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Ernst & Young Study Regarding SGEIs

The below represents our input to the questionnaire *Interview Guide for Industry Associations – Study on Market Trends in Health and Social Service and EU State Aid Implications*. The Swedish Union of Tenants hereby provide our comments to 15 of the original questions.

Context of the national market

- ***How would you qualify the evolution of competition in the health / social housing sector in and between Member States?***
- ***To what extent have policy and market developments in Member States impacted access to state aid?***

Since the financial crisis in the early 1990's the Swedish system has been under constant challenge, and gradually municipal investment in constructing affordable rental housing has decreased, as a direct 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 companies¹ followed in 2010. The purpose of the amendments of the law was to better align it with the requirements of the EU competition law. Consequently, the municipal enterprises were made to apply the same business-like principles as the commercial sector, with some limited degree of manoeuvrability. (See Annex 1)

However, the combined effect of the Swedish 1990's crisis and the application of business-like principles as a result of the alignment to EU competition law, has on municipal housing companies 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. (See Annex 1)

Looking at the statistics one can't but be struck by how the Swedish financial crisis in the early 90's, the accession to the European Communities in 1995 and the subsequent alignment to EU competition

¹ Lag (2010:879) om allmännyttiga kommunala bostadsaktiebolag.

law coincides with a dramatic cut in investment in construction of affordable (or for that part any kind of) housing.

Relevance

- ***What needs exist for your members with regard to state aid?***

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 limited exemptions in the form of environmental as well as certain infrastructure investments subject to strict rules which need to be met before applying the rules.

On the other hand:

- the rules relating to SGEIs provides strict limits on investments which may only be utilised for housing aimed at only "*disadvantaged citizens or socially less advantaged groups*".

To enable the housing market to better take into account the needs of citizens, the narrow SGEI target definition as presented in recital 11 of the 2012 SGEI Decision only allowing subsidies for social housing for "*disadvantaged citizens or socially less advantaged groups*" is in dire need of being broadened. Broadening the definition not only to encompass social housing in the most narrow sense, but also public and affordable housing as well as universalist models like the Scandinavian welfare models, would allow stakeholders on the national, local and regional markets to independently assume responsibility for the provision of social services and determine the needs of affordable housing in close proximity to the citizens.

Finally, with the EU Member State adoption of the Social Pillar, it appears the EU institutions also have come to recognise housing as a service of general interest not only on the national level, but also the on the EU level. In the light of this, it appears illogical for the SGEI rules to limit the possibility of supporting construction of reasonably priced housing.

- ***Do you believe that your members' needs for financing have been better addressed following the modification of the SGEI rules in 2012?***

No. Please see comments under the section about Effectiveness. However, in short it is highly unlikely that the SGEI rules have contributed

in a positive way to increasing construction of decent and affordable housing on the Swedish market.

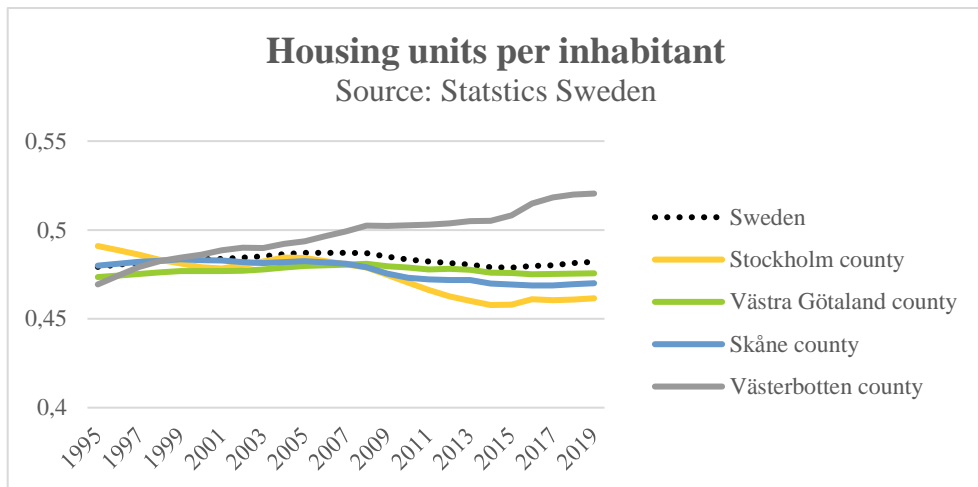
Starting with a looking at some different groups (young, elderly, divorced, migrants etc.) the Swedish situation on the housing market can be described as follows:

- The group consisting of young adults still living with their parents has since 1997 gone from 15 % to 27 %. Of these, 85 % claim to remain with their parents involuntarily. The conclusion is that the housing market has become markedly more difficult for young adults getting established in.
- The problems are focused mainly to the large cities, also coincidentally also having the greatest offering of attractive jobs and salary levels.
- It has a direct effect on the possibility for employers to recruit as it becomes increasingly difficult finding the "right competence" to relocate to where the jobs are located.
- The ones nevertheless manage to move out from their parents home tend to live in rented dwellings, indicating the rented housing is the way to gain access to their adulthood.

