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# **The effect of EU-legislation on rental systems in Sweden and the Netherlands**

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## **Abstract**

Both Sweden and the Netherlands had housing systems that include broad models of municipal housing (Sweden) or social housing (Netherlands). These broad models, however, came under discussion due to the competition policy of the European Commission. Financial government support –state aid- for public or social housing is considered to create false competition with commercial landlords.

The countries chose different ways out of this problem. The Netherlands choose to direct state aid to a specified target group and had to introduce income limits for people living in the Housing Associations. Sweden instead chose to change the law regulating municipal housing companies and introduced demands that these companies should act in a “businesslike way” and with that aims to create a level playing field

These changes were introduced in 2010-2011 and in this paper the policy changes in the respective countries are described in more detail. This paper will describe why the two countries chose different options, the development during the first year and also speculate about the consequences on the longer run and the future role of the public/social housing sector in housing and urban policy.

Keywords: EU, housing policy, municipal housing companies, social rented sector

## 1

### Introduction

Both Sweden and the Netherlands have housing systems that include broad models of non-profit housing: municipal housing companies in Sweden and housing associations in the Netherlands. Both are considered unitary rental sectors as described by Kemeny (1995). In both countries the non-profit sector is open for a broad target group and aiming for good quality and mixed income neighborhoods is an important aim for the non profits. In the Swedish as well as in the Dutch rental market, non-profit and profit housing are in open competition with each other. This competition however is the key issue for the European commission to interfere with housing policies. In both countries there was a complaint that it was not competition on equal terms, since non-profit housing is government supported in a number of ways and that this harms competition and companies in the for profit housing sector.

Both countries could make three different choices to create a fair playing field. The first option is to introduce similar government support for the for profit rental sector, a second option is to abolish government support and force the non-profit housing companies to act as for profit companies. In both these cases fair competition would be created. The last option is to target the support to the lower income groups and thus avoid competition. Interestingly the two countries took different decisions. Sweden chose option 2 and the Netherlands option 3. Sweden is heading for business like municipal housing companies, whereas the Netherlands is moving towards social housing as a safety net for the lower income groups.

This paper deals with this completely different reaction in at the first glance similar rental system to the same message from Brussels. The paper first describes the key features of unitary rental systems and how Sweden en the Netherlands fit in the same typology. Then we address the question why the responses were the way they were and whether path dependency can help to explain. Finally we reflect on the future consequences of the changes in the housing system.

## 2

### Two unitary rental models

Kemeny has developed a theory of the dynamics of rental systems in which he distinguishes two (rental) housing models that may arise simultaneously in different (groups of) countries: the dual and the unitary model. Kemeny's theory is based on the proposition that the interaction between the economic development of rental housing stocks (maturation) and their long-term policy structuring can lead to different development trajectories for (rental) housing systems. The key dimension in this process is whether renting is segmented into compartmentalized, segregated markets (the dual system) or not (Kemeny, 1995: 38-40).

Thus according to Kemeny the degree of maturation determines the competitive position of the social (non-profit) rental sector on the housing market, since non-profit providers with a high level of maturation can translate their willingness to accept a lower return on their relatively large equity into lower rents. Where demand-sensitive rent pooling is in effect, maturation will be manifest in rent levels that shadow those of a profit rental market though at considerably lower levels.

Non-profit renting was relatively immature for a long time: in most countries, it did not grow strongly until the 1960s and 1970s, and was often subject to long average loan terms. According to Kemeny, subsidies (which contribute to the maturation process) and rent regulation<sup>1</sup> play an important role in reinforcing the position of non-profit providers in such situations. But sooner or later the course of the maturation process in non-profit renting reaches a point at which the sector can compete strongly with other forms of housing.

