

## Chapter III

### THE INSTITUTIONAL FRAMEWORK

1. This chapter provides a description of some common features of the institutional frameworks for social housing in the UNECE area. This is based upon definitions of the principal institutional processes and how these are distributed between different types of institution in different parts of the UNECE area. Findings and conclusions are then presented in relation to each of the principal processes which are illustrated with examples from various countries in the UNECE area, including recommendations about the organization and management of institutional frameworks.

#### A. The different institutional set-ups

2. The detail of the institutional framework present in each country is unique, reflecting its particular circumstances and history. Despite this, there are similarities in much of Europe in the broad allocation of responsibilities for providing social housing between the State, the private sector, voluntary organizations and households (acting either individually or cooperatively).

3. The following overview considers the social housing participants that are responsible for particular activities required for the delivery of social housing. Participants may be either institutions, households or individuals. The activities, and a working definition of them are:

4. Development: The commissioning of construction of social housing, usually on land owned by the developer, or available to the developer from the State or through the agency of the State (for example, through compulsory purchase of privately-owned land, or zoning controls on land use).

5. Construction: The physical construction of social housing, usually under contract to the developer. The activities of development and construction are often carried out by the same participant.

6. Financing: The financing of social housing is dealt with in more detail in chapter VI. Various forms of financing to support social housing exist. The following are examples of the principal forms of capital and revenue finance which are included in the financing activity:

- Capital, which may be in the form of public sector grant, private sector loan, or reinvestment of a participant's accumulated surplus, or by remission of capital costs (such as reduction of land costs by imposition of planning controls);
- Revenue, either to owner, manager or household, in a variety of forms, including direct subsidy to occupant of social housing to meet costs of rental, or revenue or tax subsidy to social housing owners to support actual costs net of rental income (particularly where rent is controlled by legislation).

7. Ownership: The legal ownership of the physical social housing structure, often including the land on which it is constructed. The responsibilities of ownership usually include the financial liabilities of the property (including debt servicing and maintaining the property in a habitable condition), and compliance with legal and regulatory requirements applicable to social housing (although these may be wholly or partially delegated to management agents under contract). Ownership of social housing may include individual households. Ownership also

includes cooperatives, where the occupants of social housing are collective owners of their homes.

8. Management: The responsibility for ensuring that social housing activities, including the administration of service provision to social housing residents, collection of rental income, allocation and letting of vacant social housing units, and other tasks, are effectively carried out. Maintenance of the physical fabric of social housing is included within the management task in this analysis. It is clearly a distinct activity, which can itself be subdivided into the requirement for short-term day-to-day maintenance and longer-term cyclical maintenance and major repairs. Maintenance itself will often be carried out by separate private sector organizations, as for construction, but the planning, funding and procurement of this work is part of the management task.

9. The management activity is commissioned by the owner of the social housing, and the role of ownership and management is often combined. However, the task of management can be contracted out to a range of types of organization including private or voluntary sector organizations with the capability to act as professional managers, or to cooperatives or other types of tenant management organization.

10. Strategy/regulation: This task concerns the approach for planning social housing strategy, including the determination of the amount of social housing required and how these requirements should be funded and delivered. Regulation is often present in order to set standards of performance or other requirements which are binding on the institutions or individuals performing these social housing roles, and to monitor and enforce the performance of these institutions/individuals.

### **1. National Government**

11. The national Government is responsible for establishing the national housing strategy, and also the policy requirements which underpin the delivery of strategy. The role of national Government in financing is dealt with in a separate chapter, but the viability of any national strategy and policy for social housing is dependent on the presence of a robust analysis of funding requirements and how they will be met.

12. The lack of funding to support social housing strategies is one of the main challenges to a sustainable social housing system. In particular, in some countries in transition the capacity of the State budget is in some cases very limited relative to the size of the total housing stock. There are some States, such as Ukraine and Georgia, where the State has adopted a strategy for social housing for which it has no funding capacity.

13. The State also exercises regulating functions for the provision of social housing. This is predominantly done through rent control (the regulation of the price to the consumer), and minimum habitable standards for building. Examples of State regulation of the quality of service provision (that is, operation and maintenance) and the standards of social housing (beyond minimum habitable standards) are less common.

14. Examples: Austria, United Kingdom

The United Kingdom and Austria both provide examples of a social housing policy where State regulation goes beyond rent control and the mere setting of minimum standards:

The city of Vienna has introduced compulsory developers' competitions with interdisciplinary juries judging each new project according to three sets of criteria (planning qualities, ecology, costs), thus replacing strict regulation by more market-oriented procedures (see chapter VIII).