The above described issues are not limited only to young adults, but also other groups such as newly divorced, migrants and so forth experience the same issues. Organisations representing the elderly frequently report about the same issue indicating the difficulties experienced in finding reasonably priced rental apartments better suited for their needs.

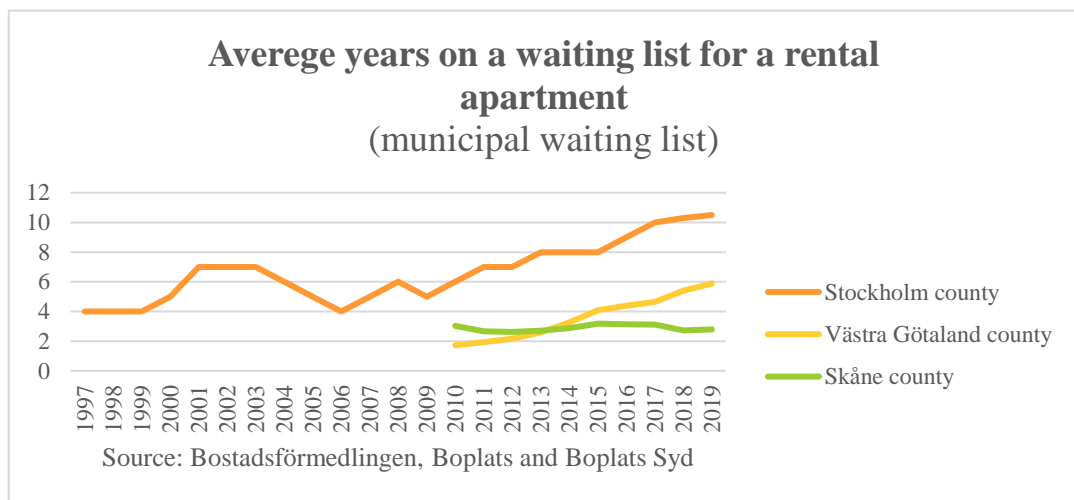
On a more general level, housing units per inhabitant is stagnant in Sweden. The nation-wide average is however clouding the shortage in expanding regions. Counties in the north of Sweden is often experiencing decreasing or stagnant populations (see Vertebrate county) with a growing number of housing units per inhabitant. Whereas expanding regions see and have for some time seen a decrease in the number of housing units per inhabitant. Most notable is this trend in the Stockholm county.

The decreasing availability of housing is partly visible through the



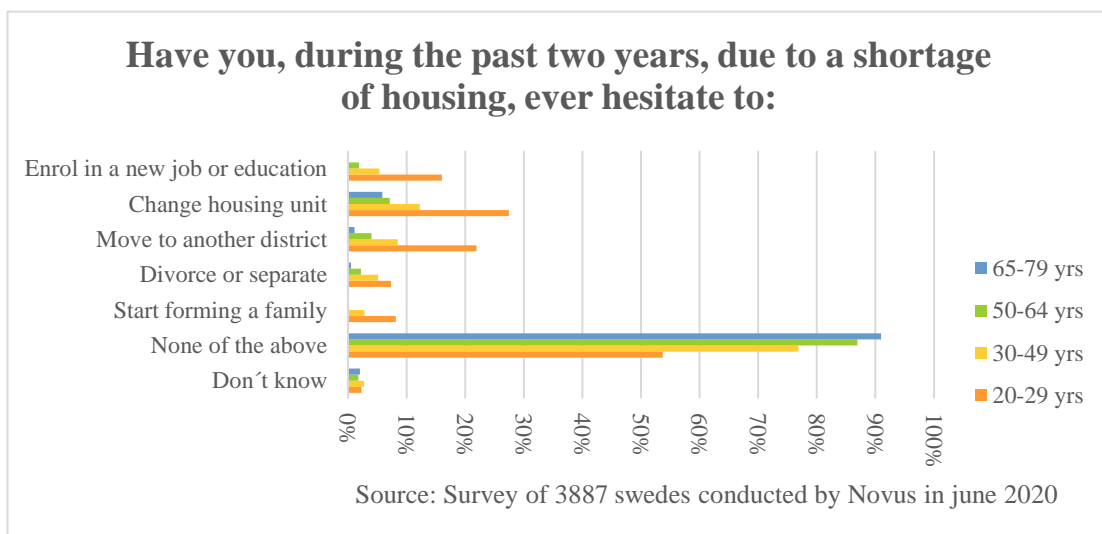
municipal waiting list and average waiting period in order to get a rental contract in the major regions of Sweden.