Kemeny discerns two different policy strategies with respect to the maturation process of non-profit renting: suppression and encouragement. Suppressing the non-profit rental sector is part of a profit market strategy and involves the avoidance of direct competition between renting for profit and non-profit rental housing. Non-profit renting is separated from the private rental market by the government

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<sup>1</sup> In our view, rent regulation only makes an indirect contribution to reinforcing the competitive position of non-profit providers, since the use of this instrument to prevent (market) rents from rising to politically unacceptable levels makes it less attractive for profit landlords to invest in rental housing.

and is used as a safety net in the form of a strongly controlled public rental sector. Kemeny terms the rental system that results from this a dualist rental system since its distinguishing characteristic is the existence of parallel public and private rental systems subject to increasingly divergent forms of provision and conditions of tenure. Because access to the public rental sector is restricted to households with a low income and many households do not find the private rental sector with high rents and limited rental protection attractive, demand is steered strongly towards the owner-occupied sector.

Encouraging non-profit renting is part of a social market rental strategy and involves allowing non-profit renting to continue to expand and to use its high level of maturation to compete with profit renting on an integrated or unitary rental market. Unitary rental systems find their origins in the social market model originating in Germany, that “attempts to construct markets in such a way as to strike a balance between economic and social priorities and thereby ameliorates the undesirable effects of the market from within” (Kemeny, 1995: 11). Non-profit renting is sheltered from competition by rent regulation only until it attains a sufficient degree of maturation to enable it to compete with profit renting. The aim is to keep the profit motive as an element in rental markets but to ameliorate it by encouraging non-profit forms of rental housing. Part of the social market rental strategy is to create a level playing field between the various forms of tenure in which renting is not penalized and owner occupation is not favoured. Under these circumstances, the balance between the tenures is determined by household demand rather than by government fiat. The consequence according to Kemeny (1995:143) is that the non-profit rental sector in unitary rental systems is not exclusively directed to low-income groups and that there will be no uniform tendency towards marginalization in unitary rental markets (see table 1).

The possible development of a unitary rental market model, in which an independent non-profit rental sector competes on the housing market with the profit rental sector for the favours of broad layers of the population without specific government protection or support, is thus central to Kemeny’s theory. According to Kemeny the non-profit rent setting has a positive effect on the market, it prevent for profits from asking too high prices.

**Table 1      The main features of a unitary rental sector compared to a dual system**

	<b>Dual rental market</b>	<b>Unitary rental market</b>
Function of non-profit rental sector	Safety net for vulnerable households	Provision of housing to broad layers of population
Rent levels and differentiation	No market-dependent rent level and differentiation in non-profit rental sector: demand is by definition higher than supply	Market-dependent rent level and differentiation in non-profit sector (via rent pooling), at a level that is lower than the market rent
Competition	No	Open competition with commercial land lords

Source: based on Elsinga et al, 2008

There are, however, many remarks to make on this theory. For example the fact that if the non-profit housing sector charges rents below the market level queues and black markets will develop. If it is a unitary rental market, stronger social groups can be expected to get hold of the most attractive cheap apartments (see Lind & Hellström, 2006). Moreover the theory ignores that when the old stock has to be renovated the advantages of maturation is also reduced. And finally the theory does not take in to account the competition with the owner occupied sector (Elsinga et al, 2008).

Key element in the theory of Kemeny is the choices that are made in countries during the maturation process of the non-profit housing sector are of key importance. Bengtsson (e.g. in Bengtsson & Ruonavaara 2010) also has an historical perspective and states that housing policy is characterized by "path dependency", indicating that the situation and political arguments today must be understood in the light of the "path" that took us here. This paper therefore puts the decisions taken by the Swedish and the Dutch government on the future of non-profit housing in perspective by describing a short

history and tries to explain why these countries with broad rental sector made such different choices and reflect on its possible future consequences.

### **3 The development in Sweden**

#### **3.1 Background**

Starting in the 1950s, the dominating Social Democratic Party in Sweden had a supply oriented housing policy with state subsidies and municipal housing companies acting as developers as two of the corner stones of the policy. The Swedish Social Democrats were very market oriented and rent regulations were never an integrated part of the housing policy. Increased supply would strengthen the bargaining position of the tenant and make it impossible for private landlords to charge high rents. The debate in the 1960s was primarily about how and when the rent regulation that was introduced as a temporary measure during the 2nd World War should be dismantled. In the 1970s the government found a way out of the problem by copying a system that had worked well in the labour market: Collective bargaining between the organizations on the market: the Tenant's union and the municipal housing companies that dominated the rental market. The rents in the private stock should follow the rents in the municipal stock.

