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The EU matters: the impact of Europe on the fight against homelessness and housing exclusion



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HOMELESS *in Europe*



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The policy responsibilities of the European Institutions are clearly laid out in the European treaties that have been agreed on by all Member States. In accordance with these responsibilities, the European Union cannot legislate in the fields of housing and homelessness. National and/or regional governments have the main legal responsibility in these areas. However, EU policies in areas where the EU does have legal competence, such as State aid, public procurement and anti-discrimination, are having a growing impact on housing exclusion and homelessness.

Moreover, the European Union has developed a policy-making method which hopes to increase convergence of policies in areas which remain the primary responsibility of the member states such as social inclusion, health care and pensions. This method is called the Open Method of Coordination (OMC). Based on transnational mutual learning and comparison, it incites member states to improve and strengthen their policies in the respective areas.

The aim of this edition of **FEANTSA's** magazine **HOMELESS in Europe** is to present examples of EU policy measures and to explain their impact, whether positive or negative, on the scope and nature of housing exclusion and homelessness. The articles will demonstrate that - despite its limited legal competencies - the EU plays an important role in the fight against homelessness and housing exclusion.

The first contribution comes from **Hugues Feltesse** who is responsible for homelessness in DG Employment, Social Affairs and Equal Opportunities of the European Commission. He describes the wider social policy context in which the European fight against homelessness is taking place. He argues that the transnational coordination of policies in the field of social inclusion has been quite successful. The OMC has helped to put questions related to social exclusion and poverty, including homelessness, on the political agenda of national governments and to increase the involvement of different stakeholders. Hugues Feltesse concludes that the success of European policy to combat social exclusion will depend on the further development and refinement of the transnational coordination process.

The positive analysis of Hugues Feltesse is not entirely shared by **Padraic Kenna**, author of the book *Housing Rights and Human Rights* and chair of **FEANTSA's** expert group on Housing Rights. He analyses the impact of EU policy on the fight against homelessness from a human rights perspective. He is sceptical about the effectiveness and the possible outcomes of the OMC as a new form of EU governance. Padraic Kenna refers to the importance of housing rights obligations of EU Member States following the ratification of several European and international human rights instruments. He argues that the OMC has failed to address these human rights obligations, although they would offer a valuable path to develop and enhance housing rights.

Sébastien Fontaine from the Housing Division of the Ministry of the Walloon Region in Belgium presents an overview of the interaction between national housing policies and the policy initiatives and legislation of the European Union. He discusses the impact of the EU from the point of view of consumers and of suppliers of housing. Moreover, he describes EU legislation concerning the construction of housing, such as the directive on energy performance.

The next articles provide examples of the EU impact on housing exclusion and homelessness in a specific policy area.

Sorcha Edwards from CECODHAS, the European umbrella organi-

sation of public, voluntary and cooperative social housing enterprises, explains the potential impact of EU State aid legislation on the provision of social housing. She points out that the decision of the Commission to exempt social housing from State aid regulations has been an important success for the social housing sector. While this decision has provided social housing organisations with increased legal certainty, there is a further need for the sector to define itself and its role more clearly in the future.

The relevance of an EU strategy on mental health for people who are homeless is analysed by **Josée van Remoortel** from Mental Health Europe. She presents the European Commission's Green Paper on Mental Health. She discusses its potential impact on mental health policies in Europe and draws particular attention on people who are homeless.

The importance of EU policies for improving the employability of people who are homeless is the focus of the next two articles. **Linda Butcher**, Chief Executive of UK **FEANTSA** member Off the Streets and Into Work describes how EU funding over the last decade has made it possible for NGOs to provide targeted employment and training programmes for people who are homeless. Despite many successes, Linda Butcher stresses the need to critically reflect on the existing financial regulation of the Structural Funds as well as on the new proposals for the period 2007- 2013 at both UK and EU level to ensure that services operate in the most effective way.

The new initiatives of the Commission in the field of active inclusion of the people furthest from the labour market are presented by **Michel Mercadié**, Vice-President of **FEANTSA** and chair of its employment working group. He warns against the belief - shared by many EU policy makers - that a cut in social benefits will bring more people into employment. EU action in this area should help to promote a holistic approach that takes into account the multiple, structural as well as personal, barriers to employment of people who are homeless.

The last two articles look at the impact of European policies on homelessness in the context of the accession of the ten Central and Eastern European states in 2004.

Tanya Lalor from TSA Consultancy highlights the main findings of a report on the profiles of people who are homeless from the ten new member states who are using homeless services in Ireland. This research was prepared for the Homeless Agency in Dublin. Ireland is one of the few countries that allowed citizens from the new EU states to freely move and work on its territory. The workers from the new member states are restricted in their access to social welfare payments. This led to an increased demand for homeless support services in the country as the newly arrived tend to be well educated, but poorly informed about employment opportunities and housing prices prior to their stay in Ireland.

Andrus Toompuu, Senior Expert on the Social Welfare and Health Care Board of the City of Tallinn, provides an overview of the development of social services for people who are homeless in the largest municipality in Estonia. Andrus Toompuu describes how the significant changes that took place in Estonia after the country gained its independence made homelessness a more visible problem. He presents the main measures taken by the local government in Tallinn to develop its policies in this area and highlights the role of the EU within this.

FEANTSA extends its warm thanks to all of its contributors for their time and expertise. We hope you will enjoy reading the **FEANTSA** magazine. Your comments are welcome. You can send them to silke.paasche@feantsa.org.



EU coordination of anti-poverty policies: What future, what impact?

By **Hugues Feltesse**, *Directorate General Employment, Social Affairs and Equal Opportunities, European Commission*

A SOCIAL EUROPE?

As Mr Barroso took up office as President of the Commission, many thought that "social Europe" or the "European social model", would no longer be priorities, and that Europe would focus first and foremost on competitiveness, growth and employment. Some were in favour of limiting the role of the EU to organising exchanges of national experiences in the social domain; others believed there should be no attempt to create a common social model in the name of preserving national diversity.

It has become clear, however, that the interaction between the European dimension and national welfare systems needs an active and positive approach. European integration has created new realities: freedom of movement of goods and workers, freedom of establishment... Moreover, the general shared diagnosis has highlighted the need to focus on the following problems: slow economic growth, structural unemployment, the general ageing of the EU population which weakens the social welfare systems, and the increase of inequalities.

As a result, the strategic objectives of the "Barroso Commission", agreed upon on 26 January 2005, focus on the double dimension of "prosperity" and "solidarity", and a new Social Agenda was adopted on 9 February with two fundamental priorities: firstly employment and secondly the fight against poverty and the promotion of equal opportunities.

The Hampton Court Summit of October 2005 made it possible to engage a debate on the fundamental principles of the European economic and social model. Some would have preferred to use this opportunity to start a general comparison between different "models".

This Summit, however, concluded the opposite. It showed that the European Union can contribute in a very concrete way. It enabled the European political agenda to base its action on three interlinked ideas:

- Europe is united by shared values and principles, starting with a desire to combine economic performance and social justice: there can be no successful economic integration if we do not defend this common base of rights and principles;
- Europe has different national social welfare systems, including different roles for social partners: the political choices concerning these systems remain profoundly linked to the national sphere - this is a basic political reality which should prevent us from aspiring to great achievements in a common "European" social policy;
- the European dimension is an integral part of each national system. Transborder mobility of patients, the issues related to the "services" directive, demonstrate this: we must manage this permanent interaction, which is an original characteristic of our continent.

During the annual Spring Summit on 23 and 24 March 2006, European leaders acknowledged that social cohesion is one of the central elements of the Lisbon Strategy. Without a modernisation of social protection systems and actions to promote social "inclusion", the Lisbon Strategy will not meet its objectives. The latest Joint report on social protection and inclusion adopted by the Commission and the European Council therefore highlighted the need for more effective management of risks and in supporting societal changes.

The European Council consequently stated the need to adopt growth and employment policies having a decisive impact on reducing poverty and social exclusion by 2010.

THE ROLE OF THE EUROPEAN UNION

On this basis, what role should the EU have during the coming years and namely for the inclusion of excluded groups like people experiencing homelessness?

Let us be clear about this in order to avoid being a purveyor of illusions: investment in "human capital", the fight against poverty and social exclusion, the modernisation of social welfare systems, labour market reforms or research, these are all areas which are essentially the responsibility of the Member States.

The European Union does not have primary responsibility in these areas, neither does it aim for harmonisation in these areas. But the EU does have concrete instruments which can be an added value.

During the 1990s and from 2000, following the adoption of the Charter of fundamental rights of workers, the EU made important progress in the development of common regulations on social rights. With more than 60 texts, this required considerable efforts from the New member states to integrate in their national systems. Every year, a quarter of cases decided on by the European Court of Justice deal with social issues.

Nevertheless, the role of the Union is not only to regulate with legally binding measures. It is also to *support* efforts for reform, relying on a wide range of instruments - the European social fund, social dialogue, respect of fundamental social rights (non discrimination, gender equality...), the "open" coordination of national policies.

The open method of coordination (OMC) of national social inclusion policies, in place since 2000, aims to foster cooperation between Member States of the EU to boost efforts to eradicate poverty in Europe by 2010.



This cooperation aims to improve national efforts in a number of ways. It makes the following possible:

- increasing exchange of information and mutual learning between Member States on successful or challenging policies to combat poverty;
- increasing public awareness and driving national agendas to mobilise more people in the fight against social exclusion and placing prevention and eradication of poverty at the heart of national, regional and local policies;
- promoting and encouraging the mobilisation of all persons concerned by the fight against poverty;
- using transnational comparisons and indicators to promote a better understanding of the nature of poverty and social exclusion, and the political challenges ahead;
- the availability of examples of good practices to encourage countries which are lagging behind to effect similar changes in their context.

At EU level, social inclusion OMC also allows for:

- increased awareness of social issues when developing other EU policies, and a better balance between social and economic policies;
- improved perception of a social identity of the EU, as well as economic, aimed at preserving distinct social models and values;
- supporting the integration of social inclusion objectives in the structural funds.

THE SUCCESS OF THE PROCESS SO FAR

Let me now share with you some of our views on the strengths and weaknesses of EU social inclusion process over the last five years.

The first element to underline is the clear impact of the social inclusion OMC. The process was considered valuable by all. It gave a new impetus to policy-making in the field of poverty at EU level, and has mobilised many local and regional authorities and NGOs through cooperation in the framework of various European networks which are committed to foster greater social inclusion.

The preparation of national action plans on social inclusion (NAPsIncl) by all 25 Member States of the EU has shown a clear political commitment to combat poverty and to implement, in accordance with the diverse national contexts, the common objectives decided on in Copenhagen and Nice.

New methods for mobilising and consulting civil society and local/regional authorities have developed, as well as more and better participation of national, regional and local authorities in the process, although there is still progress to be made for improving governance in this area.

There is now a deeper understanding of the complex and multi-dimensional nature of poverty. Thanks to the EU social inclusion process, more and more Member States now recognise the multi-dimensional nature of homelessness. A number of countries have adapted or completed their institutional structures to ensure better coordination of efforts between the different sectors concerned and better integration of social inclusion concerns in national policy-making.

