons as the landlords’ confidence in the ability to regain possession diminishes.

Therefore, national policies should rather put a stronger emphasis on prevention of vulnerable households and homelessness. Preventive means could include the recognition of a threat of homelessness as early as possible and no later than at the eviction notice. Such measures should lead to an earlier duty to act for public authorities. This could increase the chances of averting homelessness as mediation between parties and assistance with debt management could be employed. In effect, this will lead to taking the strain off of overburdened courts, ensure adequate support for tenants and increase the much-needed confidence of landlords for letting out property to riskier tenants.

Contact:

International Union of Property Owners

76, Rue du Lombard, Brussels, 1000 Belgium

Tel: +32.2 502 2318

office@uipi.com

About the Parties

Name followed by Commission Register of Interest Representatives identification number

European Historic Houses Association (EHHA) 594015610806-90

An umbrella organisation for national historic houses associations, promoting the interests of Europe's privately-owned historic houses, parks and gardens and their contents. The organisation promotes European cooperation in the conservation of historic houses which are most of the time SMEs. The Association brings together 22 national members and represents more than 50,000 historic houses in Europe and supports actively its members' interests on several European issues such as culture and education, VAT, energy and environment, tourism, and security. www.europeanhistorichouses.eu

European Landowners' Organization (ELO) 36063991244-88

Created in 1972, ELO promotes a prosperous and attractive European Countryside. ELO is a unique federation of national associations from the EU28 and beyond which represents the interests of landowners, land managers, rural entrepreneurs and family businesses. It targets its actions on land use and housing, via seven major areas of European importance: environment, renewable energy, agriculture and rural development, status of private property and companies, forest, enlargement and trade. www.elo.org

European Property Federation (EPF) 36120303854-92

EPF represents all aspects of property ownership and investment: residential landlords, housing companies, commercial property investment and development companies, shopping centres and the property interests of the institutional investors (banks, insurance companies, pension funds). Its members own property assets valued at € 1.5 trillion, providing and managing buildings for the residential or service and industry tenants that occupy them. www.epf-fepi.com

International Union of Property Owners (UIPI) 57946843667-42

UIPI is a pan-European not-for-profit association comprising 30 organisations from 28 countries. Jointly, they represent more than 5 million private property owners and some 20 to 25 million dwellings. Founded in 1923, the UIPI aims at protecting and promoting the interests, needs and concerns of private landlords and owner-occupiers at national, European and international levels. The UIPI is involved in many issues, including general housing; taxation and inheritance concerns; technical matters and new regulations such as energy saving in buildings; the private rented agenda; as well as universal consumer rights and social responsibilities. www.uipi.eu