The Tenant's Union more and more came to focus on the situation of the sitting tenants and demanded that new construction should cover their own costs. High inflation and increasing construction costs created a larger and larger gap between rents in the old stock and rents in the new stock. When central locations became more popular during the 80s and 90s the gap between the actual rent and the market rent increased dramatically in the old stock in attractive areas.

A centre right wing government, came into power 1991 and many expected changes in the rental legislation. The real estate and banking crises, and the severe recession that followed, meant that other issues came into focus. Housing subsidies were however taken away and the government argued that increasing costs and lower demand would force the municipal housing companies to set more market like rents. Increasing rents where demand was high would be the only way for the companies to cover costs. Therefore the government concluded that it was not necessary to change the rental legislation.

This economic logic that would create more market like rents worked reasonable well in a number of cities, e.g. Malmö (see Lind & Hellström 2006). In Stockholm the municipal housing companies were not hit as hard and the Tenant's Union in Stockholm did not accept more market like rents.

Soon the Swedish economy recovered and housing demand increased and the increasing gap between the negotiated rent levels and market rent levels created strong incentives for turning rental housing into condominiums and this also happened on a large scale (see Boverket 2011), Queues and black markets increased again and "doing something about the rent regulation" came back on the political agenda and the pressure on the Tenant's Union, especially in Stockholm, increased.

Probably as a strategy to avoid any changes in the legislation the Tenant's Union nationally signed what was called the "Three-party agreement" in 2001, which said that they were willing to accept a slow move towards more market-oriented rents if the system with collective bargaining remained in place.

#### **3.2 What led to the complaint of the Swedish Property Federation and what were the arguments presented in the complaint?**

In 2005 the private property owners association filed a complaint to the European Commission arguing that the Swedish housing policy broke EU-laws concerning state subsidies and competition. This might seem as strange as state subsidies were dismantled in the 1990s and in a report published 2006 (Borg & Lind 2007) a number of interviewed private housing companies said that there now was a leveled playing field.

The "real" reason for the complaint was that the "Three-party agreement" wasn't implemented in Stockholm. The local Tenant Union in Stockholm, dominated by tenants living in central areas, refused to follow the agreement and the Property Owners Federation therefore needed some new leverage against the Tenant's Union.

The innovation in the Property Owners complaint, based on a report from Ernst & Young (2004) was a new interpretation of the term "subsidy". Instead of focusing on traditional subsidies in terms of

money going from one party (the state) to another party (the housing companies) or lending money at interest rates below the market level, subsidy now also included *cases where the owner did not demand a market based rate of return on the market value of the assets in the company*. This was measured by relating the net operating income of the company to the market value of the properties. As rental properties in attractive areas in the big cities had high market values because of the option to convert them to condominiums while the net operating income was low because of the rent regulation, the rate of return on market value was very low in the municipal housing companies in the large expanding cities. The difference between a market based rate of return and this actual rate of return was seen as a subsidy. Even if it was not formulated in this way, it meant that almost by definition there were subsidies if a company did not try to maximize profits and did not charge the price that would lead to maximum profits. There were also some other elements in the Ernst & Young investigation and the complaint and that focused on more traditional subsidies, e.g. a municipality guaranteeing the loans of the housing company without demanding payment for this. Directly after the complaint was filed, the Swedish government said that they would look into this and the European Commission waited for the result of this. In 2011 after the changes in the legislation described below, the Property Owners withdrew their complaint, so the Commission has never made any public statement about their view on the Swedish housing policy.

### **3.3 The government committee and their report**

In 2005 a government committee was given the directive to look into the possible conflict between Swedish housing policy and EU-legislation. The committee published their report in 2008 with the name "EU, the public housing companies and rent setting" The report is in Swedish but with a long English summary and including appendices it was more than a 1000 pages.<sup>2</sup>

The result from the committee can be summarized as follows.