The Audit Commission and the Housing Corporation in England (and their equivalents in Scotland and Wales) consider quality of service as experienced by the tenant (inspection by the Audit Commission) and competence and viability of organization (regulation of housing associations' governance and finance by the Housing Corporation).

The Austrian example demonstrates how regulation can be used to ensure that new social housing incorporates design standards and other features which reflect social housing policy objectives. The administration and decision-making is in this case devolved to local Government which is particularly appropriate where local Government is responsible for planning and land-use control, and for administering any subsidy regime for social housing.

The other approach to regulation is useful where independent private or non-profit organizations are carrying out a development or management function. This approach to regulation can be used to maintain minimum standards of performance, and to act as an incentive to improvements in quality and efficiency. The costs of this type of regulation will be more suited to situations where social housing is well developed.

## 2. Regional/local government

15. The role of regional and local government is largely determined by the legal and constitutional position in different countries. This will determine the legal powers and responsibilities that are devolved to different tiers of government.

16. These powers will usually include planning and land use control. This allows social housing to be incorporated into broader planning processes, and the establishment or enforcement of design or other requirements for social housing development.

17. In some countries there is a devolution of responsibility for delivery of social housing strategy to regional and local Government within an overall policy framework determined at national level. This provides sufficient flexibility to adapt social housing strategy to the conditions in local housing and employment markets. This devolution will often include the administration of any subsidy arrangements for social housing, whether these are funds from national Government or, less commonly, from local or regional budgets if there is devolved tax raising power.

18. In a number of western European nations, the national Government determines the overall housing policy framework, which is then, in the case of Austria and Germany, implemented by the *Laender* under agreements with the federal Government, and in France, the Netherlands and Switzerland by local authorities, with each country having distinct policy

priorities. In France, the task of distribution of subsidies is expected to be devolved to *departements* or to *établissements publics de coopération intercommunale*.

19. In Austria, France, Germany and the Netherlands, local authorities (or the German *Laender*) have a development role that is primarily given effect through the operation of local authority land-use planning controls.

20. Examples: Italy, Switzerland, Austria

Italy has for a long time integrated social housing into land-use planning, which includes compulsory land purchase procedures in some regions. This enables the region to acquire land for social housing at far below market prices. Similar regulations exist in some Swiss cantons, and some regions in Austria have established public institutions which have a sort of monopolistic – and therefore price-reducing – role in the local land market.

These examples demonstrate how regional and local Governments can act directly to secure the development of new social housing, and to reduce the costs of doing so through land-use controls. Provided that there is an effective legal framework at regional or local level to do so, this approach can be widely used so long as that there are competent organizations present to carry, own and manage the social housing.

21. In the United Kingdom, national housing policy increasingly emphasizes the separation of the local authority's management role from a local strategic and enabling function. In Ireland, local authorities remain the predominant developers and owners of new social housing, and have a distinct financing function.

22. In a number of central and east European countries, the responsibility of local authorities often includes the development, ownership and management of social housing. In the countries where this is the case, it has been observed that the ownership and management organizations in the non-profit sector which are present in other areas of Europe have not, or have hardly, developed, with the exception of Poland and, to a lesser degree, Bulgaria.

### 3. Private sector

23. The private sector is important in providing funding for social housing, whether through capital markets (with or without intermediation structures), bilateral lending, or providing capital to individual households.

24. The private sector is also present as a manager through the provision of professional management services. This is usually done under contract, for example where owners have tendered competitively for the provision of such services. The extent to which this role has been developed varies across the ECE region.

25. The common role for the private sector across most of the ECE region is that it carries out construction in the vast majority of cases (with the limited exception that some managers, often local authorities, retain their own labour organization to provide maintenance and repair services).

26. In England, for example, the role of the private sector has an extensive role in financing social housing. Private sector participation in financing social housing is also particularly important in Finland. The Housing Fund of Finland (ARAVA) provides substantial capital subsidy but does so primarily through an intermediation role with private sector investors. The State does not guarantee loans to social housing developers from ARAVA.

27. Throughout the western European nations, the private sector, as in other categories, carries out construction and financing roles. In Germany and Switzerland, for example, it also carries out development, ownership and management. In these countries, subsidy is not specifically allocated to local authorities or non-profit landlords. Private sector housing companies, particularly in Germany, perform an equivalent role to *HLMs* in France and *woningcorporaties* in the Netherlands.

