

ECONOMIC COMMISSION FOR EUROPE

WORKING GROUP ON A POSSIBLE LEGALLY BINDING INSTRUMENT ON AFFORDABLE, HEALTHY AND ECOLOGICAL HOUSING IN THE UNECE REGION

First session

Geneva, 11 and 12 April 2011

Item 5 of the provisional agenda

Informal notice 1

ENGLISH ONLY

Synthesis of member State responses to the questionnaire on a possible legally binding instrument on affordable, healthy and ecological housing

Note by the secretariat

Summary

At its meeting on 21 December 2009, the Bureau of the Committee on Housing and Land Management discussed the need for a United Nations Economic Commission for Europe (UNECE)-wide policy framework on affordable, healthy and ecological housing.

Following the discussion of this issue at its 71st session in September 2010, the Committee decided to establish a Working Group to explore the potential added value of, and define the scope, objectives and possible options for a possible legally binding instrument on affordable, healthy and ecological housing. In advance of the first session of the Working Group on April 11-12, 2011, the secretariat circulated a questionnaire to all member States to seek their views on five clusters of issues:

- The main tools to promote access to affordable, healthy and ecological housing at the national level;
- The major gaps in ensuring access to affordable, healthy and ecological housing at the national level;
- The added value of a possible legally binding instrument on affordable, healthy and ecological housing;
- The way a possible legally binding instrument could help in addressing gaps in the areas of affordable, healthy and ecological housing;
- The factors that may hinder the implementation of a possible legally binding instrument on affordable, healthy and ecological housing.

This note provides a synthesis of the responses of member States in relation to each of these clusters of issues. As of April 1, 2011 twenty-eight member States had submitted replies.

Contents

Pages:

I. Synthesis of Question One - The main tools to promote access to affordable, healthy and ecological housing at the national level	3-4
II. Synthesis of Question Two - The major gaps in ensuring access to affordable, healthy and ecological housing at the national level	4-6
III. Synthesis of Question Three - The added value of a possible legally binding instrument on affordable, healthy and ecological housing	6-7
IV. Synthesis of Question Four – The way a possible legally binding instrument could help in addressing gaps in the areas of affordable, healthy and ecological housing	8-10
V. Synthesis of Question Five - The factors that may hinder the implementation of a possible legally binding instrument on affordable, healthy and ecological housing	10-12
Conclusions.....	13-15

I. Synthesis of Question One - The main tools to promote access to affordable, healthy and ecological housing at the national level

1. Member States were invited to describe the main tools they have employed to promote access to affordable, healthy and ecological housing. These are summarised under the main headings of affordable, healthy and ecological housing. The tools are further summarised for each of these headings.

Affordable housing

2. As regards *affordable housing*, there is a wide spectrum of approaches in the UNECE region. These range from a lack of affordable housing policy altogether through to extensive and comprehensive affordable housing policies.

3. As regards *legislative tools for affordable housing*, several countries reported on and described their comprehensive legislation to ensure access to affordable housing. Five member States informed that they have new legislation or plans for legislation which will support affordable housing in their countries. An additional two member States explained that their constitutions provide a legal basis for the right to housing. Among the member States that described their comprehensive housing legislation, affordable housing programs for low-income, young families, and young people were specifically identified. Two countries also detailed housing strategies for those affected by unforeseeable crises such as natural disasters.

4. As regards *financial tools for affordable housing*, member States described a range of tools used such as favourable mortgages, soft loans, subsidies, tax benefits and other State aid schemes for affordable housing. Other member States affirmed that they were currently in the process of making affordable housing more accessible to citizens. In the case of four of these countries, this took the form of projects to increase the total amount of affordable housing units where the rental and affordable housing market have traditionally been very weak.

Healthy housing

5. As regards *legislative tools for healthy housing*, many member States reported on the existence of a range of approaches that they have adopted. In addition, some member States described legislation that guaranteed only minimum standards for healthy housing and one explained that the building code was voluntary in their country. Others confirmed that existing standards were out of date.