- First they concluded that EU competition law does not allow the system where the municipal housing companies first bargained with the Tenants union and then the rent that they agree on would be binding for the private companies. The committee wanted to keep the system of collective bargaining and proposed that the private landlords should be an equal part in the negotiations. . The rents in the municipal housing companies should no longer be "leading", but the rents agreed on in the collective agreement would still be binding for other landlords, but it could just as well be an agreement with the local private property owners as with the local municipal company.

- Furthermore, the committee came to the conclusion that there were disagreements about how EU legislation should be interpreted in relation to the alleged subsidies to the Swedish municipal housing companies. The committee however concluded that if Sweden wanted to be sure not to break EU laws there were two options. The first option was that the municipal housing companies should behave in the same way as long-term private owners. The second option was, according to the committee, to decide that the municipal housing companies primarily should rent to people with low incomes that have difficulties finding housing on the open market. This was called "the social housing" option. The committee did not take a stand on this issue but just presented these two options.

### **3.4 From committee proposal to legislation**

As usual in Sweden the committee report was sent out on a referral to a large number of organizations and it was clear that there was no support for the "Social housing option". Some organization, e.g. the Swedish Association of Local Authorities and Regions, argued for "a third way" which simplified meant that there should be no direct subsidies to the housing companies but the companies should be able to act from a broader goal than private companies.

After the referral, the center-right wing government decided that it was important to find a solution that the main actors on the market agreed on. Negotiations were therefore started with The Swedish Union of Tenants, the Private Property Owners Federation and the Swedish Association of Public Housing Companies. During this process the head of the Union of Tenants wrote an article in the largest Swedish newspaper (Dagens Nyheter) that echoed the "Three party agreement" from 2001 - saying that they agreed that, especially in Stockholm -location and consumer preferences should be given a larger role for the rent level in a specific property than earlier.

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<sup>2</sup> The report can be downloaded from <http://www.regeringen.se/sb/d/108/a/103365>

Late 2009 a proposal for a new law for Municipal housing companies was presented in agreement between the parties. Looking back at this proposal one can see that the parties used an old strategy to get an agreement between parties that did not in reality agree, and that was to use some formulations that the parties could interpret in different ways. The parties agreed about the words but, as was made clear later, they did not actually agree about the content. The responsible minister later declared that the interpretation of the law was up to the organizations on the market and the government had no plans to give their own interpretation of the controversial passages..

Key formulations in the law was that the municipal housing companies should act in a "businesslike way" ("affärsmässigt") and that the municipality as owners should demand a "market rate of return" on their capital. Åström & Bröchner (2007) discuss the meaning of the term "businesslike way" that is used in other legislation before the current act on municipal housing companies. There is however also a formulation in the new law that says that the companies have "a public purpose" and there were immediately controversies about how the relation between "acting in a businesslike way" and having a "public purpose" should be interpreted.

Lind & Lundström (2011) present their interpretation of the law, based on the committee report and the text to the parliament where the law was proposed, and argues:

- The most reasonable interpretation of the term "business like way" was that the municipal companies should act as a long term private owner would act, pushing for higher rents where demand is high and also demand a market based rate of return on investments made. Investments that did not deliver that rate of return should not be carried out. As long term private companies also take CSR-issues - (Corporate Social Responsibility) into account, doing this in a similar way would then be allowed for the municipal housing companies.. The profitability of a company also depends on their relation to their tenants and sudden dramatic increases in rents are probably not in the interest of such a private company.

- The formulation that the companies have a "public purpose" was interpreted as saying that investments made should not only be profitable but *also* add things that the private companies were not investing in. If private companies built luxury homes but not more normal homes then the municipal housing companies should only build the latter. A project could be profitable for the municipal housing company even if it were not profitable for a private company because the municipal housing company knew the market better and had economies of scale in their management. It was underlined that there were no formulations in the documents behind the law that suggested that the municipal housing company was allowed to make unprofitable investments just because there was a legitimate public purpose, e.g. improving the housing situation of the poor. If the municipality wanted to implement such a housing policy they would have to formulate a policy that treated private and public companies in the same way, e.g. a general subsidy to certain types of measures (see Option 1 above). The municipal housing company could not be used as a tool for social policy.