Decreasing availability of housing is also shown as the share of



population that hesitate to take major life decisions due to the shortage of housing. When asked, 25 percent claim to have hesitated with major life decisions (during the last two years) due to the shortage of housing.

Among younger individuals this is a more pronounced problem with one in two making the same claim.



- **Considering the impacts of the COVID-19 crisis, would you say that the 2012 Package addresses the needs arising from this pandemic?**

Given the fact that the proportion of households under the poverty line is almost three times higher in rental housing than in other tenures based on median incomes (See Annex 3) it becomes quite obvious that the already vulnerable become extra hard hit in a situation as the current COVID-19 crisis. It has also become obvious that the hardest hit by the virus are the people living in overcrowded apartments in poorer neighbourhoods. The housing deficit is obviously a factor in this development. For this purpose the Swedish Union of Tenants have made a number of demands on the government. These demands can be read about in the separately attached document².

- **To what extent do you think that the provision of health and social housing represent a low risk to the distortion of competition?**

The fear that increased government spending, aimed at providing housing for its population, will have a negative impact on the competitive atmosphere within the union is fundamentally misguided.

Government spending will always have the possibility of harming competition by favouring some above others. Government spending is however needed in different settings in order to increase GDP and promote competition. The union has therefore allowed member states to direct government spending towards different sectors. Such as infrastructure and social housing. In order to make sure that competition is not harmed, construction companies from all over the union must be

² HGF Bostadspolitiska förslag maa av Coronakrisen 2020.04.06 – Note: this document is available only in Swedish language version.

able to compete in order to get the contracts when such construction is to be carried out.

Housing, except for social housing, is not accepted as a sector that governments can direct investment towards since the union is not allowing it. This creates a problem when overall housing construction is lower than optimal. Lower-than-optimal construction levels over time leads to capital inflation and a higher increase in household debt than otherwise would have been. It also leaves the inhabitants of the union with less options of how to form their lives.

By only allowing constructing stimulating government expenditure to be aimed towards social housing the union leaves countries with the option of stimulating too much construction aimed at disadvantaged groups or accepting a increasing housing deficit.

There might be some, narrowly defined case, where government spending in order to increase construction can disturb the housing market in a neighbouring region of a neighbouring country. Construction time and the drawn-out process of planning and transforming of urban areas suggest however that this is a minor issue with regards to competition between member states.

The consequence of not allowing governments to invest in increased housing construction, is a hindering of the citizens of the EU to follow the possibilities that are presented to them. This, in turn decreases competition for jobs hindering the economic growth of the Union as a whole.

Effectiveness

- ***In your opinion, has the lowering of the block exemption threshold for aid from €30M in the SGEI Decision from 2005 to €15M per year in the SGEI Decision from 2012 had a positive impact on the provision of health/social housing SGEIs including an increase in the monetary compensation provided for these sectors?***

Firstly, it is highly questionable whether the intended effect has been achieved through the referred to modifications. Construction projects are often the result of needs on the local level. This means also decisions pertaining to application of the SGEI Decision has be undertaken at this level. Even though municipalities cooperate on national level, decisions nevertheless have to be taken on the local level. It is highly unlikely that local municipalities have the in-house competence allowing them to apply the rules in question.

Secondly, as elaborated on in another one of the responses featured in this paper, keeping in mind that the local municipalities apply the

Swedish universalist approach with a general welfare model where publicly owned housing is not subject to specific access requirements, the SGEI rules are probably not what first springs to mind when municipal construction works are planned.

Finally, it is possible that the financial size of municipal construction projects simply outsize the de minimis thresholds thereby making a number of them irrelevant.

- ***In your opinion, has the increase of the SGEI de minimis threshold for public compensation had a positive impact on the provision of health/social housing SGEIs?***

The main issue in a Swedish context is not the de minimis threshold for public compensation. The main issue is that the SGEI framework is constructed for a different kind of residual system focused on the very most excluded citizens. When as in the Swedish case the system is based on universal welfare, the overall framework appears largely to be a mismatch.