#### 4. Voluntary/non-profit sector

28. The existence, form and relative importance of non-profit organizations is not directly determined by the State. The pattern of their development is usually the result of particular historical and social circumstances in different countries. However the State, particularly at national level, can influence the rate of growth and the role played by this sector, particularly through the funding arrangements which it establishes for social housing.

29. Where the non-profit sector is not well established, the State can act through legislative activity to establish particular legal forms suitable for this type of organization, and by providing support to establish and increase the capacity of these organizations, particularly where these are community-based.

30. The voluntary sector as developer, owner and manager of social housing is more common in western Europe, especially in the United Kingdom and Scandinavia. Its value has been recognized as providing a vehicle for non-State provision of social housing by organizations which have social welfare as their objective rather than the maximization and distribution of profits.

31. The non-profit sector has been the main agency through which new social housing has developed in England for the last 20 years. It has also substantially increased in size due to the transfer of ownership of local authority social housing to new housing associations.

32. In both England and Ireland, the non-profit sector has assumed responsibility for development, ownership and management functions, along with local authorities, for the vast majority of social housing. The non-profit sector in England and Scotland is regulated by public sector agencies, operating at arm's length from Government.

33. In Sweden, non-profit organizations, in the form of Municipal Housing Companies, which own and manage social housing, are closely linked to the local authorities in whose area they operate.

34. The non-profit sector in Austria, France, the Netherlands and Switzerland has assumed a clearly-defined role as developer, owner and manager of social housing, accounting for the largest proportion of social housing in France and the Netherlands (which themselves have among the largest amounts of social housing in the EU as a proportion of their total housing stock).

35. Examples: Austria, England, the Netherlands

In Austria, most new housing construction is financed by State (provincial) capital subsidies to non-profit housing associations under very clear conditions concerning quality, costs, maximum rent level, income levels of tenants, and so on. As far as subsidies are given in the form of long-term low-interest loans (instead of the former non-repayable grants), this creates revolving funds. Consequently, a very high rate of social housing construction can be maintained while public expenditures (including indirect subsidization via tax losses) are in fact lower than in many other countries.

In England, there was relatively extensive deregulation of housing association rents for new social housing in the 1990s. Rents were largely determined by each association's rent-setting policy and the cost structure of new and historical development. This created local pricing anomalies between different social housing providers in markets where there is limited choice for consumers. This has a disproportionate effect on working households, but those which receive 100 per cent housing allowance have cost differences borne by the State, thereby creating disincentives to employment. The Government has implemented a rent restructuring framework to minimize historical anomalies in rent setting as the precursor to introduction over the medium term of flat-rate housing allowances.

In the Netherlands, the Government instituted a radical restructuring of housing association financing such that associations were effectively privatized by the writing off of historical grants against future liabilities. At the same time, the State ended its capital subsidy programmes for social housing. The State has, however, maintained a residual role, mainly through capital financing by organizing a structure for cross-collateralisation of borrowing by the housing association sector in order to secure private funding obligations.

These examples illustrate the diversity of financial arrangements within which non-profit organizations can be funded and supported as organizations independent of the State sector, operating so as to support and advance national social housing policy objectives. These approaches will be suitable where the non-profit sector is relatively well developed.

## **5. Cooperatives/local self-government**

36. Collective ownership or control of social housing by residents is present in a number of European countries, but this is often dependent on the political and historical conditions under which this model has developed.

37. One pattern of privatization has been the sale of former State-owned rental property to cooperatives (as well as to individual occupants), for example in Poland and the Czech Republic.

38. In England and Scotland in particular, there is a relatively strong cooperative tradition. There are many full social housing cooperatives in which households are collectively responsible for ownership and management. There are also a number of resident management organizations which have taken on some degree of management responsibility from the social housing owner.

39. In all cases, the primary role of tenants and households is as the occupants and consumers of social housing. However, particularly in Denmark and Sweden, housing cooperatives have developed as a vehicle for households to take on collective ownership and management of their homes. In Sweden, this is primarily as a legal form for owner-occupiers of condominium style buildings to trade their ownership of flats on the market.

40. Examples: England, Austria

Local authority tenants in England have a statutory right to establish management organizations, with finance and management functions (particularly estate management) delegated to them from the local authority as owner. A similar arrangement exists for housing association tenants, but as a regulatory requirement rather than a statutory entitlement.

Vienna/Austria has introduced a model tenant participation statute in the public rental housing sector which has also become compulsory in most of the non-profit housing association sector. The statute gives tenants' representatives a strong role on the housing board which makes decisions about maintenance, repairs, improvements and day-to-day management issues.

