



Consultation on EU state aid law: Revision of the SGEI rules as a measure to tackle the housing crisis

Executive Summary

Key points

- Social, limited-profit and affordable housing is not a homogeneous category, but is protected by national property regimes (Article 345 TFEU) and by the principle of subsidiarity. A uniform, market-based definition at EU level is neither practicable nor legally permissible.
- The logic behind Articles 106 and 107 TFEU is rooted in the harmful nature of state aid. Therefore, there is a general prohibition, with certain exceptions, to prevent competition between Member States in the form of state aid. This logic behind EU state aid law is inconsistent with the EU's objective of rapidly creating affordable housing to counteract the acute housing crisis.
- AK therefore calls for a sectoral exemption from EU state aid law for the creation of social, limited-profit and affordable housing as part of a new [SGEI package](#), by adding a reference to limited-profit and affordable housing to Article 2(1)(c) of the EU Commission's decision of 20 December 2011. This is because the creation of affordable housing is regionally bound and therefore not relevant to the internal market. State funds do not benefit companies, but are passed on to the residents of the housing. Therefore, Articles 106 and 107 TFEU are not applicable.
- AK rejects a definition of "affordable housing" under state aid law that is based on market-related criteria, as this would jeopardise functioning models.
- Instead of regulatory intervention, the EU should support the expansion of social, limited-profit and affordable housing through appropriate funding instruments of the European Investment Bank (EIB). This enables the construction of permanently affordable housing with broad societal benefits. The EIB should introduce simplified and accelerated application and review procedures for projects that meet the criteria for social, limited-profit and affordable housing. Furthermore, the thresholds for access to EIB financing need to be lowered in order to reach smaller developers and municipal actors.
- In addition, the thresholds in the Commission's SGEI Decision (Art. 2(1)(a)), which have not been adjusted since 2011, need to be raised in order to promote services of general economic interest quickly and efficiently.

AK's Position

EU housing crisis – Commission initiatives

The issue of housing affordability does not only affect low-income groups, but now a larger section of society. The reasons for this include rising demand in urban areas, rising housing costs, a shortage of housing, an ageing building stock, regional economic disparities, and tourism and short-term rentals. In response to the acute housing crisis, Dan Jørgensen was appointed Commissioner for Housing and set up a Task Force on Affordable Housing to coordinate the Commission's work in this area.

The Commission plans to present a European Affordable Housing Plan in 2026. This will complement the housing policies and initiatives of Member States, as well as regional and local authorities. In doing so, the Commission will respect the principle of subsidiarity in housing matters. One of the most important initiatives planned is the revision of state aid rules. The Commission hopes that this will facilitate the financing of energy efficiency measures and affordable housing. To this end, it launched a public consultation, which ended on 31 July 2025. AK contributed the following considerations.

The importance of municipal and limited-profit enterprises for affordable and social housing in Austria

Austria has a wide range of affordable housing thanks to municipal housing construction, particularly in cities such as [Vienna](#), and [limited-profit housing](#) in accordance with the Austrian [Limited-Profit Housing Act](#) ([Wohnungsgemeinnützigkeitgesetz WGG](#)). These two models complement each other, ensuring a stable housing supply for broad sections of the population that is not driven by profit. Currently, more than two million people in Austria live in housing provided by limited-profit developers or in municipal housing. The limited-profit sector accounts for around a quarter of the rental housing stock. In Vienna, municipal and limited-profit housing together account for over 40 per cent of the total housing stock. While municipal housing is traditionally operated directly by cities, limited-profit housing is based on a clearly regulated business model. This is characterised by a strict reinvestment obligation, limited return on equity, the direct passing on of public subsidies to residents on the basis of property invest-

ments, and permanently affordable rents. The limited-profit model in particular embodies a clearly defined 'third way' between the state provision of traditional social housing and the speculative, profit-oriented housing market. The system of limited-profit housing in Austria is one of the few legally consistent, economically viable and socially balanced models for affordable housing in Europe. It should therefore be used as a reference for future considerations on the Prima Causa 'affordable housing' at EU level.

Affordable, limited-profit and social housing in EU state aid law – a legal assessment

From AK's point of view, there are fundamental concerns about the assumption that affordable, limited-profit or social housing within the meaning of Article 107(1) TFEU qualifies as state aid. The constituent elements – favouring a specific undertaking, distorting competition and affecting trade between Member States – are not met in this specific case. Five arguments are put forward below to support this view:

- Firstly, there is no company-specific advantage. Public support in the form of subsidies or favourable loans is not granted to a company but is passed on directly to users in the form of permanently low rents and long-term security of tenure. It is therefore not selective aid in favour of certain companies.
- Secondly, there is no relevance to the internal market. Social, limited-profit and affordable housing consists of regionally bound segments with a local sphere of influence. The companies in question do not operate across borders. Due to their regional limitations, their activities are not likely to affect trade between Member States and are therefore not relevant to the internal market.
- Thirdly, social, limited-profit and affordable housing is a service of general economic interest (SGEI) within the meaning of Article 14 TFEU and Protocol No. 26 to the Treaty of Lisbon. Such services are typically provided by the public sector because the segment in which they operate is characterised by a permanent market failure, particularly in urban growth regions. They aim to fulfil fundamental social and environmental objectives. The benefits associated with the

provision of affordable housing are broad, non-selective and benefit large sections of the population, thereby ensuring integration rather than ghettoisation (e.g. by setting certain income limits). If the subsidy system is designed in such a way that it is open to all housing developers, it also constitutes a general measure.