- ***To what extent have difficulties been faced by your members in relation to receiving state aid for your relevant sector? How have these difficulties evolved in comparison with the situation prior to the entry into force of the 2012 SGEI Decision?***

The EU's internal market, with common competition and state aid rules, is a fundamental part of the European cooperation. Today however, the opportunities for Member States to provide support or subsidies for housing construction are limited. In general, the housing market is characterized by several market failures, such as:

- long investment horizons,
- high barriers to entry,
- scarcity of buildable land, etc.

To manage these issues, an exception to the otherwise general prohibition against state aid, targeting the housing market, has been included in the currently applicable legislation – "services of general economic interest" (SGEI) allowing the EU Member States to support housing construction for socially disadvantaged and people with low incomes.

Several Member States – including France, Austria, Germany, the Netherlands, Denmark and Finland – take advantage of the applicable state aid rules to stimulate rental property production in various ways. However, the design and scope of support differs from country to country, just as housing policy differs between countries. Sweden though

in general is largely unable to use the SGEI exemption since the definitions of services of general economic interest are narrowly formulated. Unlike the Swedish housing market, support according to the SGEI rules can only be given if the housing is in fact built as social housing³ with income ceilings, i.e. in models which are similar to many more market-oriented policies in Europe. However, as Sweden has no system of social housing, but instead a system of municipal housing available to anyone, the state aid rules can provide no relief.

This means that Swedish municipalities and other actors on the housing market cannot rely on the SGEI Decision as a means for stimulating construction of affordable housing. Instead if state aid is to be considered, the sole alternative available is Article 56 of the General Block Exemption Regulation, which clearly is a more legally complex (and truthfully) and uncertain route to go to stimulate housing construction.

- ***To what extent are the rules in place regarding state aid still considered to be an obstacle to the provision of services in relation to health/social housing?***

The general impression in Sweden is probably that it is nigh on impossible to apply the SGEI Decision on the housing sector.

- ***To what extent has the COVID crisis, impacted the provision of health and social housing SGEIs?***

The COVID crisis has to some extent surely raised awareness around the importance of decent and affordable housing as a component in battling the virus. However, it has also put the finger on the need for available housing – or rather, in most EU Member States, the glaring shortage of housing. We perceive this as a result of the narrow scope of applicable legislation actually allowing local and national administrations and others legally support construction of affordable housing. In this case we refer to the statement made by the International Union of Tenants on this matter⁴.

Efficiency

- ***Would you say that the new rules have increased the administrative burden/the costs for your members' operations? If so, how (time allocation, cost, resources...)?***

³ Cf. Recital 11, SGEI Decision.

⁴ <https://www.iut.nu/wp-content/uploads/2020/03/IUT-COVID-19-statement.pdf>

Obviously bureaucracy is always an issue and potential obstacle when planning and undertaking a major construction project. However, as mentioned elsewhere as SGEIs are not used widely the 2012 changes simply has made no difference. The rules are not possible to use in the Swedish context.

EU added value

- ***What are, in your opinion, the advantages associated with the 2012 SGEI Decision?***

From a purely Swedish point of view it is questionable whether there are any advantages with the 2012 SGEI Decision. In fact, instead our impression is that taken together with the limitations as imposed by the General Block Exemption Regulation the SGEI rules appear to further limit access to funding in the housing sector.

- ***Are the SGEI rules justified for the sector?***

An important rationale for adopting the 2012 SGEI Decision was to secure the application of the subsidiarity principle by balancing EU competition policy against certain needs on national level such as providing reasonably easy access to financing services such as for instance "social housing".

However, housing is no ordinary good. Housing cannot be compared to a car or a computer. Instead housing is a merit good that individuals or a society should have access to based on a concept of need, rather than exclusively the ability and willingness to pay. The benefits to society of consumption of the good is simply greater than the individual him- or herself would be aware of or would prioritise. Unlike a private good, that has clear and immediate benefits to the individual consumer, the individual consumer will not be fully aware of the effects that housing has 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. Nor will the individual be aware of, at the time of consumption, that his/her housing consumption will have external benefits to society. For instance, the fact that the closer the person lives to an active labour market and/or in the vicinity of public transport, the greater the chances are that he/she will find a job and thus contribute tax revenue to society instead of drawing on societal means through e.g. an unemployment benefit.

Furthermore, as mentioned elsewhere 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, and nor can it be in order to e.g. minimize harm to consumers or to avoid corruption. In the extreme cases, like in Sweden, local municipalities have a monopoly over planning whereas in most countries it is shared between central, regional and/or local public entities.