The common objectives provided the countries with a clear framework for modernising and strengthening their policies. More effective mutual learning has developed between countries and organisations responsible for implementation of anti-poverty policies concerning the prevention and tackling of poverty. We mutually reinforce our policies when we are inspired by neighbouring examples of good practice. This mutual learning not only involves information exchange but also a more profound analysis of the national situation - in particular the improvement of our analytical tools (peer review session) and statistics (European social indicators). We can also be proud to say that Denmark and Romania were inspired by UK practices for reducing rough sleeping, and that the Netherlands are examining the possibility of transferring a Danish practice of providing alternative forms of housing for people with unusual lifestyles. Moreover, the improvement of data collection to better monitor changes in the phenomenon of homelessness, and to improve efforts to prevent homelessness, is currently underway. The study commissioned by the European Commission to the University of Dundee (with the active cooperation of FEANTSA) should improve statistical capacity in this area with a view to improve measurement and monitoring of homelessness in the EU member states.

The Community Action Programme to combat social exclusion has also contributed to improving transnational exchanges through the support since 2003 of 64 projects of exchange and capitalisation of good practices which mobilised more than 150 local authorities, research centres, NGOs and service providers, including many organisations working with people experiencing homelessness. This Community Programme also set up a programme of peer evaluation on specific national themes which gave rise to 15 peer review exercises in two years. Each peer review focused on a good practice which was then discussed and analysed by several countries, experts from NGO, research centres, local authorities, including peer reviews on homelessness, labour market integration of income support beneficiaries or policies tackling overindebtedness.

PROGRESS STILL TO BE MADE

It is clear that Member States sometimes have trouble translating the identification of key challenges into more effective policies and into concrete actions which will have a significant impact on the ground. In many countries, the general objectives announced must be reinforced by more specific, ambitious and realistic objectives, supported by adequate instruments and a calendar as advised during the European Council of Barcelona. The NAPsIncl should not be simple descriptive reports but should be crucial instruments for monitoring and evaluating national policies, and the development of national strategies to tackle poverty and social exclusion. The Joint report on social inclusion adopted in 2004 by the European Commission and the Council of Ministers (following the presentation of the last generation of NAPsIncl) highlighted the importance of integrated and comprehensive strategies to combat homelessness through a combination of preventative measures and emergency services, mobile outreach services, strengthening networks between organisations working with people experiencing homelessness, public authorities, health organisations/institutions, and social housing providers for the improvement of rehousing services. Much remains to be achieved in this area in most EU Member States, but we can already appreciate the efforts made by most countries to gradually put in place more adequate infrastructures and develop more integrated



strategies as underlined in the European Commission report on the implementation of the 2003-2005 NAPsIncl.

Synergies still need to be strengthened with other policy areas such as economic policies, employment, housing, health, justice and the fight against all forms of discrimination.

Also necessary is the improved coordination on all geographical levels of policies contributing to reinforcing social inclusion and the integration of social inclusion concerns in all other areas of policy-making. The participation of regional and local authorities as well as national parliaments in the process will also be crucial in the years to come. The gender dimension of poverty must be better taken into consideration in the development of policies.

Monitoring and measuring the impact of anti-poverty policies must be improved, which implies better use and availability of relevant data.

Furthermore, at EU level we must renew efforts to integration the social inclusion objectives in other policy areas.

We should also continue to develop capitalisation and mutual learning methods on the good practices presented by the Member States. More could be done to use the full potential of the structural funds in the promotion of social inclusion, namely in the framework of the financial perspectives for 2007-2013.

On the basis of these observations, the European Council of 24 March 2006 confirmed the launch of a new Open Method of Coordination on social protection and inclusion - streamlined, simplified and concentrated which, on the basis of a strategic transversal approach, is now made up of three pillars: national action plans on social inclusion strategies, strategies on health and long-term health care and strategies on pensions.

Streamlined, the Open method of coordination will aim to increase the awareness of EU citizens on the importance of a balanced approach to reforming social welfare systems by combining benefits and services which are both adequate and financially sustainable. Simplified, the Open method of coordination will increase the weight of our arguments within national governments, as well as in the media and for the social partners.

Finally, concentrated, the Open method of coordination should strengthen our weight and role within the different Council formations (EPSCO, ECOFIN, etc). The mutual support ("*feeding in and feeding out*") between the progress made under the OMC social protection and inclusion and the Lisbon process driven by the new

European guidelines which cover macro and micro-economic policies and employment policy in the form of national reform programmes (2005-2008) is now a central dimension in the implementation of the EU strategy for growth and employment.

The Spring European Council also adopted new common objectives: three general objectives and specific objectives for each of the three political domains of social inclusion, health, and pensions. As regards the specific objectives in the area of social inclusion, these are the following:

- access for all to the resources, rights and services needed for participation in society, preventing and addressing exclusion, and fighting all forms of discrimination leading to exclusion;
- the active social inclusion of all, both by promoting participation in the labour market and by fighting poverty and exclusion;
- that social inclusion policies are well-coordinated and involve all levels of government and relevant actors, including people experiencing poverty, that they are efficient and effective and mainstreamed into all relevant public policies, including economic, budgetary, education and training policies and structural fund (notably ESF) programmes.

Finding better responses to these objectives is crucial for the coming years. This concerns first and foremost the heads of state of the Member States since they have primary competence in this area. This also concerns the European Union since active cooperation between Member States will allow for more rapid progress and in a more effective way.

TWO OBSERVATIONS TO CONCLUDE

On the one hand, the modernisation of the national welfare systems (i.e. of their social protection system and their capacity to fight against poverty in the framework supported by an added European dimension) is one of the most important tasks for most EU countries. On the other hand, the trust of EU citizens remains a crucial issue. It is important to gain - and preserve - the trust of EU citizens to ensure full success of the EU growth strategy and the European future it symbolises. This trust will be an added value that Europe will bring to the social policies implemented in the Member States, who have primary responsibility in this area. However, the EU social inclusion process still needs to gain in visibility and all people working to combat poverty and all public authorities need to be more involved in increasing the visibility of the process, even if this means more criticism of the process. •

The impact of international human rights instruments on the fight against homelessness

By Dr. Padraic Kenna, author of the book *Housing Rights and Human Rights (2005)*¹ and chair of the FEANTSA expert group on Housing Rights

The right to housing and relief from homelessness has been accepted by almost all States at international level. Clear sets of actions to advance these rights, including legislation, housing policies, public expenditure, standards etc. have been widely promoted for developing countries. European States already have many of these measures in place, yet homelessness continues to exist.² The EU, with its commitment to human rights and its legal order binding national laws, would appear to offer a valuable path to develop and enhance these housing rights.

INTERNATIONAL HOUSING RIGHTS

Housing rights for all, including States' obligations to ensure that housing is available for homeless people, have been accepted by practically all States under UN instruments. These include the Universal Declaration on Human Rights (1948), which states at Article 25 that "everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services." Since 1966, almost all States in the world (with the exception of the US) have accepted Article 11 of the International Covenant on Economic, Social and Cultural Rights, recognizing "the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions."³ The requirements to respect, protect and fulfil these obligations as well as the content of housing rights have been firmly established at international level.⁴ In terms of housing rights the minimum core obligations of States involve a guarantee that everyone enjoys a right to adequate shelter and a minimum level of housing services, without discrimination.

Many other UN instruments set out housing rights for particular groups, such as refugees, migrants, women and children.⁵ When a State ratifies one of the Covenants, it accepts a solemn responsibility to apply each of these obligations and to ensure the compatibility of their national laws with their international duties, in a spirit of good faith.

COUNCIL OF EUROPE

At European level, the Council of Europe, comprising some 46 States including 21 from Central and Eastern Europe, sets out a number of housing rights in the 1961 European Social Charter (ESC)⁶ and the Revised Charter of 1996.⁷ Again the contracting States have agreed to "accept as the aim of their policy, to be pursued by all appropriate means, both national and international in character, the attainment of conditions in which the following rights and principles may be effectively realised [...]"

Articles 13, 16, and 19 of the Charter and Articles 15, 16, 19, 30 and 31 of the Revised Charter promote housing rights, such as: the right to social and medical assistance for all - including homeless people; provision of housing for families - including migrant workers and their families; and housing for people with disabilities and elderly persons. The Revised Charter includes rights to protection

against poverty and social exclusion involving access to housing. Article 31 of the Charter sets out a specific right to housing:⁸

With a view to ensuring the effective exercise of the **right to housing**, the Parties undertake to take measures designed:

- (i) to promote access to housing of an adequate standard;
- (ii) to prevent and reduce homelessness with a view to its gradual elimination;
- (iii) to make the price of housing accessible to those without adequate resources.⁹

States provide regular reports on their implementation of these rights and the new Collective Complaints Protocol since 1998 allows NGOs to report violations of these rights to the Committee on Social Rights.¹⁰ The ultimate obligations of States was emphasised in the Greek Collective Complaint:

Responsibility of the state

The Committee recalls that even if under domestic law local or regional authorities, trade unions or professional organizations are responsible for exercising a particular function, States Party to the Charter are still responsible, under their international obligations, to ensure that such responsibilities are properly exercised.¹¹

The Council of Europe has also established the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR)¹² which is enforced by the European Court of Human Rights at Strasbourg. Articles 3, 6, 8, 13, 14 and Article 1 of Protocol No. 1 are regularly cited in cases involving housing and housing related rights.¹³ For instance, in 2005, in the case of *Moldovan and Others v. Romania*¹⁴ the Court concluded that the applicants living conditions and the racial discrimination to which they had been publicly subjected constituted an interference with their human dignity, as set out in Article 3. In *Connors v. UK*¹⁵ the Strasbourg Court found that the eviction of the applicant was not attended by the requisite procedural safeguards, namely the requirement to establish proper justification for the serious interference with his rights. In *Marzari v. Italy*,¹⁶ the obligation on public authorities to provide assistance to an individual suffering from a severe disability, because of the impact of such refusal on the private life of the individual, was considered:

The Court considers that, although Article 8 does not guarantee the right to have one's housing problem solved by the authorities, a refusal of the authorities to provide assistance in this respect to an individual suffering from a severe disease might in certain circumstances raise an issue under Article 8 of the Convention because of the impact of such refusal on the private life of the individual [...]. A State has obligations of this type where there is a direct and immediate link between the measures sought by the applicant and the latter's private life.¹⁷

Of course, the development of housing rights arising from the Convention at national State level is also developing in the courts.



THE EUROPEAN UNION

Major EU pressures on national housing systems are springing from the growth of markets in goods, services and labour, EMU, consumer protection, social inclusion policies and non-discrimination provisions. Yet, poor housing conditions and homelessness among immigrants, migrant workers, third-country nationals, asylum-seekers and refugees are exposing the weaknesses of national housing policies across the EU. The touchstone of national and EU citizenship or protection arising from EU law are becoming critical for housing entitlements. Conversely, the absence of these rights reduces many to homelessness, as some States limit their expenditure and entitlements on social protection to the legally required minimum, in the so-called "race to the bottom".

Thus, housing rights are becoming increasingly important for homeless people across Europe. While the European Union is still not a party to any of the international housing rights instruments, its Member States who have accepted these instruments are so bound. But States have transferred much of their powers in the areas covered by these rights, including limitations on public expenditure, to the EU. This "gap" between international commitments and EU constraints is "filled" by the fact that EU institutions are bound to respect fundamental rights. This principle was established in Article 6(2) EU Treaty and a common law principle that the European Court of Justice includes these instruments as "sources of inspiration" to derive general principles of law.¹⁸ International housing rights could fall into this category.