This interpretation was contested especially by the Tenants Union who argued that the paragraph on public purpose should be seen as the most central. Their view was that the law did not mean any real change in practice so everything was "business as usual". They also argued that as property values were increasing in the expanding cities the owners got a reasonable rate of return without having to increase rents.

The Swedish Association of Public Housing Companies presented their own interpretation (SABO 2011) and one point of controversy was whether - as Lind & Lundström 2011) argued - the focus should be on maximizing long term profit - or whether a market based rate of return should be in focus. How much CSR that could be rationalized was also discussed.

### **3.5 What has happened after the introduction of the new law?**

#### *Rent levels*

In 2011 the Private Property owners decided to lay rather low and just wanted to show that they could bargaining and reach agreements with the Tenants Union. In Stockholm there were almost the same (low) rent increases in all areas- and one argument was that negotiations were going on about a new "Stockholm Model" for rent setting that would implement the new law for Stockholm. The idea was that this should be implemented in 2012, but currently the parties disagree and the core issue is

whether it should just be seen as a system that allocates a given rent increase between areas or something that affects the rent level as a whole.

One thing also became clear in 2011 and that was that if negotiations are carried out in the old way, where total rent increase first is decided and then this total increase is allocated to different areas then the private property owners could have difficulties agreeing on more market oriented rents. If demand is higher than supply in almost all areas, then all property owners want to increase rents, and why should an owner of an old property in a reasonably attractive suburb accept a proposal to get lower rent increases than their colleague with an old house in the city center?

In many cities there has been a move to more market like relations between rents in different parts of a city (see Lind & Hellström, 2006, for an early description), but this development has so far not gained any extra momentum after the new law. One explanation for this is probably the weak political support for such a change. None of the parties in the centre-right wing coalition wants to talk about "market rents", and leaving the issue to the parties on the market has so far lead to a victory for the Tenants Union's interpretation that the new law is nothing new and everything can continue as before. We are just waiting for what card the Property Owners Federation might have up their sleeve!

#### *The relation between the municipality and their housing company*

The new law has had one effect and that is a clearer economic separation between the municipality and the housing company and pressure on the municipality as owner to clarify how the company should act.

There have been a few court cases where municipalities have guaranteed loans to the housing company without demanding a payment from the company. Guarantees seem to be less and less common and the company must be able to pay a market-based interest rate on their loans. One general result of the new law will probably be more transparency both concerning economic goals and concerning what a certain investment was made; What was the expected costs and revenues?.

### **3.6 Final reflections on the situation on the Swedish rental market**

Looking back at the last 5-6 years of Swedish housing policy a lot of energy as been put on the issue of compatibility with EU-legislation - something that so far has not lead to any major changes in the market and mostly concerned the situation of middle-class ethnic Swedes that live in the areas where the gap is biggest between the actual rent and the market rent. One negative consequence of this focus an EU has been a neglect of other issues and especially the situation of poorer households on the market. Municipal housing companies have over time added more stringent demands for letting an apartment in terms of steady incomes. This has lead to a larger "black market" were the person on the contract sublets the apartment illegally and charges a higher rent than allowed. An extreme case is described in Blomé & Lind (2012).where a private landlord both charged higher rents and reduced maintenance to zero. As the rent regulation system had created queues in all areas of expanding cities some households had no option but to rent on this illegal market, especially new immigrants.

Since the 1990s the municipal housing companies have more and more acted in a business like way when it comes to renting to households with social problems and the companies have become less and less willing to accept that kind of tenants. The social authorities are using a number of ways to find housing for this group and they seem to be working in the same way independently of whether there is a municipal housing company or not (see Lind & Borg 2008), Social authorities run anything from trailer parks to temporary lodging in different forms especially for persons with drug problems.

The housing situation of the poorest households, including many new immigrants, and households with social problems have however not come up on the political agenda in Sweden in recent years, even though crowded apartments in the poorest suburbs seems to be more and more common.

## **4 Netherlands**

### **4.1 Background**

Also for the Netherlands path dependency plays an important role. The current situation and the current discussion on state aid and social housing can only be explained by the vibrant history of the Dutch housing system.