These examples demonstrate the potential to integrate tenants on a collective basis into the decision-making processes which affect the development, ownership and management of their homes. In these cases, the requirements have been incorporated into the legal framework or regulatory arrangements. This approach can be developed in social housing arrangements in most circumstances, but will often require capacity building or support from the State to sustain its effectiveness.

## **6. Households**

41. The role of tenants/households is primarily as the occupants or owners of social housing. Tenants are predominantly consumers of social housing. As in other categories, some of these perform an ownership and management role through cooperatives.

42. In the former East Germany, as in many of the countries in transition, there has been a shift of ownership of formerly State-owned social housing to individual households, which has effectively partially privatized social housing for those households. There is a degree to which privatization of this type has placed significant financing, ownership and management responsibilities onto individual households who often do not have sufficient resources to manage and maintain their own homes, or to contribute to the maintenance of condominium-style social housing.

43. In England and Ireland there are a relatively large number of shared owners of social housing who therefore have a partial ownership and management role. Shared ownership allows

households to purchase a share of the equity of a home (either from a housing association (England) or a local authority (Ireland)). The household pays rent on the proportion of the equity retained by the housing association or local authority. This form of social housing has a number of benefits including the following:

- The increase in the output from a given amount of capital subsidy compared with rented housing;
- The transfer of risk to the occupant along with potential benefits of growth in equity value;
- The potential for social housing as a mechanism for household economic improvement so that the occupant is entitled to buy further equity shares as his or her circumstances improve, the payment for which is returned to the developer for recycling into further social housing development.

44. Conversely, micro-privatization (the transfer of state housing assets at minimal cost to the occupying tenant) has created problems, particularly in eastern European States. The transfer of State assets by transferring ownership of homes, in most cases condominium-style dwellings, to occupying tenants has included the transfer of repairing obligations. These liabilities are often substantial, particularly where the State, as the former owner, had been managing housing finance by deferring normal operational maintenance routines. This has burdened individual households with requirements for catch-up repairs as well as normal operational maintenance (for further details please compare chapter 1).

45. This approach to privatization is also present in a more managed form in the United Kingdom, where many local authority tenants exercised the right to buy the homes they occupied. The market value discounts to tenants are not as great as in some east European countries, and are tapered according to the type of dwelling (greater for flats/condominium-style dwellings) and the length of residence of the occupying tenant. In condominium buildings, homeowners share responsibility with the landlord of the remaining tenants for funding communal/structural repairs but the manager (who is usually the underlying owner, being the local authority or housing association) is responsible for procuring and overseeing maintenance works. There is a legal obligation to consult with tenants and leaseholders on the timing and cost of maintenance and repair work. For some types of system-built dwellings, there is no cost-effective long-term structural maintenance system.

## **B. Conclusions**

46. In order for social housing policies to be successful, they need to be embedded in a sound and efficient institutional structure which allows the effective functioning of all governmental institutions as well as cooperation between them and other actors involved.

47. The detailed definition of the roles of different levels of Government as well as of developers, owners, managers and investors, will vary according to existing arrangements in the different national, regional and local settings. However, it is important that there is clarity about the roles, and that these reflect the most effective allocation of responsibilities and risks. The adequate and complementary distribution of responsibilities and resources between central and local levels is a particularly important part of an effective social housing policy.

48. Social housing policies have tended to be successful where Governments were seeking the involvement of all stakeholders and where they were actively engaged in building partnerships. This involves establishing cooperation between all government levels and encouraging the active participation of the private sector and the various forms of civil society organizations in the formulation and implementation of local and national policies.

### **C. Recommendations**

#### **1. Strategy/regulation**

49. A strategy for housing, including social housing needs, should be developed by Government at the national level. This is essential:

- to identify the objectives of the development of housing markets;
- to identify the purpose and scale of social housing activity within this development of the market;
- to identify the State funding requirement for delivery of the strategy, including both the development of new social housing, and investment in the maintenance of the fabric of existing social housing, and the relative priorities;
- to provide clear signals to all housing market participants about the planned approach, the State's role in supporting this, and what is required of other participants for the strategy to be effective;
- to identify those areas where Government needs to legislate in order for the strategy to be effective.

50. In order to develop realistic strategies, it is essential for Governments to have reliable information and models of the functioning of national, regional and local housing markets, and their links to economic activity and development. This should provide clear views about the optimum mix of funding instruments to achieve the national social housing strategy. These should provide a balance between maintaining and improving the condition of the existing housing stock, and development of new stock, both for rental and for owner-occupation. The strategy should ensure that the full costs of social housing, both short and long term, are understood. This is set out in more detail in Chapter V.