In these circumstances, the development of the EU Charter of Fundamental Rights¹⁹ also held out great possibilities. Article 34(3) of the Charter addresses housing rights, although it is not yet legally binding on national law or has not influenced any decisions of the ECJ.²⁰

In order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the procedures laid down by Community law and national laws and practices.²¹

The inclusion of the standard Charter recital in all Directives that they "respect the fundamental rights and freedoms and observe the principles recognised in particular by the Charter of Fundamental Rights of the European Union" is clearly a valuable development. Its main strength may lie in the requirement that the institutions and bodies of the Union and Member States must "respect the rights, observe the principles and promote the application thereof in accordance with their respective powers."²² The Charter is now widely seen as a "shield" protecting existing rights against market integration and other measures, rather than a "sword" creating new rights.

Since 2005, all legislative and major policy-defining proposals contained in the annual Legislative and Work Programme of the European Commission will be subject to Impact Assessment.²³ The compatibility of the measure with the Charter of Fundamental Rights, social exclusion and poverty, impacts on health, safety and consumer rights will be assessed. This requires the Commission to examine the impact of the EUCFR, including Article 34(3) on its proposed measures. Equally, future legal provisions relating to immigrants, migrant workers, refugees and third country nationals will need to be assessed in relation to the housing rights of Article 34(3).

NEW GOVERNANCE APPROACHES IN EU SOCIAL POLICY

There is a shift away from Regulations and Directives in EU social policy areas and a general move towards 'soft law' and reflexive governance.²⁴ The Open Method of Coordination (OMC) "which constitutes a genuinely new mode of regulation," is a central element of this new approach, in achieving the Social Policy Agenda.²⁵ In the place of a "command" system of EU harmonisation through Directives and Regulations it involves a new form of coordination of national policies, indicators, national action plans, peer review and exchanges of information, views, expertise and practices.

Housing and homelessness was addressed within the OMC approach to the social protection and social inclusion dimension of the Lisbon Strategy. In December 2001, the Social Protection Committee (SPC) adopted 18 indicators of social exclusion, but housing need and homelessness were not among them.

We considered that national conditions (as determined by culture, climate etc.) were too disparate and that national definitions of a minimum acceptable standard should be used [...].²⁶

However, housing and homelessness were addressed in the National Action Plans submitted to the Commission in 2001.²⁷

All Member States recognize the importance of access to decent quality housing in their NAPs/incl as a key condition for social integration and participation in society. The housing situations in Member States differ greatly but generally function quite well [...]. When it comes to low-income sections of the population, however, the market is performing less satisfactorily in most Member States, and increasingly so. The declining supply of reasonably priced houses at the lower end of the housing market tends to push a rising number of households without adequate purchasing power into the residual segment of the market [...]. New precarious forms of accommodation include renting of furnished rooms or mattresses in overcrowded rooms, squatting in buildings, stations and other public spaces and living in informal dwellings such as caravans, shacks, boats and garages [...]. The thrust of initiatives by Member States in their NAPs/incl is geared essentially at overcoming the deficiencies in their national housing markets in order to assure lower-income sections of the population access to decent and affordable housing.

However, there were no significant references to housing rights in the national reports, or the Synthesis Report of the Commission except one:

[...] when people are prevented from participating fully in economic, social and civil life and/or when their access to income and other resources (personal, family, social and cultural) is so inadequate as to exclude them from enjoying a standard of living and quality of life that is regarded as acceptable by the society in which they live. In such situations people often are unable to fully access their fundamental rights.²⁸

The Accession States (at the time) produced similar reports described as Joint Memoranda on Social Inclusion (JIM) but these did not address housing rights.²⁹

The second set of national Action Plans for Social Inclusion (NAPs/incl) for 2003 -2005 were criticised by the Commission:

[...] The Joint Report on Social Inclusion, adopted in December 2001 [...] had stressed that for all Member States the need to guarantee everyone access to decent housing [...]. It stated that: 'Access to good quality and affordable accommodation is a fundamental need and right.' Ensuring that this need is met is still a significant challenge in a number of Member States.³⁰

Remarkably, there was no reference either in the Common Outline for the 2003/2005 NAPs/incl – National Action Plans prepared by the SPC,³¹ in the State National Action Plans or in the Synthesis Report to the commitment of the Union to "recognise and respect the right to social and housing assistance" as set out in Article 34(3) of the EUCFR.

Thus, while the Commission and Council Joint Reports on the NAPs/incl have at least addressed housing and homelessness, most Member States failed to address their housing rights obligations in any meaningful way in this "new governance" process.³²

CONCLUSION

The international housing rights instruments continue to inform States of their obligations. However, at EU level the development of new governance approaches, as illustrated in the OMC has failed to address these national obligations. The question is whether EU institutions or nation States implementing EU law will respect Article 34(3) of the EU Charter, as they are obliged to do under Article 51? Homeless organisations across Europe have an important role in watching these developments. ●

¹ *Housing Rights and Human Rights* is available from FEANTSA for €10 by contacting mary.fay@feantsa.org.

² See *FEANTSA Newsletter – The Right to Housing*, October 2003, for application of the right to housing in the EU at the time. http://www.feantsa.org/files/Month%20Publications/EN/right_to_housing_2003_english.pdf

³ For details of the ratifications by States, the State Reports submitted and the Conclusions of the monitoring Committee see: <http://www.unhcr.ch/html/menu>

⁴ See UN Doc.E/1991/23. (1991) UNCESCR. *General Comment No. 4. The Human Right to Adequate Housing*.

⁵ For details of all UN housing rights instruments see: http://www.unhcr.org/programmes/housingrights/UNHRP_documents.asp

⁶ The Council of Europe is made up of 46 countries, including 21 countries from Central and Eastern Europe. *European Social Charter*, Turin, 18.X.1961, Council of Europe, European Treaty Series - No. 35. For up to date details on signatures, ratifications and reservations on the Charter and Revised Charter see Council of Europe website: <http://www.coe.int>.

⁷ *European Social Charter (Revised)*, Strasbourg, 3.V.1996.

⁸ At August 2005, Finland, France, Italy, Norway, Portugal, Slovenia and Sweden had accepted all parts of Article 31 while Andorra and Lithuania had accepted paras (1) and (2).

⁹ The detailed obligations contained in Article 31 have been set out by the Committee on Social Rights. See Council of Europe. European Committee on Social Rights, *European Social Charter (revised) Conclusions 2003 – Volume 1 (Bulgaria, France, Italy), Volume 2 (Romania, Slovenia, Sweden)*, Strasbourg: Council of Europe Publishing, October 2003.

¹⁰ At 1st June 2005, Belgium, Croatia, Cyprus, Finland, France, Greece, Ireland, Italy, Norway, Portugal and Sweden had ratified this Protocol, while Bulgaria and Slovenia have made a declaration to be bound by the Protocol under Article 2D of the RESC. See website: http://www.coe.int/T/F/Droits_de_l'Homme/Cse/1_Pr%20E9sentation_g%20E9rale/Sig+rat01June05.pdf

¹¹ *European Roma Rights Center (ERRC) v. Greece*, Collective Complaint No. 15/2003.

¹² See website: <http://conventions.coe.int/Treaty/en/Treaties/Html/005.htm>

¹³ Protocol 12 was recently introduced to prohibit discrimination by public bodies in areas not covered by Article 14.

¹⁴ Judgement 12 July 2005. (Applications 41138/98 and 64320/01).

¹⁵ Judgement 27 May 2004. (Application no. 66746/01).

¹⁶ *Marzari v. Italy* (1999) 28 EHRR CD 175.

¹⁷ *Ibid.*, at 179.

¹⁸ See de Witte, "The Trajectory of Fundamental Social Rights in the European Union", in Burca, G. & de Witte, B (2005) *Social Rights in Europe*. OUP.

¹⁹ *Charter of Fundamental Rights of the European Union*, OJ C364/01, 18.12.2000. This Charter has now been incorporated as Article II-94 (3) of the *Treaty establishing a Constitution for Europe*.

²⁰ See de Burca, G. 'The European Court of Justice and the Evolution of EU Law', in Borzel, T.T. & Cichowski, R.A. (2003) *The State of the European Union – Law Politics and Society*. OUP, p. 68.

²¹ Article 34(3) draws on point 10 of the EU *Community Charter of the Rights of Workers 1989*, Article 13 of the *European Social Charter* and Articles 30 and 31 of RESC.

²² Article 51.

²³ See *Communication* from the Commission on Impact Assessment. COM (2002) 276 final, 5.6.2002; European Commission - *Impact Assessment Guidelines* (15 June 2005) SEC(2005) 791; Communication from the Commission, *Compliance with the Charter of Fundamental Rights in Commission legislative proposals – Methodology for systematic and rigorous monitoring*, COM(2005) 172 final, 27.5.2005.

²⁴ See *European Governance – A White Paper*, COM (2001) 428 final, 25.7.2001; Borras, S. & Jacobsson, K. 'The open method of co-ordination and new governance patterns in the EU', *Journal of European Public Policy* 11:2 April 2004: 185-208; de la Porte, C. (2002) 'Is the Open Method of Coordination appropriate for organising activities at European Level in Sensitive Policy Areas?', *European Law Journal*, Vol. 8(1), pp. 38-58:

²⁵ European Commission, Brussels, COM (2000) 379 final, 28.6.2000; Scott, J. & Trubek, D. (2002). 'Mind the gap: Law and new approaches to Governance in the European Union.' *ELJ* 8(1) March 2002: 1-18:

²⁶ See Atkinson et al. (2002) *Social Indicators – The EU and Social Inclusion*. OUP. p. 158

See Social Protection Committee, Indicators Sub-Group Report. October 2001. p. 4. See website: http://europa.eu.int/comm/employment_social/news/2002/jan/report_ind_en.pdf.

²⁷ See Council of the European Union, (2001) *Draft Joint Report on Social Inclusion - Part I: the European Union, including Executive Summary*. See website: http://europa.eu.int/comm/employment_social/social_inclusion/docs/15223_part1_en.pdf

²⁸ *Ibid.*, p. 11.

²⁹ Working paper, *Social Inclusion in the new Member States, A synthesis of the joint memorandum on social inclusion*. SEC (2004) 848 Brussels, 22.6.2004. See website: http://www.europa.eu.int/comm/employment_social/soc-prot/soc-incl/sec_04_848_en.pdf

³⁰ See *Joint Report on Social Inclusion 2004*, at website: http://europa.eu.int/comm/employment_social/social_inclusion/docs/final_joint_inclusion_report_2003_en.pdf. Section 5.5. at p. 56

³¹ Social Protection Committee, *Common Outline for the 2003/2005 NAPs/inclusion*. See website: http://europa.eu.int/comm/employment_social/soc-prot/soc-incl/commonoutline2003final_en.pdf

³² Some national reports referred cursorily to fundamental rights provisions in their States, such as Czech Republic, Finland, France, Hungary, Latvia, Slovak Republic and Sweden.



The interaction between national housing policies and the legislation, initiatives and decisions of the European Union

By Sébastien Fontaine, *Ministry for the Walloon Region, Housing Division*

INTRODUCTION

As is always recalled in the preamble of the final communiqués issued at the informal meeting of European Housing Ministers¹, housing is not an EU competency. Nonetheless, this national competency is affected by a range of European policies, whose scope is increasing all the time: EU State aid rules, tax regulations, energy policy etc. These will be examined in further detail below.