The roots of the current systems are in the Housing Act that was implemented in 1901. The first time the liberal led government interfered in the housing market by setting a system of private non-profit housing providers who provide affordable housing with financial assistance of the government. Moreover, the housing system was heavily influenced by the enormous housing shortage after the Second World War and the introduction of large amounts of subsidy and strong rent regulation. The decades after this can be described as attempts to go back to less government influence and a more market like housing market. In policy terms this was shaped as fiscal support for home ownership and also financial support, changing over the years, for social rental housing. The system was strongly supported by the Christian Democrats as well as the Social Democrats. In 1995 the idea was raised to make housing associations financially independent. This implied that supply side subsidies were no longer provided and the housing sector was supposed to function as a revolving fund. The financial support available for the sector is mainly the access to the Guarantee Fund for social housing that is backed by the government, to get guarantees for loans. This means they have good access to loans at lower prices, an option not available for for-profit competitors. Housing associations are financially more or less independent, but they are still registered social landlord on the basis of the Housing Act. This implies that they should perform their social task as described in the Social Housing Management Order (Priemus, 1995; Gruis and Priemus, 2008).

After this grossing and balancing operation the discussion on social rental housing started and up to now never really stopped. Coalition government come and go, but the discussion continues. Liberal parties want social housing to become smaller part of the market, social democrats see a stronger role for the government and the Christian Democrats the traditional supporters of civil society, start doubting. Many reports were published, but no real decisions are taken. Reason for debate was the unclear position of housing association between market and state, the question if housing associations operate efficiently and whether the supervision on the social rental sector is adequate. The latter is part of the governance question of social housing and what should be the role of the government and what should be the role of self regulation.

Then in July 2005 there is the letter of the European Commission that fits perfectly in the line of the liberal line of reasoning of the liberal minister for housing: reducing the size of the social rental sector.

#### **4.2 Start of discussion**

The whole discussion on state aid started in July 2005 by a letter from Dormal Marino. He consider letting social rental dwellings to higher income groups as false towards commercial players who receive no support (see Gruis and Priemus, 2008). This was the start of a discussion on many issues as for example the question if social housing is state supported, after all there are no longer subsidies for social landlords. Another question is whether Brussels should interfere, housing is the responsibility of member states and the Dutch government should decide on aim and target group of social housing.

On 16 April 2007 the umbrella organisation for institutional investors, IVBN submitted a complaint about false competition between housing associations and commercial landlords. The content of the complaint was:

- Housing associations go beyond their original tasks and provide more and more dwellings that compete with the commercial rental sector.
- They think that dwellings in this upper end of the market should be provided under the same conditions as in the commercial sector, thus state aid should not benefit the more expensive dwellings
- They think the target group for housing associations should limited to vulnerable households
- According to IVBN not only housing associations but all providers should qualify for state aid to build social dwellings.

This complaint further fuelled the discussion on social housing and what should be considered as social tasks. Which dwellings should be called social rental dwellings? This was a not too difficult discussion since there is a limit of € 664, per month in the Netherlands that is relevant for rent regulation as well as for housing allowance. Dwellings with a rent lower than € 664,- are regulated and for dwelling with the rent higher than € 664,- there is no housing allowance available and therefore € 663,- seemed a logical choice. The second key question then is what should be the maximum income for the social rental sector? This question attracted much more discussion. What is the level, what is vulnerable, what are the tasks of housing associations? Should it be household or personal income?

Finally, there was the discussion on the issue of mixed neighbourhoods. It was recognised that more targeting towards lower income groups implies the risk of segregation of lower income groups. A compromise between the ambition to allow mixed neighbourhoods and more targeting of social housing was: the social rental dwellings should be mainly allocated to households with income up to a certain limit and there should be some room for non-vulnerable households as well.

#### **4.3 Response of the European Commission**

On 15 December 2009 the European Commission presented a final conclusion (EC, 2009). The commission concluded that there is state aid involved in social housing:

- Guarantees for loans for social housing provided by the guarantee Fund for Social Housing. This fund is backed by the government and can therefore provide a triple A guarantee. This guarantee provides housing associations easier access to loans and a lower interest rate.
- Support from the Central Fund for Housing, This fund provides financial support for projects. The support is funded by contributions of all housing associations, so in fact the fund is redistributing funds from the richer to the poorer housing associations
- Support by municipalities by a low land price for projects built by housing associations
- Access to loans provided by the BNG (the Bank for Dutch Municipalities). This bank provides loans on attractive conditions. Housing associations have access to these loans, commercial investors not.