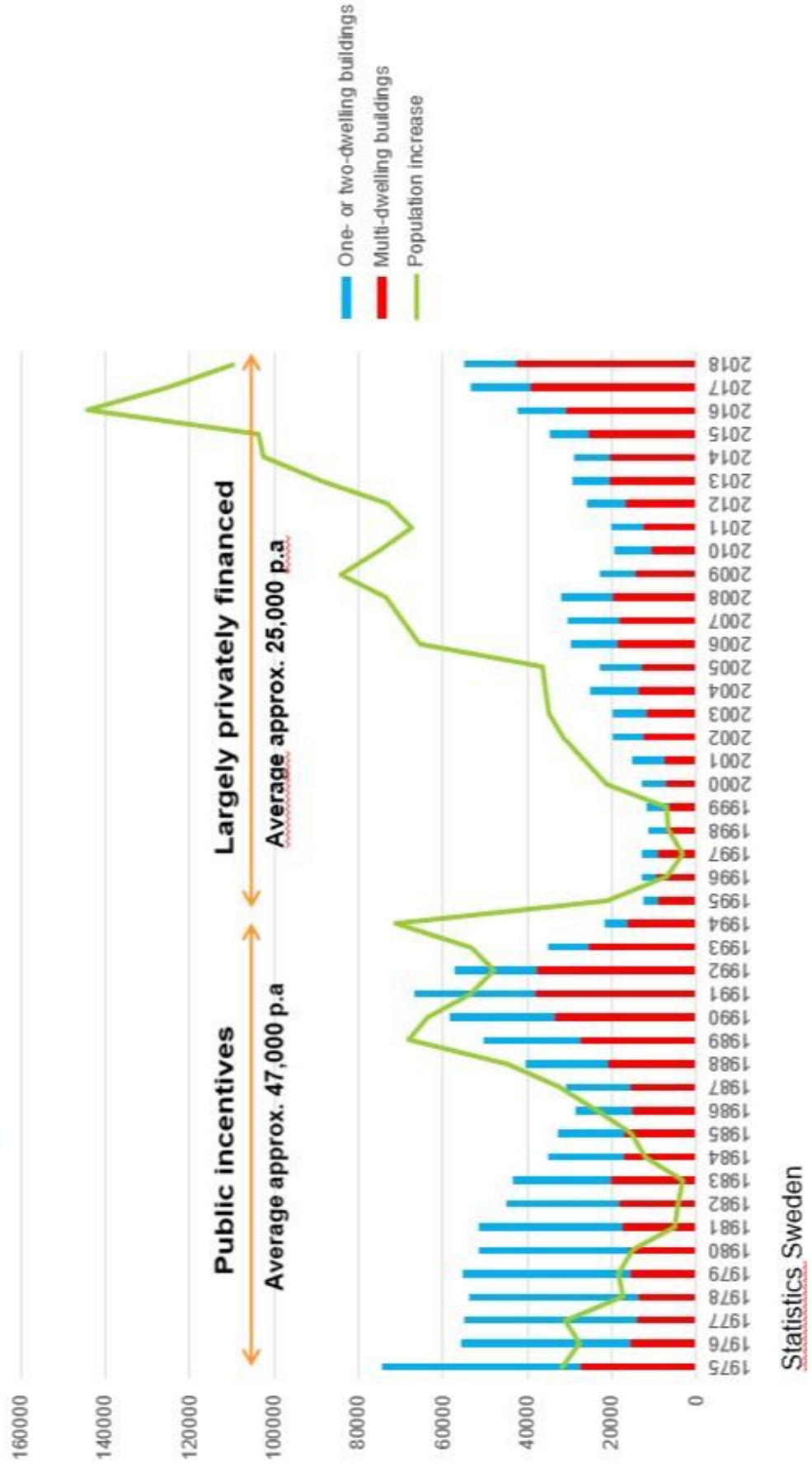
Additional points

- ***Would you have some documents or statistical data to share with us regarding the market?***

Please see annexes graphs as featured in our response.

Attached to this response is also a Swedish language document outlining the Swedish Union of Tenants demands on the Swedish Government as a response to the COVID-19 crisis.

New construction of residential buildings (completed) 1975-2018



ANNEX 1

Socio-economic status and tenure

The proportion of households under the poverty line is almost three times higher in rental housing than in other tenures based on median incomes³

ANNEX 2

Type of households	Type of tenure	2012	2013	2014
Under the poverty line ¹	Rental housing	28,4	28,6	29,9
	Other tenures	10,2	10,1	10,7
High income households ²	Rental housing	1,9	2,0	2,1
	Other tenures	7,5	7,8	8,5

Notes:

¹ Poverty line defined as <60 % of median income

² High income defined as > 200 % of median income

³ Median income: SEK 227 383 p.a. (2014), SEK 221 583 p.a. (2013), SEK 217 727 p.a. (2012).

Source: Swedish Statistics Office.