Also, at a time when the EU is making the fight against social exclusion a priority objective, there are increasing calls for housing to be able to benefit from the “European manna”, particularly within the framework of regional policies and the Structural Funds.

Thus there is a complex relationship between housing and the European Union. It was for this reason that Belgium volunteered in 2003 to draw up a report on this issue. In order to gather information on the concrete implications of European decisions on their national policies, a questionnaire was sent to all member States (who were 15 in number at that time). The present article will seek to outline the main tendencies that the final research report² highlighted. However the author has also updated some of the information contained in the summary of the report which was submitted at the Housing Ministers’ meeting under the Italian Presidency (November 2003).

A SUMMARY OF THE RESPONSES TO THE QUESTIONNAIRE

The main part of this report seeks to summarise the contributions made by different member states in their responses to the questionnaire on the interaction between national housing policies and EU legislation. It should be noted, however, that the report does not seek to offer an exhaustive review of the application of all European measures which are of interest in relation to housing policy: rather, this analysis will limit itself to the themes that seemed to be of greatest importance.

The responses to the questionnaire were grouped according to three points of view:

- a) The inhabitants/users
- b) The operators
- c) The products

Thus the report was divided into three corresponding sections.

a. The inhabitants/users

The first part of the report brings together the rules that mainly concern the citizens who make up the demand on the housing market, whether they are potential landlords or landlords; potential tenants or tenants.

It looks at the EU Charter of Fundamental Rights which recognises in article 34 the right to housing assistance. It should be noted that the Charter does not have an obligatory impact on national law. Furthermore, it should be recalled that for most States, recognition of the right to housing assistance may offer little interest, given that they have already enshrined the right to housing in their Constitutions.

Then comes the question of the European strategy on social inclusion – a part of the European process commonly referred to as “the Lisbon strategy” – whose importance has been emphasised in the different final communiqués emerging from the informal meetings of the Housing Ministers since 2000. The social inclusion strategy has been implemented by the member States through the Open Method of Coordination, which comprised the following elements:

- the setting of objectives at European level – among which are access to decent housing and the fight against homelessness;
- the adoption of National Action Plans on the fight against poverty and social exclusion (NAPs) in a two year cycle (2001-2003, 2003-2005 etc.);
- the evaluation of the NAPs through the Joint Report on Social Inclusion;
- the definition of common indicators (though no housing indicator has been adopted as of yet.)

This strategy has led many States to set targets and define indicators in their plans, despite the absence of common indicators set at European level. The second Joint Report on social inclusion was adopted on the 4th of April 2004. This document emphasises the high social and economic cost of the absence of decent housing. It criticises the lack of target setting at EU level in the absence of common indicators. Three types of challenges are presented, whose importance vary from State to State: it is vital to meet the demand for affordable housing ; to combat the problem of insecure and inadequate housing for the part of the population living on low income; and to help and support certain target groups.

There is a complex relationship between housing and the European Union.



European legislation
on public procurement
is of major importance
for social housing
providers.

The Lisbon strategy was revised at the 2005 Spring Summit. It should be noted that the strategy is now centred on growth and jobs. The OMC and the common objectives have been reworked accordingly. Within this framework, the housing market is also approached as a way of ensuring growth³.

The Belgian report also examines the questions of European norms that are intended to combat discrimination. In this area, EU action is centred on several domains: equality between men and women, non-discriminatory treatment of people who are handicapped; combating racism and xenophobia, etc. On this last point, there is for example an "anti-discrimination directive" that seeks to put in place the principle of equality of treatment of all people, without distinction on the grounds of race and ethnic origin. Its scope covers both organisations and individuals and concerns different social areas (work, education etc.) including access to housing. Among other things, this anti-discrimination directive sets out that member States should seek to put in place legal or administrative procedures to which those who feel they have been discriminated against may have recourse. What is more, when the latter group are able to establish facts before a legal instance that point to the likely existence of discrimination, the onus is then on the defending party to prove that no violation of the principle of equality of treatment occurred.

Finally, the issue of housing for migrants has also contributed to raising the profile of housing within the framework of EU activities. Indeed, several recent directives concern access to housing for immigrants and asylum-seekers.

b. The operators

The second part of the report brings together the regulations that concern mainly the operators that make up the supply on the housing market, whether they belong to the public or to the private sector and whether or not they are providing services of general (economic) interest.

European legislation on public procurement, which is an area of particular importance for the EU, is of major importance for social housing providers. In most member states, companies providing and managing social housing clearly have the status of an entity subject to public procurement rules. These companies clearly fall into the category of contracting authorities that are within the scope of the European regulations, whether local authorities or public bodies. It should be borne in mind, however, that in certain States, social housing companies have a kind of "hybrid" status. This is the case for example, when they are private companies carrying out a public service task. The question then is whether the norms of public procurement are really applicable to them or not. The European Court of Justice has had to decide in cases of this type.

An essential element for the operators responsible for the construction and management of social housing related to the question of whether the public money which they receive must conform to European regulations on State aid. Through the responses to our questionnaire, we established that some member States did not consider the aid given in relation to housing policy as falling within the scope of EU State aid rules. In contrast, there were other member States who had notified the Commission of their funding systems for social housing. In several cases, the Commission confirmed that the State aid was indeed compatible with the internal market, on the grounds that social housing is a Service of General Economic Interest (SGEI) insofar as it responds to a need that is not met on the open market for certain parts of the population. In other cases, this kind of State aid is considered compatible with the rules, as it corresponds to the additional costs arising from the functions that must be met by social housing as defined by the member states. Thus it may be concluded that, while the Commission found much of this aid to be compatible with internal market rules, they did consider that aid to social housing providers is State aid and that member States should notify the Commission of it. Thus there was some uncertainty hanging over social housing providers.

After some two years of discussions, a conclusion was reached on the issue. In 2005, the Commission decided to reinforce the legal security of services of general economic interest.⁴ Public funding granted to social housing companies for the delivery of public services is now considered a priori to be compatible with the common market and is thus exempted from notification procedures, where the social housing company is offering a service considered by the member state in question to be a service of general economic interest. This means that social housing is not only exempted from notification, it has also gained recognition as a service of general interest, with a public service task to discharge.

Still, the question of State aid in the housing sector does not simply come down to the issue of SGEI. There may be State aid which is attributed to bodies which are not solely charged with providing services of general economic interest. This question is a particularly pressing in several States, where public housing policy is discharged through the market.

Since then, the work on the draft services directive (formerly dubbed the Bolkestein Directive) has led the defenders of social housing to fear the worst in terms of deregulation of the sector. At the time of writing, these latter may take comfort from the fact that the European Parliament has decided to explicitly exclude social housing from the scope of the directive and the Commission will follow them in this.



The construction and renovation of social housing, as well as renovation of private housing may benefit from a VAT reduction according to the measures set out in the 6th VAT Directive. The report indicates that the majority of States have used this possibility of lowering VAT rates in the different housing domains. It should be noted that in February 2004, the ECOFIN Council adopted a two year extension of the directive which authorises the application of lowered VAT rates to, among other things, the delivery, construction, renovation and transformation of housing provided within the framework of social policy. In the absence of a community definition of social housing, this directive led several States to develop a precise definition of social housing. On the first of February 2006, the Austrian Presidency of the EU announced an agreement between the 25 member States to prolong the 5.5% VAT rates on renovation of housing.

Theoretically, the subsidiarity principle does not allow the Commission to attribute EU funds directly to investment projects in the area of housing. The report shows however, that certain States have succeeded in having housing projects funded, in particular through programmes supported by the Structural Funds and the European Investment Bank (EIB). Several States are in favour of the use of Structural Funds in the area of housing. In this regard, it is important to note that with the strong push coming from the European Parliament and the new member States, it is possible that the renovation of social housing might become eligible for the Structural Funds within the framework of the 2007-2013 programme.

c. The products

Finally, the last part of the report brings together the rules of law, which concern both users and operators equally, and which in fact tend increasingly to target the product.

This is the case for the European norms on construction products, the aim of which is to create a common market of construction products by harmonising the national legislation setting out the basic requirements for these products. Housing is also substantially targeted through the directive on energy performance. Specifically for housing, the directive imposes three kinds of norms:

- For new construction, there are minimum norms related to energy performance that have to be respected;
- For housing that is to be let or sold, the owner must provide the buyer or tenant with information about the energy performance of the building;
- Heating and air conditioning systems must be checked by independent bodies designated by the State.

CONCLUSION

The few themes that have been briefly examined in this article serve to demonstrate that national policies in the area of housing are influenced by a multitude of EU level decisions, even though both the institutions and member states continue to claim that housing policy is well and truly a national (or regional) competency. This has served to blur somewhat the interactions that occur between the different levels of policy-making and has even created a certain amount of legal insecurity for housing operators. In these conditions, the fact that high level civil servants and Housing Ministers meet each year is of major interest and importance. In this regard, it is desirable firstly that the issue of the impact of European policy-making should always be on the agenda of the annual meeting of Housing Ministers; and secondly that the European Commission should regularly inform Housing Ministers of the probable impact of European regulations that are under preparation. •

¹ Since 1989, the European Housing Ministers meet informally in the second semester of the year in order to look at common issues that relate specifically to their area of work.

² The report (in English and in French), as well as the completed questionnaires from the different member States are available at <http://mrw.wallonie.be/dgatp/housing2003>.

³ See the report « Facing the Challenge : The Lisbon Strategy for Growth and Jobs », Report from the high-level group chaired by Wim Kok (November 2004).

⁴ Commission Decision of the 28 of November 2005 on the application of Article 86(2) of the EC Treaty to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest



European State aid legislation and social housing

By **Sorcha Edwards**, *Communciation and Liaison Officer,*
CECODHAS – The European Liaison Committee for Social Housing

The European Commission ruled in December 2005 that EU Member States do not need the approval of the Commission to provide funding for social housing. This decision while providing the sector with legal certainty also underlines the need for social housing organisations to define themselves and their role more clearly.

The European Commission has a department or Directorate General dedicated to implementing the EU's competition policy. The officials in this department aim to stop the anti competitive behaviour of firms and regulate the uncompetitive practices of some Member State governments. The aim is to "ensure wider consumer choice and effective price competition thus contributing to both consumer welfare and to the competitiveness of European industry". EU law prohibits any aid granted by a Member State or through State resources in any form whatsoever which is incompatible with the single market and harms competition or favours certain companies. This sounds like a worthy objective. However, in practice, all aid cases simply cannot be treated in the same way. Aid granted to physically regenerate a deprived area or house disadvantaged groups cannot be viewed in the same way as aid granted to support for example an automobile manufacturer. On behalf of its members, CECODHAS has negotiated for recognition that it would be impossible for social housing organisations to effectively carry out the tasks assigned to them without being granted support in some form. Different Members States provide this support in a variety of ways including grants, loans with low interest, public guarantees, land access, tax exemption or reduced VAT rates.