Next, the European Commission concludes that this state aid should only be available for social activities. Therefore it is necessary to have a definition of social activities and to limit state aid to these activities. The commission presents a definition and considers building and letting of social rental dwelling and building and letting of social real estate such as school and community centres as social activities. Concerning social rental dwellings there is this compromise that 90% of the social dwellings should be allocated to households with an income below the income limit. Thus 10% can be allocated to the Non-vulnerable, since the commission considers social mix as a valid policy aim.

Next, the Commission requires a guarantee that state aid is only used for these social tasks. Housing association should therefore separate the administration of social task from non- social tasks. Moreover, there should be a check on overcompensation, the amount of state aid should not be higher than the “subsidy” or rent reduction given to the consumer. With these proposals the commission is convinced to address the complaint of the institutional investors.

#### **4.4 The response of the Dutch government**

The next step was the implementation of the decision of the commission in the Netherlands. The new regulation was implemented in January 2012 and is called temporary regulation of Services of General Economic Interest. This regulation implies targeting of social rental dwellings, dwellings with a monthly rent up to € 664,66 (prices 2012). 90% of this social stock should be allocated to households with a yearly income up to € 34.000,- . If the housing association does not meet this 90% criteria, it will not be eligible for the guarantee for the loans for social housing. The other 10% should be allocated to those in urgent need, for example because their house is being demolished or renovated. Finally the provision and letting of social real estate is recognised here as a Service of General Economic Interest and thus qualifies for state aid.

Another important point of the Commission was that state aid should only be available for social task and therefore the administration of these tasks should be separated from the non-SGEI. This is still under discussion and division of the SGEI from on-SGEI will be part of the reform of the Housing Act.

#### **4.5 What happened after the implementation of the new policy?**

##### *Housing associations*

Housing associations have been busy to adjust their housing allocation to this new regulation. For some housing associations the new regulation meant that housing the more targeted groups became their core business and non-target group households are no longer relevant.

Other housing associations see these lower middle income groups still as their core business and they search for ways to provide housing for this group in a way that is in line with this new regulation. They for example increase the rent of dwellings that become vacant to above the social rent level, so these dwellings are no longer a SGEI and can be allocated to household with in an income above the limit. They try to provide affordable housing at a market price for the middle income groups and explore new products such as intermediate housing tenures and new and more efficient ways to provide affordable housing for middle income groups. However, it appears difficult to provide market housing that is affordable for households with an income between € 34.000,- and € 43.000,-. Housing with a satisficing return on investment leads to a rent around € 800,- per month and whether that is affordable or not is open for discussion.

#### *The Dutch government*

The right wing government, that was installed in autumn 2010, presented a clear plan for the housing market. The plan implies encouraging home ownership and therefore keeping the current fiscal policy which is very supportive for home owners, in place. The social rental sector is considered too large and too many people with non-low income enjoy a rent that is below the market level. There for the aim is to continue targeting to lower income groups and lower the maximum income limit over time. A second measure is to increase the rents for higher income groups in the social rental sector by inflation plus 5%, to encourage them to leave their social rental dwelling. This proposal for this will be discussed soon in parliament.

Finally the plan is to introduce a Right to Buy or better, the Obligation to Sell for housing associations. The proposal sent to parliament in December 2011 comprises the plan to put 75% of the total social stock for sale and gives tenants who live for at least one year in their dwelling, the right to buy at a reasonable price. The discussion on this proposal has to wait for a new government after the elections of 12 September 2012.

Finally, the government strives towards market rents for the whole social rental sector and encourages housing associations to increase the rents as much as possible. The extra revenue for landlord should however cover the increase of the budget for housing allowance. Therefor a new tax for all landlords - not only housing associations- is planned for introduction 2014. The plan is to collect € 760.000,- yearly on revenues from the rental sector. So in the Dutch case first the housing associations were forced to target to lower income groups, and next the government proposes to increase rent level to market rents and thus create fair competition in the Swedish way.