6. As regards *financial tools for healthy housing*, a few member States reported that they had mechanisms in place. They described the various grant programs set up to support

reconstruction and modernization efforts to improve the liveability of older or degraded dwellings.

Ecological housing

7. As regards *legislative tools for ecological housing*, some of the member States verified that there were obligatory standards for energy efficiency in place. Others indicated that they had transposed EU directives on energy efficiency. Some noted that there was a fragmented approach to law making on ecological housing. For several member States, building codes were the primary instrument through which energy and other environmental standards were promoted.

8. As regards *financial tools* used to support ecological housing initiatives, these included subsidies and other financial incentives. Some member States specifically mentioned financial tools that assist with the modernization of housing in order to make it more energy efficient.

II. Synthesis of Question Two - The major gaps in ensuring access to affordable, healthy and ecological housing

9. Member States were invited to provide their views regarding the major legislative, institutional and financial gaps that exist in their country in ensuring affordable, healthy and ecological housing.

General comments

10. The general comments of member States focused on a few different country-dependent issues. Some expressed concern over safety issues related to the existence of multi-story buildings in seismically active zones. Others emphasised that homelessness had recently become a serious issue. This in turn has made the issue of affordable housing even more important, despite the existence of legislation that protects low-income individuals from losing their homes to foreclosure. Others acknowledged that little or no assessment of the housing sector or the housing needs of the population had been undertaken. Some member States highlighted the recent financial crises and job instability or unemployment as impediments to affordable, healthy and ecological housing. Others noted that the expensive outlay required for resource-saving technologies was an impediment for poor and middle income home buyers and renters. In this case the primary challenge was to create incentives for healthy and ecological housing, as opposed to legislated standards, which would otherwise increase the cost of housing.

Affordable Housing

11. Several member States acknowledged the existence of *legislative gaps*, citing in particular, inadequate legislation, weak implementation of existing legislation and the need to reform outdated legislation.

12. *Institutional gaps* were recognized by several member States. A few member States highlighted the lack of non-profit or affordable housing to meet the needs of their population. Others cited the challenge of mobilising political interest in the housing sector.

13. Most member States reported difficulties with *ensuring financial resources* for affordable housing. Insufficient financing or financial loan tools were noted by several, with the most common gap identified as the lack of governmental resources for the provision of affordable housing.

Healthy Housing

14. A few member States reported that there were no gaps regarding healthy housing legislation and that their countries' quality of housing is sufficiently high. While others acknowledged that they had *no existing legislation on healthy housing*. Others emphasized that the rapid increase of urban poverty had made it difficult to ensure the provision of healthy housing. Some member States emphasised the need for more comprehensive or unified legislation.

15. As regards *institutional gaps*, a number of member States noted that the challenge of maintaining healthy housing standards related to the lack of institutional incentives in light of the sometimes negative impact that legislated standards had in increasing housing costs. A few member States reported on the existence of illegal or informal developments which have been built without any regard to existing legislation. A few member States noted the problem of the lack of capacity for housing inspection to ensure compliance with healthy housing standards.

16. The major financial gap identified was the lack of resources allocated within national budgets for addressing healthy housing issues. Some suggested that favourable loan programmes should be established to assist households in purchasing new healthy housing technologies.

Ecological Housing

17. The general comments for ecological housing were diverse among the member States. Some described ecological housing policies already in place, while others acknowledged that whilst much had been done in this sector, still more remained to be done, especially as regards the use of renewable resources.

18. In terms of *legislative gaps*, a few member States emphasised the need for legislation or additional regulations for ecological housing. Some acknowledged the absence of specific legislation or regulations regarding ecological housing standards. Others described their respective legislative approaches to promote ecological housing.