In 2004, the Commission began to reform the State aid legislation to clarify what types of aid are unacceptable and to simplify internal procedures. CECODHAS's presence throughout the consultation period was vital in ensuring that EU officials were aware of the specificities of social housing systems. This ensured that at all stages and levels of the debate officials were made aware that a blanket approach to the applications of State aid rules would simply not work. These efforts paid off when in February 2004, the Commission proposed an exemption of the obligation to notify for small and local services of general economic interest which included social housing.

The fact that social housing was included in the scope of the application was a major step forward for our sector. However, this was by no means the end of the story. In 2005, opposition to the exemption of social housing came from the European Parliament which demanded more control over State aid to social housing at European level. Negotiations went to intergovernmental level as Member States tried to come to an agreement. The Commission services relied on CECODHAS for information on how the systems were supported throughout the EU. CECODHAS argued that to impose the obligation to notify all State aid to social housing on Member States would mean not only a huge workload for the Commission but also huge and unnecessary delays in the construction of urgently needed housing. Each year hundreds of companies and subsidies are investigated by the Commission. To add to this workload all of the planned funding projects for social housing development around Europe would not make sense and, as CECODHAS Members pointed out, all aid granted to social housing organisations already undergoes strict scrutiny at local and national levels.

Eventually CECODHAS lobbying bore fruit and the final agreement was reached by Commissioners and European governments on 13 July 2005. The Commissioner responsible for State aid, Nellie Kroes went against the Parliament's report led by Member of European Parliament In'T Veld. This decision was in accordance with article 86.3 of the treaty which grants competence to Member States on this issue. The decision was finally published in the official journal of the European Commission on 29th November 2005.

COMMISSION DECISION GIVES LEGAL CERTAINTY BUT NOT AT THE PRICE OF TRANSPARENCY AND ACCOUNTABILITY

Although a significant contribution to the legal certainty of social housing organisations and the systems which give them necessary support to carry out their tasks, this decision also requires Member States to provide clarification of the role of social housing organisations as well as complete transparency regarding the management of accounts. Organisations granted aid must still fulfil a number of conditions fixed by the Court of Justice through the so-called Altmark ruling if they are to remain compatible with EU rules.



According to Altmark, the organisations must have a clear mission to provide a service of general interest and must respect public service obligations as set by national and local authorities (e.g. rent ceilings, allocation restrictions, continuity of service provision) to overcome shortcomings of the market (in this case illustrated by the lack of affordable decent housing and rising homelessness). The service they provide must be categorised as a service of general interest by the Member State where it is operating. It must be proven that the organisations are not being over compensated i.e. that they do not receive more support than is necessary to fulfil their task. In contrast to other services of general interest, over compensation of up to 20% is permitted on condition that the surplus is reinvested into social housing. The rules also require complete transparency in the use of public funds. If, for example, an organisation receives subsidies for its activities which fulfil its public service obligations but also carries out other activities without the help of subsidies which could potentially generate a profit, there must be a clear separation of accounts. Also key is that the aid provided has a insignificant impact on cross-border trade in the Union.

On paper this sounds straight forward. However, in reality, when challenged by actors representing private developers, it has proven more complex to interpret the decision. Due to the complexity of the sector, it is not easy to apply European case law. The cases currently before the European Court of justice clearly illustrate this problem.

THE SWEDISH CASE

The European Property Federation (EPF) has made two separate complaints to the European Commission concerning the housing system in Sweden. The first complaint made in 2002 claims that the Swedish state is providing illegal State aid to poor regions by supporting municipalities in these areas and thereby also supporting municipal owned housing companies. In their second complaint made in 2005, EPF claims that the municipalities in Sweden are providing illegal State aid to their own housing companies through a variety of subsidies. A dialogue is now on-going between the Commission and the Swedish government.

The welfare system of Sweden pronounces the right to decent housing for all citizens. On this basis the Swedish state and the municipalities created municipal owned, not-for-profit housing companies in almost every municipality of the country. Today some 22 % of all households in Sweden live in this kind of housing. There are no restrictions for tenants to have access to municipal housing dwellings.

The municipal housing companies in Sweden have by law a social obligation to provide good housing for all households. These companies also provide public utilities on the Swedish housing market. Rent control is also a feature of the Swedish housing system. The Swedish Parliament ruled that the municipal owned housing companies together with tenant representatives are to negotiate rent level. The agreed rents set the ceiling for private and all other landlords' rents for similar dwellings. This system has been working for more than 30 years.

THE DUTCH CASE

In July 2005, DG Competition sent a letter to the Dutch authorities outlining its opinion on whether the funding of social housing in the Netherlands is compatible with European rules on State aid and the Internal Market. The letter was sent in reaction to a request for an opinion on this matter by the Netherlands in 2002. To guarantee conformity of the funding mechanism with the requirements of the Internal Market, DG Competition concludes in its letter that the Netherlands should take some necessary measures.

Amongst others, the definition of social housing should be adjusted in order to ensure that it makes a direct connection with socially disadvantaged households. The letter also rules that the so-called excessive and structural over-supply of social dwellings should be avoided by selling these homes. This case provides a clear illustration of the need for the European Union to recognise the special features of each national system; in this case the hybrid status of organisations like the Dutch social housing organisations, which operate between the public and the market sector.

EU LEGISLATION MUST BE ADAPTED TO THE NEEDS OF SERVICES OF GENERAL INTEREST

To conclude, the decision to exempt social housing from the obligation of notification was indeed a step forward but these examples illustrate that more clarity is needed to secure the legal certainty of the wide variety of social housing systems throughout Europe. The complexity of social housing systems coupled with the differences between each system makes it difficult for the sector to evaluate the impacts of EU laws. CECODHAS considers that the European Parliament, the Council and the Commission jointly need to propose a legislative framework that will state, in particular, how the competition and internal market rules are to apply to such social services of general interest taking into consideration their importance contribution to social inclusion and cohesion. ●

More clarity is needed to ensure the legal certainty of the wide variety of social housing systems throughout Europe.



The relevance of the Green Paper on Mental Health for people who are homeless

By Josée Van Remoortel, *Senior Policy Adviser, Mental Health Europe*

Historical Background

The European Union, as we know it today, was created in 1956 as an economic union. We had to wait until the signing of the Maastricht Treaty in 1991 to see an opening of the EU towards public health issues. It was clear, however, that health services would remain the sole responsibility of the Member States. The Amsterdam Treaty in 1997 (Article 152 on Public Health) aimed to ensure a higher level of health protection in all community policies. But the focus was restricted to issues like HIV/AIDS, tuberculosis, drug abuse etc.

The Community Action Programme adopted for 2003-2008 gave the first support to a number of mental health promotion projects (Mental health in prisons; Mental health promotion and prevention of disorders etc.). Another important step was the EU-WHO Ministerial Conference on Mental Health which took place in January 2005, and which was followed by a Council Conclusion (June 2005) supporting the declaration and action plan adopted at the Conference. The European Commission was asked to ensure that community legislation takes mental health also on board. The Green Paper was born!

The European Commission wishes to give greater importance to the social, economic and structural impact of mental health and to ensure greater visibility of issues related to mental health in all EU policies, to promote mental health in the field of public health and to seek to improve the mental health status and well-being of the European population.

WHY IS MENTAL HEALTH SUDDENLY AN IMPORTANT ISSUE FOR THE EU?

The reasons for the importance of mental health issues for the EU are wide-ranging:

- The incidence of mental illness is very high: 27% of the European adults are affected by mental illness and each year more than 58.000 adults die of suicide.
- The impact of mental ill health on countries' economic prosperity, their employment and health situation is well known: mental illness costs the EU-countries 3-4% of their GNP through loss of productivity and additional burdens. It accounts for 20% of the total burden of illness in Europe.¹
- The financial burden on individuals and their families is enormous: in addition to the impact on the personal income, the family members' ability to work as well as the family budget are affected.
- Despite some positive developments, the stigmatisation, discrimination and social exclusion of people with mental health problems is one of the most persistent human rights violations in the EU.

- There are significant inequalities between the Member States, e.g. the yearly suicide rates range from 3.6 per 100.000 adults in Greece to 44 per 100.000 adults in Lithuania. The proportion of the health budget dedicated to mental health is also highly variable across Member States; eg. Luxembourg is allocating 13.5% of its budget while Slovakia is only spending 2 % of its health budget on mental health.
- Finally, according to WHO figures², one out of four Europeans experiences a significant episode of mental illness during his/her life.

For all of these reasons the European Commission is now initiating a wide ranging debate on these issues, highlighting the importance of wellbeing and the necessity to develop a comprehensive strategy on mental health in Europe. At the WHO-European Ministerial Conference on Mental Health in Helsinki, policy makers, health professionals and other relevant stakeholders agreed to look for solutions and to give priority to high quality mental health care and treatment accessible to all those with mental health problems.

The EU strategy on mental health

One of the major objectives of the Green Paper is to establish a strategy on mental health at EU-level focussing on:

- the promotion of mental health for all;
- the prevention of mental illness;
- the social inclusion and protection of the rights and dignity of people with mental health problems
- the improvement of mental health information research and knowledge in the EU.

Before developing this strategy, a consultation process has been set up (the consultation closes in May 2006). The European Commission launched this very large consultation which not only addresses all EU Member States but also European organisations, professionals, policy makers, relevant stakeholders in the health and social sector etc. Since mental health issues concern everybody, the Commission wishes to be as inclusive as possible and is interested in the views of as many groups as possible.

WILL THE GREEN PAPER HAVE AN IMPACT ON MENTAL HEALTH IN EUROPE?

MHE is very pleased with the Green Paper, the consultation process and the establishment of an EU Strategy on mental health which should be following.



Positive aspects of the Green Paper:

- The Green Paper recognised the impact of mental health issues in the EU and the need for solidarity. Also the stimulating effect on the Member States to take action in this field is very welcome.
- Another positive aspect is the fact that mental health is viewed in a bigger frame taking into account poverty, violation of human rights, stigma and discrimination, i.e. all factors which can play a crucial role in the onset of mental illness.
- The involvement of patient and civil society organisations is yet another positive development. Users and user-organisations have a crucial role to play in the area of empowerment, recovery and social inclusion. In a number of countries users are trained to become trainers and their experience-based knowledge used to change the perception of health professionals.
- The deinstitutionalisation process provides a good opportunity to improve the living conditions in psychiatric institutions and the creation of alternative settings outside the institutions.
- The Green Paper will raise awareness for these problems in all Member States. Policy and decision makers will have to explicitly focus on mental health promotion and prevention activities in their country and on combating the social exclusion and discrimination of people with mental health problems.

Negative aspects of the Green Paper:

- The Green Paper has no negative elements as such but a number of shortcomings to be mentioned. The human rights issues are not sufficiently recognised when referring to psychiatric institutions. Actions against involuntary treatment should clearly be part of the future strategy.
- The possible link with existing EU non-discrimination legislation is not mentioned.
- Better networking between health and social budgets should be encouraged since people with mental health problems often fall through the social net as they do not always meet the necessary criteria for help.
- Gender is a missing issue as gender differences often are relevant in the provision of mental health services.
- The European Social Inclusion Strategy should include access to social housing for people with mental health problems. The same applies to homeless people, who are not mentioned in the Green Paper and whose mental health conditions may constitute a hurdle for social integration.

HOW WILL THE GREEN PAPER ON MENTAL HEALTH AFFECT HOMELESS PEOPLE?