## **5 Discussion**

#### *Unitary models and competition*

In the 1990's Kemeny wrote his book on rental housing markets and launched the term unitary rental sectors in which profit and non-profit housing compete with each other. Kemeny's theory suggests that non-profit housing providers, can do with a lower rate of return since they do not have to provide dividend to their shareholders. They thus can do without a lower rent level and with that prevent commercial providers from asking too high rents.

In the language of competition and level playing field the lower rents of non-profits are seen as unfair competition. This paper demonstrates that this has led to system changes that seem to mean the end of the unitary model as described by Kemeny. In the Dutch case housing provides by non profits is separated in social and non-social housing and the aim is that the social rental is only meant for the target group and does not compete with commercial providers. The Swedish solution implies, at least in theory and in the long term, the end of below market rents and with that the end of non-profit housing.

#### *Different histories*

The difference between the Swedish and the Dutch response is remarkable and the question is why?. History will help to explain these path dependent differences.

The Swedish housing history is one of broad tenure neutral support provided by the government, at least in theory. The model is moving toward a market and subsidy free model. The actors in the model

are commercial companies and municipal housing companies. The municipal companies in practice house a large share of lower income groups. But municipal housing has never been called social housing and there seems broad societal support for this. In the discussion on state aid the social housing option was suggested, but soon rejected since there is broad agreement against this. The state aid discussion in Sweden had a focused on rent policy, but in the end the collective bargaining model remained in place which counteracts the move towards more market like rents.

In the Dutch model the role of municipal housing companies was a minor one. The key players in the rental housing market as commercial companies, private persons and housing associations who dominates the market. Housing associations are players in the social rental sector with a position between state and market. The state aid discussion was a social housing discussion and focused on the role of housing associations. More targeting of social housing was considered the logical option and the discussion focused on the detail of how this should be done.

### *Different responses*

Both in Sweden and the Netherlands compromises where made. In Sweden the compromise for municipal housing companies was working in a "business like" way in the "public interest", but where different parties on the market give these terms different interpretations. In the Netherland the compromise was determining a maximum income for social housing, but leave the opportunity open to allocate 10% of the dwellings to people with an income higher than the maximum limit. But the question is what is the target group of housing associations, does providing market housing to middle income group belong to their core business or not?

Looking at the development from a broader perspective one can say that in the short run the middle classes were the losers in the Netherlands and the winners in Sweden. In the Netherlands they will have difficulties getting apartments in the non-profit sector and also difficulties to enter the ownership market as they may have lower incomes that the banks demand. In Sweden middle class households living in rent regulated attractive areas do not have to fear any quick adjustment to market rent levels. Poorer households will not be much affected as the areas they live in have rent levels that are close to market levels in many cases.

### *The same direction: competitive nonprofits without a clear aim*

There are however, similar trends in the two countries. Selling part of the stock is part of the business model and operating more businesslike is the case in both countries. In both countries rents are becoming more like market rents, and thus a level playing field with commercial landlords is created. In the Netherlands the dwellings provided by the non-profits are allocated to the lowest income groups. In Sweden there is no such targeting, and practice learns that a relatively large share of middle income groups live in the better parts of the municipal housing stock. The latter group most probably prefers home ownership or cooperative housing if the rents in the municipal sector are moving towards market rents. Parts of this stock will probably also be turned into condominiums. So in both countries the nonprofit sector seems in reality to move towards a safety net provided at a market price.

Despite the different responses towards the European Commission, there are underlying similarities in a trend towards a businesslike provider of housing at a market price for those in need. There is level playing field but in this new situation the question is what public interest do these organisations serve? They should do what most commercial providers do not do. But if they do what commercial providers do not do, are still working in a business like way? Or are there market opportunities that at least in theory private firms could specialize in - low income housing on a commercial basis - but that the "non-profit companies" do better because they have a long experience on this market It would be good to think on a European level about the added value of "nonprofit" providers for an inclusive Europe where there is a roof over the head in a livable neighbourhood for all.

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