19. As regards *institutional gaps*, one member State noted that a misunderstood EU-directive had led to legislation which favoured industrial products as opposed to more ecologically friendly local materials for construction. The lack of sufficient higher education opportunities in the field of sustainable architecture was also noted. Another member State emphasised the expensive costs of energy efficient technologies for poor and middle income home owners.

20. In terms of *financial gaps*, a few member States emphasised that financial schemes providing grants or subsidies to facilitate energy efficiency were available. Others did acknowledge that resources were limited for ecological housing.

III. Synthesis of Question Three - The added value of a possible legally binding instrument on affordable, healthy and ecological housing

21. Member States were invited to consider the added value of a possible legally-binding instrument on affordable, healthy and ecological housing on the basis of five criteria. In particular, member States were asked to indicate whether or not the following 5 criteria had relevance for them:

- Increased political importance and visibility of the housing sector both at national and international levels;
- Development of a unified and agreed international framework to address major housing challenges in the region;
- Provide guidance for the development of coherent national housing policies;
- Strengthened implementation of sound national policies for affordable, healthy and ecological housing;
- Provide a platform for exchange of international experience and best practices and mobilization of assistance to address major housing challenges at the national level.

22. As regards the first criteria of *political importance*, the majority of member States affirmed that this criteria had relevance for them. Three member States did not respond to this criteria.

23. As regards the second criteria of a unified *international framework*, many member States affirmed that this criteria had relevance for them. A number of member States did not respond to this criteria.

24. As regards the third criteria of *guidance for national housing policies*, the majority of member States affirmed that this criteria had relevance for them. A few member States did not respond to this criteria.

25. As regards the fourth criteria of *strengthened implementation*, a majority of member States affirmed that this criteria had relevance for them. A few member States did not respond to this criteria.

26. As regards the fifth criteria of a *platform for exchange*, many member States affirmed that this criteria had relevance for them. A few member States did not respond to this criteria.

Other comments

27. The added value of the possible instrument may differ from country to country in light of the differences in housing situations and related political factors. Member States also identified additional values, which the possible instrument could potentially advance. These include the following:

- Harmonization of housing standards throughout the UNECE region;
- Assistance in catalyzing political will, which is lacking in certain countries and which is critical in promoting of sustainable development;
- Coherence of approaches and actions at national and local level together with EU and international norms;
- Integration of housing policies with urban and social inclusion policies;
- Engagement of both public and private sector actors in the housing sector;
- Consolidation of good practices that will help to inform the overarching policy framework and help to articulate fundamental principles for national and local housing policies;
- Broader promotion of the fundamental right to housing as reflected in the European Social Charter;
- Recognition of best practices and practical tools for replicating them;
- Promotion of non-profit housing cooperatives to help redress increasing speculation in housing markets;
- Establishment of minimum standards for housing policies that will catalyze political will for social housing at the national level, where often it is lacking especially as regards the most vulnerable populations.

IV. Synthesis of Question Four – The way a possible legally binding instrument could help in addressing gaps in the areas of affordable, healthy and ecological housing

28. Member States were invited to provide their views regarding the role of a possible legally binding instrument in addressing gaps in the areas of affordable, healthy and ecological housing. Many member States acknowledged the potential benefits and noted the many ways in which the possible instrument would address a very wide range of gaps. These are described in further detail below.

General comments

29. There were a number of general comments regarding the role that a possible legally binding instrument could play in addressing gaps. For example, regarding the *political value*, several member States emphasised the potential for mobilising overall support from within the national governments and legislative bodies, but also for raising awareness among competent authorities. They also cited the potential for elevating the political significance of affordable, healthy and ecological housing on the overall national agenda and noted the potential value that a possible instrument would play in catalyzing increased cooperation between member States.

30. In terms of *knowledge transfer*, several member States cited the value in terms of catalyzing the systematic exchange of best practices. Others affirmed the role that the possible instrument could play in improving professional skills by catalyzing information exchange between the public and private sector. While others emphasised the potential for encouraging greater cooperation between central and local institutions, civil society and the private sector.