The Green Paper should be seen as one step in the development and implementation of a long-term, effective and concrete strategy on mental health. The consultation process offers a genuine opportunity for all stakeholders to make their voice heard and present con-

crete proposals for possible actions. FEANTSA also contributed to the consultation of this EU Green Paper³, which will be of great value. The Green Paper only refers to the vulnerable population in general but does not specifically mention homeless people.

The relation between homelessness and mental illness is well known but not easy to deal with. Being homeless can cause mental health problems and having mental health problems often leads people into homelessness and social exclusion.

It is well known that homeless people have a higher rate of mental health problems than the general population. Low social and economic status increases vulnerability for mental illness. Support for these vulnerable groups can improve mental health, strengthen social cohesion and prevent associated social and economic burdens.

Being old, a migrant or from another ethnic group will cause further marginalisation and an increased risk for mental health problems. Drugs, alcohol and substance abuse are other risk factors for homeless people that can lead to mental health problems. Suicide is yet another risk factor for homeless people. Employment and mental health relate to each other in several aspects. For homeless people with severe mental health problems, employment becomes an impossible challenge. Finally, housing and housing conditions have a strong impact on mental health. Institutions, homes or shelters cannot always guarantee adequate accommodation ensuring the dignity and the right to privacy of people with mental health problems.

All these elements are sufficiently evident to include homeless people in the strategy on mental health that will be developed. MHE hopes that after the consultation process on the Green Paper, the EU strategy on mental health will be elaborated taking into account the many comments, suggestions and recommendations of the diverse groups and stakeholders in the social field. MHE also expects the EU strategy to provide an action plan and possibilities for exchange, for learning and for collaboration leading to social inclusion, social protection, health and more rights for people with mental health problems.

Two slogans are very accurate to resume the Green Paper: "No health without mental health" and "Nothing about us, without us", which was the slogan of the European year of disabled people. The slogans stress the need to include mental health in all EU, national, regional and local policies and activities and to give a voice and to involve the concerned people themselves in a participatory process of decision making. MHE welcomes the support for this project of FEANTSA and all other European NGOs active in the health and social sector. •

For more information, please visit the Mental Health Europe website www.mhe-sme.org or write to office@mhe-sme.org.

¹ European Commission (2004) The State of Mental Health in the European Union.

² WHO (2003) Investing in Mental Health.

³ Feantsa (2006) Contribution to the Consultation on the Commission Green Paper on Mental Health.

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EU funding such as ESF Objective 3 or EQUAL can be used effectively to meet the needs and aspirations of individuals who are excluded from the labour market.

EU funding and homelessness – all things being ‘EQUAL’?

By Linda Butcher, *Chief Executive, Off the Streets and Into Work*

Over the last decade, funding from the European Union (EU), and in particular from the European Social Fund (ESF) Objective 3¹, has made it possible for NGOs working with homeless individuals in England to provide targeted employment, training and education (ETE) programmes that meet identified needs, and to work with people at their own pace.

The homelessness sector has been able to provide services that engage, support, motivate, and prepare people who are not ready for, or not sufficiently supported by, mainstream services (e.g. the UK Government's state employment agency, Jobcentre Plus, or colleges of further education). Many of the individuals we work with are far from the labour market and have multiple barriers to tackle before being able to fully benefit from mainstream services, and to gain – or sustain – employment.

For some, the start of the journey, which may eventually lead to employment, is to just *do something* – get out of bed, get into a routine, become a volunteer or attend a regular activity.

Yet this does not mean homeless individuals do not want or aspire to work. OSW's research 'No Home, No Job'² found that 77% of respondents wanted to work at the time of the survey, and 97% wanted to work at some point in the future.

But the multiple barriers to employment that many homeless individuals face – some personal, such as ill-health or low skills; some structural, such as lack of relevant training programmes or transport; and some societal, such as stigma and discrimination – can form a formidable blockade which would defeat even the most skilled and determined amongst us.

Off the Streets and Into Work (OSW), a charity which works in partnership with a range of strategic and service delivery partners, is a good example of how EU funding such as ESF Objective 3 and EQUAL can be used effectively to meet the needs and aspirations of individuals who are excluded from the labour market. We have previously managed a large-scale, multi-annual ESF Objective 3 programme in London (c. one million Pounds Sterling per annum), coordinating a partnership of NGOs to deliver employment and training services. We have delivered technical assistance support to home-

lessness agencies under Objective 3, Priority 4 (capacity building). OSW currently leads the EQUAL Round 2 development partnership 'Tackling Multiple Disadvantage in London by Improving Employability' (TMD London). And we also manage the London-based partnership delivery of several co-financed ESF Objective 3 contracts from statutory agencies.

Our belief in the importance of ESF to be able to meet the ETE needs of homeless individuals in this country is backed up by the recent findings of the 'Update to the mid-term evaluation (MTE) of the Objective 3 operational programme for England and Gibraltar'. This showed that, based on leavers' and beneficiaries' surveys up to 2004, ESF Objective 3 had provided positive support for those managing multiple disadvantages, including homeless individuals, and most importantly, had "acted as a 'stepping stone' for some beneficiaries – encouraging them to go to further education/training which will then lead to employment". The report also confirmed what we knew on the ground - that "there is a group of ESF beneficiaries for whom employment, at least in the near to medium term, appears unlikely. For some of these beneficiaries it may never be a possibility."³

One way that OSW and our partners have been able to identify and target more individualised support on those furthest from the labour market, has been through our EQUAL programme 'TMD London', and our transnational partnership '4Inclusion'. EQUAL programmes address EU and individual member state priorities, are based on labour market evidence, and exist to meet the needs and aspirations of individuals who are excluded from the labour market. EQUAL supports innovation, sharing and mainstreaming; and, not just encourages, but absolutely requires you to empower and involve beneficiaries in every aspect of the programme. It is an exciting, challenging programme that enables agencies to take risks and try new things, as long as there is a solid rationale.

Discussions are currently underway in the UK in terms of how future EU funding programmes will be allocated and managed. The response of many NGOs to the proposals is a mix of both hope and dread. Based on what I have said above, why would this be the case?



WHAT IS HAPPENING IN THE UK IN RELATION TO EU FUNDS?

The Government is consulting on the draft UK National Strategic Reference Framework (NSRF). The purpose of this is to establish the broad strategy for Structural Funds spending in the UK and to provide a reference framework for the development of future European Structural Funds Programmes from 2007 to 2013.

Some of the proposals include ensuring that:

- 1) future ESF spending in England is closely aligned to domestic policy priorities;
- 2) ESF support for employment and skills is strategically aligned to domestic and skills funding;
- 3) ESF delivery is administratively simple; and
- 4) EU requirements on public match funding do not prevent organisations from accessing ESF.

Supporting the objectives of the European Employment Strategy, one of the two main priorities within a single ESF programme for England would be extending employment opportunities, which concentrate on increasing employment to promote social inclusion. Examples of actions to be supported include developing the employability and skills of unemployed and economically inactive people, and overcoming barriers to work faced by disadvantaged groups.⁴

SO WHAT IS THE PROBLEM?

The problem is that even though the Government and the NGO sector know:

- how important ESF is for multiply disadvantaged individuals
- that there needs to be flexibility and softer targets, and
- that many will need extra time and help....

...in some cases Objective 3 is not currently working well for those who are most disadvantaged because of the requirements UK statutory funders have put in place.

The MTE results referred to above were based on leavers' surveys up to 2004. But since then, co-financing arrangements have been implemented, which many feel have changed the fundamental nature of ESF – and Objective 3 in particular. The rationale for co-financing was good:

“Co-financing has been established to overcome some of the problems that ESF has brought with it. It means paying both ESF money and the required match funding to providers in a single funding stream.”⁵

Co-financing was intended to promote greater co-ordination and targeting; reduce bureaucracy; allow for innovation and creativity; improve quality; ensure more systematic monitoring of provision; and ensure that ESF money added more value to the delivery of Government programmes.

And some of the statutory co-financing bodies have managed it well, with positive results. But many have not. A taste of the current situation (in London at least) includes:

- Many co-financing bodies do not currently comply with EC rules that allow up to 30% up-front funding to assist cash flow;
- Process as well as outcomes are monitored and create additional, unnecessary burden;
- The amount of bureaucracy and risk involved is strangling performance and shutting out small, specialist providers. Co-financing arrangements were meant to address this, but in some cases have significantly added to the problem;
- Some co-financing bodies have passed all of the risk (particularly financial) to the delivery agencies. This conflicts fundamentally with the original intention of co-financing and how it was ‘sold’ to NGOs. This has left NGOs that work with the most disadvantaged in society subsidising government contracts with their own funds, as no-one we know of is being paid fully for what they have legitimately spent to deliver their Objective 3 programme;
- A more positive move with the introduction of ‘soft outcome’ payments by some co-financing bodies has been very much welcomed.

In addition, the EQUAL programme across the EU was basically ‘closed’ after the second bidding round, despite the very positive results it has been achieving. The Commission’s aim is for the best practice and principles of EQUAL to be mainstreamed within the future EU/ESF funding plans of each member state. But it is difficult to see how the two very different approaches I have just described – to EQUAL and Objective 3 – can easily be brought together into an effective future programme that will help tackle economic and social exclusion.

HOW ARE SERVICES FOR HOMELESS INDIVIDUALS BEING AFFECTED?

Earlier this year, OSW surveyed ten agencies delivering ETE services to homeless individuals in England.⁶ We were particularly interested in those delivering services with EU funding. The agencies deliver a range of ETE services from basic engagement, all the way through to support into



employment and accredited training/learning to 6,000 homeless individuals per annum. Survey respondents noted that many of their activities, where it is difficult to attach hard outputs, have become increasingly difficult to fund, despite the fact that they support individuals in moving towards the labour market.

Half of the agencies rely on EU and ESF co-financed sources to cover between 50-100% of their ETE budgets. If less or no ESF/EU funding is available to them post-2007, most of the agencies will be forced to significantly scale down services or cease delivery altogether, despite having spent, in most cases, years to build the capacity to deliver quality services.

"...our services have always relied on a European element of funding to run. Unless we can replace ESF with funding which recognises the uniqueness of the client group the impact will be termination of services and redundancies."

"The impact will be a huge delivery cut – 70% of our very successful courses could go."⁷

WHAT IS NEEDED

Services need longer-term, flexible and more secure funding to operate most effectively; to provide the support that (multiply) disadvantaged individuals actually need and want; to build and then maintain capacity, knowledge and expertise; and to develop and maintain trust with the individuals they exist to support. OSW's own research has shown that many current and formerly homeless individuals need to attend a number of services before they will be 'work ready'. We believe a longer-term view needs to be taken on the 'return on investment' and the savings that will eventually be made in

really helping people gain sustainable employment. Many individuals who do not succeed the first time will eventually get there, with the right support and sufficient time.

Authorities that commission and fund employment-related training need to recognise the importance of this journey towards independence in their funding structures, and not restrict the payable achievements solely to 'hard outcomes'. There needs to be both a pre-mainstream *and* a mainstream – and they both need to be funded properly, as one does not work without the other. Additionally, serious attention needs to be given to the impact of the future reduction of ESF allocation to NGO providers and, in particular, on the beneficiaries they support.