51. The national housing strategy should take account of the support required to develop and sustain a range of actors to carry out the various social housing roles, particularly non-profit and community-based organizations.

52. The national Government should be responsible for defining how the regulation of the provision of social housing should be carried out (by which body, through which system and so on), and the standards required for each of the key institutional processes.

#### **2. Development**

53. The role of local authorities is critical in giving effect to development. They have a major role to play in:

- Provision of land
- Land-use planning
- Infrastructure provision, and supporting sustainability requirements
- Securing other social policy objectives
- Facilitating the involvement of local communities in influencing development proposals.

54. It is important that where development is part of a broader regeneration initiative, existing tenants and residents are fully integrated into the development of housing proposals, particularly where these replace existing housing provision.

### **3. Construction**

55. Social housing construction should predominantly be carried out by the private sector, under contract to developers. This approach is generally viewed as an effective stimulus to price competition in procurement of social housing, and development of the local and national economy.

56. The Government should set clear technical standards for construction, linked with more efficient and sustainable methods of construction.

57. The Government should also consider working with the private and non-profit sectors to support innovative methods of construction and improvements in the supply chain.

58. The Government may consider supporting – usually on a small scale – developers/owners’ providing for their own housing needs, by taking on the construction role, both through technical support (as in England), and through fiscal support (Greece).

59. In planning social housing, public authorities should focus on the whole life costs of construction methods and materials. This may result in initial higher capital costs (and risks) for developers, which they need to recover through higher sales or rental values (against which they can borrow), or state financial assistance. However, this approach can reduce longer-term maintenance costs.

### **4. Financing**

60. The key issues which Governments will need to determine are:

(a) The balance of priorities with other areas of public expenditure, and the extent to which housing expenditure is required to make other areas of expenditure effective (such as affordable housing required to support labour mobility);

(b) The balance between capital and revenue subsidies, and the extent to which their effects are equitable and, where necessary, redistributive;

(c) Provision of the greatest level of output for a given level of expenditure, for example by allocating capital subsidies through competitive tender processes;

(d) The sustainability of the housing market, and the extent to which expenditure on housing is required to prevent inter-generational inequity by under-investing in housing as a long-term asset;

(e) Maximizing the scale of private investment.

61. There are opportunities for attracting private sector investment and funding to develop social housing. This can be relatively expensive compared with State funding, but the cost of funds can be reduced by:

(a) Supporting the long term stability and borrowing capacity of social housing providers, including through the development of effective regulation;

(b) Maintaining a balanced subsidy regime;

(c) Ensuring that there is a robust legal framework, particularly in relation to ownership of property and the ability of funders to use social housing as collateral for borrowing.

## **5. Ownership**

62. Combining the role of owner with that of developer will foster a sustainable approach to development where ownership carries with it long-term responsibility for effective long-term asset management.

63. Owners should involve tenants in decision-making about the management and maintenance of their homes, and consult them on their requirements and priorities.

## **6. Management**

64. Contracting out the management task should be considered. The management of social housing is a task which is capable of being contracted out to a range of different types of organizations, which effectively act as professional housing management organizations. These include private sector companies, tenant-controlled organizations, voluntary non-profit organizations, and local companies owned by local authorities but managed with a degree of independence from local political control.

65. Specification of the management task through a contracting arrangement helps to ensure that a systematic view is taken of all the necessary activities for effective operation of the social housing stock, and to ensure that the responsibility for these is clearly divided amongst the different participants. In contracting out, however, owners should do the following:

(a) Ensure that long-term and short-term requirements for maintaining the physical condition of the buildings, and efficient administration of rent collection and maintenance, are a firm part of management practice;

(b) Regularly evaluate the scope for improving the effectiveness of, or reducing the cost of, housing services by contracting with specialist firms (which may come from the private or non-profit sector, or representative tenant groups).

66. Whichever choice owners adopt for allocating responsibility for the management task, it is desirable to ensure that effective arrangements are put in place to allow tenants control and

influence over the specification and quality of services provided by the manager, where they are not themselves carrying out this task through cooperative or collective management arrangements.

67. The costs of management and maintenance activities should generally be funded from rental income or charges for services/utilities. Where rents and other charges are not sufficient to fund management and maintenance activities to an acceptable level, the quality of the services will be inadequate unless some form of subsidy is provided by the Government.