31. A large number of general comments focused on the potential role that the possible instrument could play *in transforming the housing sector* as a whole, especially the potential to stimulate the increase in construction of affordable, healthy and ecological housing and the rehabilitation and improvement of the existing housing stock. Other member States cited the role that the possible instrument could play in improving the environmental sustainability of the housing sector, particularly by raising awareness about relevant building regulations and catalyzing the development of new policies for urban and rural settlement planning, heritage conservation, energy conservation and regional planning.

32. A number of member States cited *the social co-benefits* of a possible legally binding instrument, notably the role that it could play in promoting social cohesion and in ensuring freedom of choice and access. Others highlighted the potential role that the possible instrument would play in enhancing the engagement and participation of the general public in the development of housing policy at the local level.

33. Two member States maintained a possible legally binding instrument would have a limited role in addressing gaps because of the difference in housing situations between member States. One member State asserted that the policy framework for healthy and ecological housing is already contained in the Charter of Fundamental Rights of the European Union. Two other member States expressed reservations pending review of the actual substantive content of the possible instrument.

Role of the possible instrument in catalyzing new legislative responses

34. In terms of *the normative role* that the possible instrument could play, member States affirmed that it would stimulate national authorities to improve the legislative framework for housing and catalyse the development of new solutions to solve evolving housing problems. Another equally valuable role is the potential for the possible instrument to prevent the emerging phenomenon of illegal building construction and in defining housing as a political priority in the legislative agenda.

35. In general, member States also agreed that the possible instrument could help to *improve the legislative capacity* of relevant authorities in the drafting of new legislation and to strengthen existing national housing policies. Some member States noted the effect that the possible instrument would have in reducing *legislative fragmentation* and *promoting policy coherence*. Others highlighted the potential for stimulating more *integrated and comprehensive legislative approaches*.

36. A few member States expressed *reservations* about the value of the possible instrument in catalyzing legislative responses in light of the perceived difficulties of regulating the housing sector on a regional scale.

37. Other member States acknowledged the existing legislative gaps, but emphasised that this was precisely why the possible instrument was needed to help prompt legislation in the area of affordable, healthy and ecological housing.

Role of the possible instrument in catalyzing new financial mechanisms

38. In terms of the potential role that the possible instrument might play in catalyzing new financial mechanisms, some member States cited the *stimulation of private investment* in the housing sector as well as the creation of enabling conditions for private investment, and new financing mechanisms. Other member States noted that the possible instrument would catalyse pressure on governments to *allocate sufficient resources* in national budgets for affordable, healthy and ecological housing.

39. Some member States noted that the possible instrument would also help to *engage the interest of the private sector* in developing projects aimed at providing affordable, healthy and

ecological housing as well as in co-financing. Several member States noted additional financial resources that would be required to implement the possible instrument and that governments would have to allocate greater housing budgets to help low and middle income populations reach ecological housing standards and energy saving returns. Others suggested that a specific fund should be established to support best practices in the field of affordable, healthy and ecological housing.

40. Member States also emphasised the need for co-financing and coordination between international development agencies, bilateral donors and the private sector. Other States emphasised the possible instrument would be the first step for not only improving the state of housing, but also catalyzing public financing for the sector.

V. Synthesis of Question Five - The factors that may hinder the implementation of a possible legally binding instrument on affordable, healthy and ecological housing

41. Member States were asked to provide their views regarding the factors that may hinder the implementation of a possible legally binding instrument on affordable, healthy and ecological housing. Their views are summarised under the categories of: general comments; legislative factors; and financial factors.

General comments

42. Among the *general comments* of member States, some issues that were raised related to the fact that potential impediments would depend on the overall strength and content of the possible instrument. Certain member States commented that the overall acceptance of the possible instrument will naturally depend on its content.

