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European Commission
DG Employment, Social Affairs & Inclusion

Re.: Views on the implementation of the European Pillar of Social Rights – Reinforcing Social Europe

The following response constitutes the official position of the Swedish Union of Tenants¹ regarding new policy action or legal initiatives needed on different levels (EU, national, regional, local) and/or pledge concrete commitments as a Member State, region, city or organisation towards implementing the Social Pillar.

1. The Social Pillar and Housing Policy

The European Pillar of Social Rights² as proposed by the European Commission and adopted by the EU Member States at the Social Summit for Fair Jobs and Growth in Gothenburg, Sweden largely came as a reaction to the social costs associated with the need to salvage the Euro as a currency. The overarching purpose being to strengthen the social rights of the EU citizens, primarily for those most severely affected Eurozone countries in which the citizens had been subjected to drastic reform programs during the Euro crisis.

2. Housing Policy – An Exclusive National Competence

For this the Swedish Union of Tenants (SUT) feel the utmost sympathy as well as the deepest understanding. However, apart from being an act of social solidarity, the establishment of the Social Pillar also mark the starting point for a new chapter in the continuing development of the European cooperation – the potential expansion of the EU powers into policy areas hitherto not covered by the EU treaties.

The Social Pillar is structured around three over-arching categories spread across 20 principles. The bulk of the document as covered by Chapters I and II cover various aspects mainly relating to the labour market. Whereas Chapter III covers social protection and inclusion principle and the 19th principle relates to housing. The comments below will therefore relate exclusively to aspects concerning the 19th principle and housing policy from a Member state perspective, but also with an EU perspective.

As the starting point, it is important to highlight the fact that housing policy in itself is a policy area which is a national exclusive competence and consequently a matter reserved for the EU Member states. For this purpose the SUT are firm believers that each EU member state should be

¹ The Swedish Union of Tenants have 534 000 household members and represent 3 million tenants in annual collective bargaining of rents in Sweden.

² Henceforth simply referred to as the "Social Pillar".

free to choose which model should be applicable on the housing market, be it a residual, means-tested, or a universal model. The SUT are also in favour of tenure neutral policies.

3. The Housing Market – A Market Like No Other

The SUT in our response to the public consultation on the Social Pillar, which was undertaken in 2016, highlighted a number of issues we believe are key to understanding the peculiarities with the rental housing market. In the following the main points of this response have been summarised:

- Precious little evidence is available to suggest that entirely market-based rental housing systems in Europe function better than those that fully or partially regulate rents. Nor can it be said that dual rental systems – consisting of a market-based rental sector combined with a social housing sector with regulated rents (e.g. France³) – yield better outcomes in terms of affordable rents or availability of good quality housing in close proximity to labour markets than those of the member states with universalist models⁴ in place (e.g. Sweden, the Netherlands).
- Housing is no ordinary good! It is a merit good that individuals or society should have access to based on need, rather than ability and willingness to pay. The benefits to society of consumption of such good is greater than the individual would be aware of or would prioritise. Unlike a private good, that has clear and immediate private benefits to the individual consumer, the individual consumer will not be fully aware of the effects that housing will have on his/her life. For instance, very few individuals will be aware that his/her own chances of social mobility or health status, or those of his/her children, might be affected by where geographically he/she lives or the quality of housing he/she lives in.
- The housing market is affected by various market failures which need to be addressed either through regulation, incentives or sanctions. For instance, the physical planning of housing is usually not a competitive, unregulated market.
- From a consumer perspective, information asymmetries are rife both in the rental and home ownership markets. Tenants have a weaker position in relation to landlords, and home-buyers have a weaker position vis-à-vis the seller, given these information asymmetries. Regulation can help to reduce these asymmetries. For instance, the collective bargaining system of rent-setting in Sweden, a form of

³ The French dual market is an example of a generalist policy aiming at offering to disadvantaged populations through strict means testing decent and affordable dwellings, while at the same time also trying to keep a certain level of social mix in the social sector.

⁴ According to one definition a fully universalist social program should (1) formally include all citizens on the same conditions, (2) be financed through public means only, (3) be managed by one actor only so that benefits are uniform, and (4) offer social benefits that are generous and of high quality, thereby making them relevant to all groups in society, including the better-off.

industry self-regulation, means that price-setting is based on a number of variables reflecting the actual quality, standard, location and values of consumers at market equilibrium.

- Some claims have been made to the effect that distortions (in the form of various types of rent control) on the rental market should contribute to the lacking availability. However, looking at the available evidence this appears highly questionable. In the Swedish context of rent-setting through collective bargaining, the system has produced stable and high yields over time. Nor has the construction of own homes been sufficiently large despite “free” price-setting which seems to suggest that the price-setting mechanism is not what is restraining the supply of new homes. It is more likely that low levels of supply are a reflection of market failures and of households’ limited ability to pay. Overcoming these failures thus necessitates some form of public response.⁵
- In the Swedish example it is likely that the current system with collective bargaining of rent-setting has mitigated against full-blown economic segregation of households into particular neighbourhoods based on socio-economic status, since public housing is open to anyone. Given that rental households already have lower incomes and consume less square meters, it could be argued that an entirely market-based system would exacerbate this tendency and lead to increased segregation and gentrification.

4. Indirect EU Control of Housing Policy

Even though housing policy as previously pointed out is an exclusive national competence of the EU Member states, it is obvious that the EU nevertheless exercises a strong influence as the housing market and housing policy hardly can be separated. The “back door” in question, which the EU is privy to are the requirements of the internal market. Every national housing policy, no matter how exclusive the national competence is, nevertheless is required to align policy to these requirements. Very concrete examples of such are e.g. the rules on energy efficiency or the rules relating to deductions of interest rates. Both having profound influence on the housing market, but also housing policy. However, more problematic for the Swedish housing policy are the EU competition rules and regulations in general and in particular as relates to state aid.