- Fourthly, social, limited-profit and affordable housing – especially in Austria – is characterised by a strictly regulated system that is not geared towards profit or capital accumulation. The Limited-Profit Housing Act (WGG) requires developers to set rents at a level that covers costs, reinvest all surpluses in housing construction, and establish long-term tenancies. This systematically prevents public subsidies from being converted into private profits.
- Fifthly, this model generates additional positive externalities that go far beyond the immediate provision of housing: it reduces commuter traffic and CO2 emissions, promotes stable neighbourhoods and, in the interests of social integration, prevents the formation of “ghettos” or the development of disadvantaged neighbourhoods on the outskirts of cities (“banlieues”). In addition, it increases energy efficiency in existing buildings and reduces the burden on public budgets through lower spending on housing subsidies. These effects support the European Green Deal as well as the objectives of the European Pillar of Social Rights.

Against this background, the current state aid rules are neither suitable nor appropriate to effectively promote the creation of social, limited-profit and affordable housing. Since the logic of EU state aid law is aimed at a general prohibition of aid to prevent harmful aid competition between Member States, the current SGEI package also proves to be structurally counterproductive: in practice, it creates legal uncertainty, delays investment and puts pressure on existing limited-profit models. In order to strengthen the recognition of forms of housing oriented towards the common good under EU law, particularly the Austrian limited-profit model, AK recommends explicitly expanding the scope of the SGEI Decision (Article 2(1)(c)) to include the terms “affordable and limited-profit housing”. This would clarify that permanent models oriented towards the common good with a reinvestment logic – such as in Austria – are also exempt from state aid law as services of general economic interest.

Alternative funding logic: the role of the EIB

The European Investment Bank (EIB) can play an important role in supporting a social, limited-profit and affordable housing sector. This is particularly true if its

instruments are based on the principles of the so-called “third way” – as practised in Austria through the combination of limited-profit status, cost-based rents and long-term reinvestment. Instead of relying on short-term funding incentives or speculative models, the EIB should specifically support projects that combine long-term affordability, social diversity and environmental standards. To strengthen this effect in the long term, a stronger focus on sector-specific financing structures that favour cost-covering models with a reinvestment logic would be desirable. Framework programmes for social, limited-profit and affordable housing developers or for cities with strategic housing goals would be conceivable here. The following steps would be necessary to achieve their full impact:

- A Europe-wide definition of social, limited-profit and affordable housing based on the Austrian model and aimed at ensuring affordable housing for broad sections of the population in the long term.
- Lowering the thresholds for access to EIB financing in order to reach smaller developers and municipal actors.
- Introduction of simplified and accelerated application and review procedures for projects that meet the criteria for social, limited-profit and affordable housing.
- Establishment of a specialised housing bank within the EIB that pools sectoral expertise and operates on the basis of clear social, environmental and financial criteria.

Only such a reform can ensure that social, limited-profit and affordable housing is taken seriously as a European structural objective and is not hampered by inappropriate state aid barriers.

Definition of social, limited-profit and affordable housing according to the Austrian model

As outlined above, AK does not see any distortions of the internal market in subsidies for social, limited-profit and affordable housing. However, if a definition is to be used for the allocation of funds by the EIB or other European financing institutions, the comprehensive limited-profit housing model in Austria can be used as a guide. It should be clarified that such a definition can only be used for the structured examination of the allocation of funds, but not as a basis for compatibility checks under state aid law within the meaning of Articles 106 and 107 TFEU.

Definition of the concept of profit limitation:

The term profit limitation (“limited-profit approach”) refers to a business model in which the following four parameters are met:

- (1) Cost-oriented rents: Long-term rental agreements are concluded at a cost-covering price. This covers only the repayment of loans and interest, operating and maintenance costs and a limited surplus for building up equity capital.
- (2) Reinvestment of equity: In order to ensure affordability and meet minimum energy efficiency requirements, all equity generated from surpluses must be reinvested in housing construction.
- (3) Limited return on nominal capital: A return on nominal capital is permitted, but is limited to the interest rates published by the European Commission for the recovery of state aid.
- (4) Long-term financial sustainability: To improve affordability, the costs of loan repayment are covered over a period of at least 30 years. After the loan has been repaid, equity accumulation is limited to 2 per cent of the annual restoration costs, i.e. the costs of financing a new building from internal revenue.



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About us

The Austrian Federal Chamber of Labour (AK) is the legal body which represents the interests of approximately 4 million employees and consumers in Austria. It represents its members on all social, educational, economic and consumer policy-related issues at national level and at EU level in Brussels. Furthermore, the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The main objectives of the 1991 established AK EUROPA Office in Brussels are the representation of AK vis-à-vis the European Institutions and interest groups, the monitoring of EU policies and to transfer relevant information from Brussels to Austria, as well as to lobby the in Austria developed expertise and positions of the Austrian Federal Chamber of Labour in Brussels.