43. Some of the general comments highlighted the different *situations and attitudes* to housing among member States, which would create difficulties for the adoption of a possible binding instrument. They also perceived that growing numbers of internally displaced persons and the challenges of meeting their needs for accommodation would put pressures on already limited housing stocks.

44. Additional general comments related to the inefficient bureaucracies in many housing sectors, as well as corruption, political instability, worsening poverty throughout the region, inadequate engagement of local bodies in the construction of affordable, healthy and ecological housing.

Legislative, institutional and regulatory factors

45. *In terms of legislative, institutional and regulatory factors*, some member States highlighted the potential difficulties in ratifying the possible instrument in their national parliaments, in light of the resource constraints described below. They also noted that ratification will require taking political, economic and social measures as well to ensure compliance. Other member States acknowledged the existing legislative gaps, but emphasised that this was precisely why the possible instrument was needed to help prompt legislation in the area of affordable, healthy and ecological housing.

46. *Lack of institutional cooperation* was another impediment cited along with the fact that in some countries, the housing sector is highly fragmented and in some cases, decentralised. On this point, one member State highlighted the lack of coordination and cooperation between Government offices or Government and semi-public/private corporate service providers.

47. Member States also highlighted the *potential lack of implementation* as a possible impediment, in large part related to the low level of political support as well as the low level of professional and technical capacity in the sector. Related to this point, one member State emphasised that implementation can only be improved with new regulations, which would establish a system of positive subsidies and tax incentives to support the overall goals of affordable, healthy and ecological housing. Another member State also emphasised that the more restrictive and detailed the rules are, the more difficult it will be to ratify such a possible regional instrument. In addition, the rules would have to be consistent with EU law.

48. In addition, member States emphasised the *need for best practices* and pilot projects, which would help to identify the new legislation that would be needed. In terms of the capacity of law makers, one member State emphasised the lack of access to the legislative precedents on affordable, healthy and ecological housing in UNECE region.

Financial resources

49. The majority of member States who responded to this question cited the *lack of financial resources* as a central impediment to the implementation of the possible legally binding instrument. Many member States noted *lack of government budget resources and lack of institutional cooperation* as one of the major obstacles. Several others highlighted the weak economic and financial situation at the national level, which in turn would make it very difficult to mobilize new funds for housing.

50. Other member States highlighted the *lack of appropriate cost benefit data*, lack of financial incentives, and expensive environmentally friendly and energy saving technologies, as

well as the financial costs and technical challenges of keeping up to date with newer and more efficient technologies in maintenance or renewal of older housing stock.

51. Another member State emphasised not only the *low-level of financing available* but also *the limited public awareness*, which is needed to elevate the importance of affordable, healthy and ecological housing. Other member States highlighted the inter-linked problem between *weak budgets and larger problems such as corruption, heavy-handed bureaucracy and the lack of engagement of local bodies* in the construction of affordable, healthy and ecological housing.

52. Member States also cited the *increased costs of constructing affordable, healthy and ecological housing*, which in turn would influence the overall affordability. Other member States noted both *the lack of budgetary resources and the lack of private sector resources* such as mortgage support. One member State did mention that that if the possible instrument imposes compulsory measures, then the country would indeed *face budgetary problems*. Other member States cited financial factors, such as the *increase in housing costs*, both in the public and private sector, which would result from the higher costs involved in meeting ecological standards.

Conclusions

Major gaps in ensuring access to affordable, healthy and ecological housing

53. The most commonly cited *legislative gaps as regards affordable housing* include inadequate legislation, weak implementation of existing legislation and the lack of political will to reform outdated legislation. Many member States also cited limited financial resources for affordable housing.

54. As regards *gaps related to healthy housing*, responses varied from limited or no gaps in terms of legislation, through to a complete absence of legislation on healthy housing. Several member States emphasised the need for more integrated and comprehensive legislation. In terms of financial gaps, member States frequently cited the lack of resources within national budgets, while others emphasised the merit of favourable loan programmes to assist households in purchasing new healthy housing technologies.