WHAT OSW ITSELF IS DOING

- Continuing to build the evidence base of what works, through the EQUAL TMD London programme
- Working collaboratively with government (ODPM and DWP in particular), NGOs and the public and private sectors to improve policy and practice
- Tackling issues: regionally (along with the London Development Agency, the Greater London Authority, the NGO sector and others); nationally (with our network members and partners such as Homeless Link); and at European level (with FEANTSA and its member organisations)
- Continuing to develop and extend our own practice in relation to the influence and participation of the individuals who use our services, to ensure what we do is driven first and foremost by their needs and aspirations. •

Links

Off the Streets and Into Work - www.osw.org.uk

4Inclusion transnational EQUAL partnership - www.4inclusion.org

London Voluntary Sector Training Consortium's 'London Euroscene' - www.lvstc.org.uk

Mid-term Evaluation of Objective 3 Operational Programme -

¹ ESF Objective 3 aims to improve people's skills and employment prospects.

² 'No Home, No Job: Moving on from transitional spaces', Singh, P., Off the Streets and Into Work, 2005.

³ 'Update to the mid-term evaluation of the Objective 3 operational programme for England and Gibraltar', Smith, Hardcastle, Moroney and Redden, DWP, 2006.

⁴ Consultation Launch on EU funding', Burns, Jim, Government Office for London, [London Euroscene](http://www.londoneuroscene.org), London Voluntary Sector Training Consortium, April 2006.

⁵ London Regional Development Plan 2002-7.

⁶ Cardboard Citizens, Cardinal Hume Centre, City Lit, Connection at St Martin's, Depaul Trust, Novas, Shekinah Mission, St Anne's, St Mungo's, and Thames Reach Bondway.

⁷ OSW Funding Paper, Butcher, Linda, OSW, April 2006.



What access to employment for people experiencing homelessness? The new initiatives of the European Commission in the area of "Active Inclusion"

By Michel Mercadié, *Vice-President of FEANTSA and Chair of its Employment Working Group*

After some months of hesitation, the European Commission has finally started the discussion on the role of the EU in the area of access to employment for "the people furthest from the labour market"¹. FEANTSA welcomed this initiative and has made an initial contribution to the debate.² Indeed, FEANTSA believes that the failure of the ambitious Lisbon objectives midway through the projected 2000-2010 timescale has made it necessary for the EU to undertake specific action in this area. It should be emphasised that it is fundamental for the European citizens that Europe should maintain what it has achieved in the area of social protection and that it should not lose itself in the face of liberal globalisation. Yet, the prevailing tendency is towards the thinking that income from the social protection system constitutes an obstacle to "return to the labour market."

On the basis of our members' experience and their work with the most excluded, we wish to break down this myth of a conflict between social protection and access to employment. If it is to uphold the right to employment and to activity, the EU must take account of this experience, both the successes and the failures.

First of all, it is necessary to identify a specific target group. Among "those furthest from the labour market", it is necessary to distinguish between those generally referred to as "people who are homeless,"³ the "long-term unemployed" and "people experiencing poverty".

The discussion should then be extended beyond the simple parameters of income from social protection and income from employment. The FEANTSA Working Group on Employment has identified in a precise way the different structural and personal obstacles to employment faced by people experiencing homelessness. This analysis is based on concrete objective realities and not on a theoretical outline. Failure to take into account the obstacles that make access to all fundamental rights difficult, such as problems related to housing, health and citizenship or the desire to manage purely on one's own resources, will doom any European initiative in this area to failure.

As far as resources are concerned, it is an illusion to suppose that income from social protection, intended to guarantee human dignity, and income from employment are in conflict with one another. On the contrary, it should be recognised that all participation in

activity should lead to an increase in resources. Finally, it is important to take account of the specific role that is played by the voluntary sector - not operating on a market-based logic - in providing the whole range of services that are necessary for the slow, varied and individual process of social inclusion of people experiencing homelessness. These include services such as counselling and advice services, education and training (including language training), meaningful occupation, supported employment or transitional employment. But it is based overall on a framework of support of the individual, which takes account of all of their problems and the importance of their participation in their own reintegration plan.

What role might the EU play in relation to such a process? It can allow the 25 member States to exchange and share interesting and successful practice. It can establish guidelines which will guarantee that European funds will really contribute to greater social cohesion, as it would be highly incoherent to talk about employment for those "furthest from the labour market" on the one hand, while pushing member States to lower their social spending and to diminish their responsibilities in this area on the other. It can propose programmes that are based on the necessary holistic approach, such as it did in the past with FEANTSA and the IGLOO programme (a comprehensive programme for integration through housing and employment). Finally, it can offer recognition of the vital role of the social economy and abandon the stance that employment in the open labour market is viable for all those who are excluded from it. We must have the courage to recognise the fact (and the figures that back it up) that the objective that all people should be able to end up accessing employment in the mainstream employment market can simply not be realised - a residual percentage of those who face the greatest difficulties will always remain in supported or sheltered employment.

A final answer to the questions asked by the Commission: the debate must not be limited to simply "negotiations between the social partners"; clearly the whole of the voluntary sector must be involved in it, and, in the case of people who are homeless, the voices of organisations who are specialised in this area and have had long experience in it, must be heard. For their part, FEANTSA and its members are eager to be part of the debate and of the initiatives that will arise from it. ●

¹ Communication from the European Commission COM (2006) 44 final : on the consultation on action at EU level in order to promote the active inclusion of the people furthest from the labour market. http://europa.eu.int/comm/employment_social/consultation_en.html

² FEANTSA's response to the Commission Communication on the consultation on action at EU level in order to promote the active inclusion of the people furthest from the labour market <http://www.feantsa.org/code/en/theme.asp?ID=3>

³ See FEANTSA's ETHOS typology (European Typology on Homelessness and Housing Exclusion) to find out more about the different operational and conceptual categories that are understood in this general term. <http://www.feantsa.org/code/en/pg.asp?Page=484>



Away from home and homeless: key findings of a recent study on the growing number of EU10 nationals using homeless services in Ireland

By Tanya Lalor, TSA Consultancy



INTRODUCTION

On May 1st 2004 the European Union expanded to twenty-five countries, with the entry of ten new member states. The expansion of the EU was accompanied with a range of 'transitional measures' applied by the majority of the existing EU 15 Member States – these placed restrictions on the free movement of workers from the new EU10 States, in order to protect their own labour markets.

Ireland, along with the UK and Sweden, were the only countries to institute an open labour market policy, enabling all citizens from the new EU states to freely move and work without restriction. However, speculation about the strains that this might place on social welfare payments (particularly in terms of so-called 'welfare tourism') led Ireland and the UK to restrict access to certain social welfare payments. In Ireland, individuals would have to be regarded as 'habitually resident' in order to be eligible for a range of social welfare payments. In order to become 'habitually resident', a number of conditions would have to be met – for example, being resident in the country for at least two years. This is known as the 'Habitual Residence Condition'. Similar provisions were applied in the UK.

THE NUMBER OF MIGRANTS WHO HAVE TRAVELLED TO IRELAND SINCE EXPANSION

It is not possible to establish with certainty the numbers of citizens from the new 10 EU member states since May 1st, 2004.

However, we do know, from Irish Government figures, that in the 14 months following expansion (up to June 2005), at least 104,000 individuals travelled to Ireland for work: half of these were from Poland; 20% were from Lithuania; 10% were from Latvia; 9% from Slovakia and the remaining 11% from the rest of the new 10 member states.

For the vast majority of citizens travelling to Ireland from the new 10 member states, the existence of social welfare restrictions has not had a negative effect – according to Ireland's Dept. of Social and Family Affairs, in the 15 months following EU expansion (up to end July 2005), only 1% of those from the new EU10 states had applied for unemployment benefit (one of the payments restricted under the Habitual Residence Condition).

THE EXPERIENCE OF HOMELESS SERVICE PROVIDERS AND THE RESEARCH THAT WAS UNDERTAKEN

However, homeless support organisations, in particular those providing food services in Dublin had noted an increased demand for their services, mostly from people from the new EU member states,

following EU expansion. This increased demand was believed to have arisen where people could not access work or social welfare payments. Such individuals, while having freedom of movement in the country, would be less likely to be able to meet conditions for accessing social welfare payments, if they had not lived in the country for two years.

On the basis of this experience, the Homeless Agency (a partnership body, comprising voluntary and statutory agencies in Dublin that was established as part of the Government strategy on homelessness in 2001) commissioned research to be undertaken on the issue. The research sought to quantify and profile those using homeless services from the EU 10 member states. TSA Consultancy was contracted to undertake the research in 2005 and interviewed homeless services, information and other service providers, Government departments as well as 49 people from the new EU10 states accessing homeless services to establish their experiences.

THE NUMBERS AND PROFILE OF PEOPLE FROM THE NEW EU MEMBER STATES WHO ACCESS HOMELESS SERVICES

Estimate of numbers

The research found that during an average day in the month of September 2005 in Dublin, between 35 and 85 EU10 Nationals were using food centres; a maximum of one or two EU10 Nationals were accommodated in hostels for homeless people; approximately ten EU10 Nationals were met by outreach services for homeless people and no EU10 Nationals were using transitional and long-term housing services. Between 10 and 25 people who are without an income or homeless met with information and support organisations during an average week, while contact with statutory agencies is likely to have been very limited. This would suggest that there were between 60 and 120 people from the EU10 states seeking support from services for homeless people in Dublin in an average day in September.

Profile of those accessing homeless services

49 people from the new EU member states were interviewed as part of the research – these interviews were undertaken in food centres in Dublin city. Most of the people encountered in the research were men (41 out of a total of 49 people surveyed), and most were between the ages of 20 and 30 years (37% or 18 people surveyed) or between 41 and 50 years (31% or 15 people).

The majority of those people encountered in the research were from Poland (88% or 41 people), with a smaller number of people from Latvia and Lithuania (2 people from each country).



Of the 49 people interviewed, 28 people using homeless services (or 57%) considered themselves homeless, and 16 people reported sleeping rough. For the great majority this was their first experience of homelessness. A great many people from the new EU10 states were not gaining access to emergency accommodation – the Department of Environment, Heritage and Local Government (with responsibility for homelessness policy in Ireland) had communicated to these services that people who were not entitled to social welfare payments should not be provided with accommodation services either. Most hostels were therefore changing their policies such that people who were not 'habitually resident' could not be accommodated for more than 1-2 days. This would account for a relatively high number of rough sleepers.

Most people interviewed were recent arrivals to Ireland. 29 of the 49 people interviewed (or 59%) had been here for 4 months or less, but more than half of those interviewed intend to stay in Ireland for more than one year and over a third intend to stay in Ireland permanently. EU10 nationals using homeless services have either worked for a short period of time and subsequently lost their job, or have travelled to the country with insufficient funds to cover the time before finding work.

For the majority of those who use homeless services, the problem is therefore an income and employment issue. The issues and needs presented by this group of people differed from the general homeless population in Ireland. Issues such as addiction, mental health problems and family breakdown did not present for this group, as they would with the general homeless population. All those interviewed in the research cited employment as a reason for coming to Ireland, and 96% of those who were homeless said that reasons for their homelessness were primarily relating to problems finding employment, losing employment or having no money. Over a third of people interviewed had no source of income whatsoever.

In addition to this, reasons for destitution and homelessness among EU10 Nationals in Ireland were often traced back to worker exploitation and the false promises of employment agencies based in Poland and Ireland. Of those who were working or who had worked in Ireland, the average hourly wage was €7.60 per hour (below the minimum wage of €7.65 per hour). 38% of those who gave details of their hourly wage were paid below the minimum wage.