5. EU Policy - Limitations and Opportunities

The Swedish model on the housing market is based on a principle of universalism and general welfare and exists within a system built on

⁵ The Commission, in the on-going debate on minimum salaries on the EU labour market, has itself concluded that systems based on a collective bargaining model not only on average generates higher salaries, but also renders the labour market more equitable. This is mirrored on the rental market in a similar way to the workings of the labour market; collectively bargained rents not only guarantee a stable and predictable yield for the property owners, but it also guarantees reasonable and predictable rental increases to tenants.

solidarity. Social housing in the continental style, i.e. where access is means tested, does not exist. Rental levels are set according to the so-called utility value system under which rents are negotiated collectively on an annual basis and anyone has the opportunity of getting a rental contract in the entire stock without means testing.

However, since the financial crisis in the early 1990's the system has been under constant challenge and gradually municipal investment in constructing affordable rental housing has decreased, as a result of abolished state subsidies. This has happened without any modifications to the municipal legal obligation of ensuring availability of appropriate housing for the needs. Amendments of the *Law (2010:879) on public utility municipal housing companies*⁶ followed in 2010. The overall purpose of these amendments was to better harmonise it with the requirements of the EU competition law requirements. Consequently, the municipal enterprises were made to apply the same businesslike principles as the commercial sector, with some degree of maneuverability.

However, the combined effect of the Swedish 1990's crisis and the application of businesslike principles on municipal housing companies have had the effect of severely limiting construction and availability of affordable rental housing on the Swedish housing market. Instead, commercial interests have gradually invested in the premium segment of the housing market, effectively pricing out large segments of the Swedish consumers, at the same time as housing shortage has become global.

Therefore, from a competition policy point of view, currently the Swedish system on the housing market is surrounded by, on the one hand: the limitations as defined in the *General Block Exemption Regulation*, which provides for certain exemptions in the form of environmental as well as certain infrastructure investments. On the other hand: the rules relating to *Services of General Economic Interests* (SGEI) limit investments into housing aimed at only disadvantaged citizens. To enable the housing market to better take into account the needs of citizens, the SGEI definition simply is too narrow to cater for the needs on the housing market while the GBER exemptions are too complex and cumbersome to act as a constructive aid. Something else is needed to boost housing markets in Sweden and the EU.

6. The Future for Housing Policy in the EU

However, it seems justified raising the question whether the European Commission pre-defined competition rule exemptions should continue allowing itself to govern housing policy – a national exclusive competence – “through the back door” as is currently the case? For not having its own housing policy another possibility seems to be on the table for the Commission as a direct result of the adoption of the Social Pillar.

⁶ Lag (2010:879) om allmännyttiga kommunala bostadsaktiebolag.

The mere fact that housing policy (even defined by limited scope of the 19th principle) has been included in the scope of the Social Pillar, appears to indicate that also the Commission has opted not to limit EU housing policy only to the infrastructure exemptions listed in the GBER, nor as limited a scope as defined by the SGEI package, but something much more – namely a service of *true* general interest to the broad European public.

However, just as rights require a counterbalance in the form of obligations such interference cannot come for free without a cost, but with an obligation for the Commission to commit itself to take actual initiatives within the field. Without a visionary approach the impact of the Social Pillar on housing policy, as is the current state-of-affairs, will stop at the limitations imposed by the GBER or the SGEI package. In fact, the Treaty on the Functioning of the EU (TFEU), Article 156 provides the Commission with the tool necessary:

"[...] the Commission shall encourage cooperation between the Member States and facilitate the coordination of their action in all social policy fields under this Chapter, particularly in matters relating to:

[...]

- Social security [...]"

By applying the TFEU as suggested, the Commission would gain the mandate to further investigate the situation on the housing markets in the 27 EU Member states. It would also enable the Commission to consult relevant parties regarding the numerous challenges housing policy is subject to across the European union. Following on from this, it would be possible to compile guidelines on how certain issues of common interest could be solved. According to Article 14 of the TFEU, the Commission could even, in cooperation with the European Parliament and the Council, establish modes of financing such housing policy.

In the opinion of the Swedish Union of Tenants this would be a visionary and responsible way for the European Commission to deal with a socially conscious housing policy in the twenty-seven EU Member state housing markets.

However, the current state-of-affairs simply is not good enough. Since several years it is obvious that the Social Pillar principles are to be included in the social scoreboard, as such feeding into the annual country specific reports which are an integral part of the European Semester procedure. However, the European Semester procedure provides no solutions, it presents only suggested modifications on how to further align the national housing policies (as well as other policies) to better suit the EU legislative framework. As an alternative and what is really needed, is true coordination between the Social Pillar and EU competition policy, as currently they appear to negate each other.

About the Swedish Union of Tenants

The Swedish Union of Tenants is a democratic membership organisation for current and future tenants. We are politically independent and in excess of half a million households are members. This makes us one of the largest social movements in Sweden, and also the main representative of tenants across the country. Our mission is everyone's right to quality housing at a reasonable cost. In addition, all tenants should be guaranteed accommodation that is secure over which they have influence in the context of their community.

The Swedish Union of Tenants negotiates for any tenant requiring our assistance – we represent nine out of ten rented households in the collective bargaining process. Each year more than 100,000 members require advice and help from the organisation in their dealings with landlords. Approximately 10,000 members have also chosen to get involved as elected representatives.

More information:

<https://www.hyresgastforeningen.se/>

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