55. As regards *gaps related to ecological housing*, some acknowledged that whilst much had been done in this sector, still more remained to be done, especially as regards the use of renewable resources. Where legislative gaps were described, member States emphasised the need for legislation or additional regulations and standards for ecological housing. In terms of financial gaps, a few member States emphasised that financial schemes providing grants or subsidies to facilitate energy efficiency were available. Others did acknowledge that resources were limited for ecological housing.

The added value of a possible legally binding instrument

56. The majority of member States emphasised the added value of a possible legally binding instrument to:

- Increase political importance and visibility of the housing sector both at national and international levels;
- Develop a unified and agreed international framework to address major housing challenges in the region;
- Provide guidance for the development of coherent national housing policies;
- Strengthen implementation of sound national policies for affordable, healthy and ecological housing;

- Provide a platform for exchange of international experience and best practices and mobilization of assistance to address major housing challenges at the national level.

57. Member States also emphasised other potential ways that the possible instrument could add value, in terms of: improving overall standards across the entire region; integrating housing and social inclusion policies; catalyzing greater cooperation between key public and private sector actors; mobilising additional financial resources; enhancing coherence between the affordable, healthy and ecological housing sectors.

The role of a possible legally binding instrument in addressing gaps

58. Member States acknowledged the potential benefits and noted the many ways in which the possible instrument could address a very wide range of gaps. For example, regarding the *political value*, several member States emphasised the potential for mobilising overall support from within the national government and legislative bodies, but also for raising awareness among competent authorities. They also cited the potential for elevating the political significance of affordable, healthy and ecological housing on the overall national agenda and noted the potential value that a possible instrument would play in catalyzing increased cooperation between member States.

59. A large number of general comments focused on the potential role that the possible instrument could play in *transforming the housing sector* as a whole, especially the potential to stimulate the increase in construction of affordable, healthy and ecological housing and the rehabilitation and improvement of the existing housing stock. A number of member States cited *the social co-benefits* of a possible legally binding instrument, notably the role that it could play in promoting social cohesion and in ensuring freedom of choice and access.

60. In terms of *the normative role* that the possible instrument could play, member States affirmed that it would stimulate national authorities to improve the legislative framework for housing and catalyse the development of new solutions to solve evolving housing problems. In general, member States also agreed that the possible instrument could help to *improve the legislative capacity* of relevant authorities in the drafting of new legislation and the strengthening of existing national housing policies. Some member States noted the effect that the possible instrument would have in reducing *legislative fragmentation* and *promoting policy coherence*. Others highlighted the potential for stimulating more *integrated and comprehensive legislative approaches*.

61. In terms of the potential role that the possible instrument might play in catalyzing new financial mechanisms, some member States cited the *stimulation of private investment* in the

housing sector as well as the creation of enabling conditions for private investment, and new financing mechanisms. Other member States noted that the possible instrument would catalyse pressure on national governments to *allocate sufficient resources* in national budgets for affordable, healthy and ecological housing and would also help to *engage the interest of the private sector* in developing projects aimed at providing affordable, healthy and ecological housing as well as in co-financing.

Potential hindering factors

62. Member States identified a range of potential factors that could hinder the implementation of a possible legally binding instrument on affordable, healthy and ecological housing. These include the following:

- Different situations and attitudes to housing between member States, which would create difficulties for the possible adoption of a binding instrument;
- Inefficient bureaucracies in the housing sector combined with corruption, political instability, and worsening poverty;
- Difficulties in ratifying the possible instrument in national parliaments, in light of resource constraints;
- Lack of institutional cooperation and policy fragmentation;
- Low level of political support as well as the low level of professional and technical capacity in the sector;
- Lack of institutional and legislative capacity;
- Insufficient financial resources as reflected in low levels of public spending in the housing sector.

* * * *