Approximately 10% (five people) had previous experience of homelessness in their own country. There is some evidence, therefore that while the issue is predominately an employment and income issue, a small number of EU10 Nationals, in the region of 5-10 people, would benefit from a full homeless intervention.

Preparation prior to arrival in Ireland

Interviewees' level of preparation prior to coming to Ireland was very poor. People mainly depended on word of mouth as their primary source of information. The majority of people using homeless services had poor language skills (just 43% had a working knowledge of English) and brought insufficient money with them to Ireland (over three-quarters brought less than €500 euro). However level of education was generally high, especially compared to the indigenous

homeless population, with 87% of people interviewed having finished second level or studying/ qualified to 3rd level.

In spite of the difficulties encountered, the research found that few people (only six people) had made an application for social welfare payments.

The experience of service providers

The experience of homeless service providers mirrors that of those interviewed. Most people presenting to services were recent arrivals to the country, often with poor language skills and seeking employment primarily in the construction sector. The Polish Information and Cultural Centre said that new arrivals have high expectations on their arrival in Ireland noting that '*once they get off the bus or plane [they expect] to get a job in the first hour, a flat in the second hour and then that night ring home and tell the family they are settled. There is a lack of awareness about different rules with regard to employment and the different bureaucracy.*'

Because clients are typically not habitually resident, and therefore ineligible for social welfare payments, project workers have limited ability to help them get support. Support organisations cannot even refer people to emergency homeless accommodation. In general, they will refer them to food centres, or advise them to access free flights back to their home countries. (The Irish Government will provide free flights back to a person's home country if they become destitute and are not entitled to social welfare payments). There is a very low take up of free flights home: most people have either taken out loans for the purpose of finding work in Ireland, or prefer to take their chances in the hope that their fortunes will change.

Faced with increased demand on their services, voluntary service providers reported significant strains on their resources, and feel ill-equipped to deal with the needs of people from the new EU member states, particularly with regard to language difficulties.

RECOMMENDATIONS ARISING FROM THE RESEARCH

The report makes a range of recommendations, which correspond to the main issues identified for people from the EU10 States using homeless services. The first of these was that if the 'habitual residence condition' was not in place, the great majority of EU10 nationals would not find themselves destitute and homeless.

However, notwithstanding Government policy with regard to the habitual residence condition, a number of recommendations were made. They include ensuring full access to homeless services (particularly emergency accommodation) for those who are not habitually resident; additional accommodation services appropriate to the needs of EU10 nationals who encounter difficulties in Ireland; provision of short term, social welfare payments for those who are not habitually resident and who have not worked since arrival in Ireland; an improved and targeted information campaign in Ireland and across the new member states for people planning to move to Ireland and greater supports for reporting worker exploitation for this group of people as well as greater co-operation across EU member states to tackle rogue employment agencies.



Case example

One of the interviewees was a 43 year old man, who had travelled to Ireland from Poland to find work, arriving in May 2005. He was currently sleeping rough, and had been doing so for three months. He had limited English skills, but had a higher second level education. He was four months unemployed in Ireland. He had travelled alone, but has a wife and one child in Poland.

His intention was to stay in Ireland for at least three years, but this was contingent on him finding employment. He had arrived in Ireland after having been offered employment and information on living in Ireland by an Irish private sector employment agency, which was recruiting people in Poland. He paid a total of €140 for work which was promised by this company, and as far as he was concerned, he had employment arranged in advance in Ireland, on the basis of commitments offered by the employment agency. When he arrived in Ireland, he was told that there was no employment here as the job market was more difficult.

He did not know anybody living in Ireland prior to his arrival here, and when he arrived, he stayed in a tourist hostel for two days.

While he was financially well prepared on arrival in Ireland (having arrived with between €1,000 and €2,000), he reports that within three weeks, this money was spent, partly due to expenses as a result of participating in a Safe Pass course.

He also had his documents (passport, driving license, bank and identity cards) stolen shortly after arriving here.

He enquired about welfare payments, but was told that he was ineligible for support, on the basis of the Habitual Residence Condition.

His current situation is very stressful for him, because he is separated from his wife, although he is reluctant to return to Poland, taking his chances here for his situation to change, because he borrowed money prior to coming to Ireland, and feels that he cannot return home until he is in a position to pay this money. He does not have a source of income, and attends food centres on a daily basis, missing out only on occasions when he is seeking employment. Because he has no income he said that he walks to job interviews, reporting that he had walked approximately 20 kilometres over and back to an interview at Dublin Airport the previous day.

The full version of the study "Away from home and homeless – Quantification and profile of EU10 Nationals using homeless services and recommendations to address their needs" can be downloaded from the Homeless Agency website:

<http://www.homelessagency.ie/downloads/publications/101.pdf> •





The development of homeless services in Tallinn, Estonia



By **Andrus Toompuu**, *Senior Expert on the Social Welfare and Health Care Board of the City of Tallinn*

Different countries have developed different approaches to preventing and tackling homelessness, depending on the socio-economic and political context of the country and on how well its civil society is functioning. In Central and Eastern Europe, including Estonia, changes in the social conditions have had a significant impact on the economy, housing policy and the organisation of society in general.

This article aims to give an overview of the development of social services for people who are homeless in the largest Estonian municipality, the city of Tallinn, taking into account the accession of Estonia to the European Union. With a surface area of just 45,000 km², Estonia is a very small country. It has a population of 1.4 million. 400,000 people live in the capital Tallinn.

Significant changes in the fields of economy, housing policy and organisation of society have led to new challenges in Estonia. One of the new challenges is homelessness, which has attracted public attention due to its high visibility. Homelessness in Estonia is mainly a problem in major cities. Over the past years, the city of Tallinn has developed its policies on homelessness. The increase in social services for socially excluded and homeless people and the increase in funds dedicated to this sector bear witness of this development.

The concept of social exclusion emerged in our society during the years after independence. For the first time, in 1997, the Estonian Human Development Report dealt in a more in-depth way with questions related to social exclusion. Moreover, in a context of major economic disparities, the issue of social exclusion has become a pressing one. Society pays a high price for social exclusion. The more people fail to cope, the more expenses increase in the social sector.

Not everybody was able to adapt to the changes in Estonia after the country's independence. Many people lost their homes as a result of the ownership reform. During the Soviet era, most people lived in flats which were financed by the municipal government. Later on, in the context of the ownership reform, these flats were returned to their former owners. In Estonia, 23,385 flats were returned. Nearly half of these (11,751) are located in Tallinn. As a consequence, Estonia has become a country with an exceptionally high level of home ownership in comparison to other European countries. The private sector only owns 4% of the dwellings, which is why it is difficult to help all people in need of adequate accommodation. Relations between landlords and tenants are complicated and tense. Many households have become "forced tenants" following the ownership reform. The problems are particularly acute in major cities, such as Tallinn. Many vulnerable groups cannot solve their housing problems on their own. Unlike many of their compatriots, these households did not benefit from the privatisation of housing in the context of the ownership reform. Instead, they have had to wait for assistance from the state and local government in order to solve their housing situation.

At the moment there are approximately 4800 municipally owned social dwellings in Tallinn, which is obviously insufficient. The groups that have privileged access to social housing in Estonia are:

- "forced tenants":
- households that have been deprived of their homes as a result of fires, demolition or similar problems;
- young people who have been living in children's homes or foster families;
- households including people with disabilities or people with special care needs.

From a social inclusion perspective, the provision of publicly owned social housing to help vulnerable groups to access housing is important in developing effective housing policies. There is an increasing need for adequate and affordable housing for people with low incomes. In 2002, a housing construction programme "5000 dwellings in Tallinn" was initiated in the country's capital. The programme aims to solve the housing problems of 5000 households (70 - 80% of whom are "forced tenants") by the year 2008. The total cost of the housing construction programme is approximately 900 million Estonian kroons (€57 million euros). 75% of the costs will be covered by the municipality and the remaining 25% will be financed through the central government. In 2006, for instance, four municipal housing blocks with 224 flats in total will be completed in Tallinn.



The combination of temporary accommodation with the participation in the rehabilitation process constitutes the intermediate phase of a process.

Given the lack of social housing and in the context of a market-economy, it is difficult to find affordable accommodation, especially as many of the jobs that are readily available offer a low wage. According to Estonian legislation, local governments are responsible for providing housing for individuals and families in need of adequate accommodation by offering the possibility of renting a flat in social housing premises. The local government must also support people who have difficulties finding suitable accommodation, by helping them to adapt accommodation to their personal needs or to acquire a more suitable accommodation, if necessary.

The cross-border cooperation network project Kusti II, between Southern Finland and Estonia, which was implemented in the framework of Interreg III (2003-2005), has helped to considerably develop existing housing services in Tallinn. The focus of the project was on problems related to homeless people and housing. It organised seminars, learning trips and exchange of staff both in Finland and in Estonia.

Due to the exchange of staff and the participation in Kusti II, the partners were able to develop their knowledge and new ideas. These can now be used for the development of welfare services in Tallinn. The participation in this project confirmed the necessity of the work that has been done and the fact that we are moving in the right direction in developing our services.

We have come to the conclusion that the following support structures and services for people vulnerable to homelessness must be developed in Estonia:

- prevention services and support services for people who still have accommodation
- support services and activities to facilitate the re-integration of homeless people into society.

The Development Plan of Social Welfare of Tallinn defines the main objectives and sets out an action plan in the field of welfare services for the period 2006-2010. It foresees that different services, including cost-sharing and accompanied housing, must be developed for different groups of disadvantaged people.

A large proportion of the users of the existing shelters are homeless people for whom the shelter has become permanent "accommodation". A combination of shelter services and other social support services is required in order to facilitate the reintegration of these long-term clients of shelters, as well as other groups vulnerable to homelessness, such as persons that have recently been released from prison or detention centres.

In Tallinn there is primarily a lack of a special housing for people with a history of substance abuse and/or direct access institutions, which have led to good results in Finland. There is also a need to increase the facilities for supported living and to develop activation centres to facilitate the transition to employment. In addition, it is necessary to develop rehabilitation services, which accompany housing services and to create activation centres for groups vulnerable to homelessness, such as people released from prisons, older people, people with disabilities, including mental disabilities, people with a history of substance abuse, etc.

In 2003, a rehabilitation centre for homeless people started its work in Tallinn. In 2004 the different services provided help for 1007 persons in need. On the 1st floor of the centre, a service of temporary supported housing with 30 beds is provided for homeless people who are willing to participate in the 24-hour social rehabilitation programme. The combination of temporary accommodation with the participation in the rehabilitation programme constitutes the intermediate phase of a process. The final objective is to prepare people for an independent life in an adequate accommodation on either the private housing market or in social housing.

The rehabilitation centre has found its place in Tallinn's social system. Given its efficiency, it is vital that the support centre continues providing social services for people vulnerable to homelessness and further develops these services.

As the European Union develops, welfare services are also developing in Tallinn and in Estonia in general. The strategy "Tallinn 2025" defines the main objectives of Tallinn's welfare services for the coming decades. In order to achieve these objectives, it is necessary to create conditions, which help to reduce the risks of poverty and social exclusion and enable disadvantaged groups to lead a life in dignity. •