

LEGAL DEFICITS IN EASTERN AND SOUTH EASTERN EUROPE

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Privatisation of the housing stock was one of the major political reforms in all transition countries in the early nineties. The process is at large lasting on until today. Privatisation law was easy to introduce. With one political action it was possible to achieve several goals. It was an impressive step towards what was understood as market economy. The state got rid off a very difficult field of action, in which, from a short term political point of view, nothing could be won. The most reason was to give property and therefore capital in the hand of individuals to make them act as economic subjects towards their own needs and desires for making their living and business.

But privatisation stuck in many cases half way. The new owners mostly are not able to convert their property into capital, partly because the legal framework does not allow to get mortgage loans collateralised with the dwelling, partly because no efficient property market for the privatised panel-block apartments would emerge.

Looking over the status quo it seems that the following legal deficits are most obstructive for a positive development of housing in Eastern Europe.

1. LEGAL RELATIONS BETWEEN OWNERS IN MULTI-STOREY BUILDINGS:

The core problem to make privatised multi-storey apartment blocks function seems to be the definition of the legal relations between owners, any kind of association of owners and the public. In some countries the dwellings were privatised while the buildings remain under public ownership. In other countries associations of owners as legal bodies were introduced but suffer from difficulties with convincing its members to accept rising running costs. There are other countries where the old model of housing cooperatives is reinvented to reach the goal of handing the dwellings over to the tenants.

Starting in the mid ninties, laws on homeowner associations were introduced. In some countries this associations may act as legal bodies, in others they do not. In the end of the ninties several countries introduced laws on condominiums.

2. MANAGEMENT AND MAINTAINANCE OF MULTI STOREY APARTMENT BLOCKS:

As the relation between homeowners in many cases is not specified sufficiently, the devision of common costs is not as well. This causes a massive underinvestment in big parts of the housing stock. In Slovakia it is estimated that every year three times as many flats get lost because of deficient maintainance, as are newly built.³ What is true for Slovakia most propably is true for South Eastern Europea as well. Facing a situation that many tenants not even are able to pay their energy bills it is very difficult to make them pay for increasing running costs for their building. They became owners of their dwellings, therefor there is no understanding that it is furthermore necessary to cover running costs, which, even more, often enough exceed the total rent before privatisation. As a result the management of multi storey housing estates is a dull and difficult business with quite limited prospects of profit. After all a management company has only little power to force the home owners to pay. It is much easier but not at all sustainable to reduce services and stop investments. Therefor privatisation of former state owned management companies in the SEE countries is realised with less success.

3. IMPROVEMENT OF PRIVATE CAPITAL MARKET:

The basic institutions of the banking sector are already in place in most of the countries. In some CEE-Countries the funding of capital in local currency is sufficient, in others it is not (retail deposits).

But in non of the CEE/SEE-countries there is a sufficient supply of long-term low interest rate financing.

The reason that this kind of financing is not available is in the first line deficits in the legal system: the registration system, mortgage and credit registration, registering of mortgage collateral, inefficient repossession procedures, missing valuation expertise for property, insufficient regulations towards purchase of property, housing developer contract law and even supervision of banking.

Other reasons concern financing matters: funding of capital, the lack of sufficient refinancing instruments, too low saving rates, insecurity in economic and political development.

The private capital market in the region is developing fast, but not fast enough for the needs of housing.

Even though the housing stock in most of the SEE-Countries is fairly high, quantitative housing supply is far away from European average. The loss of living space because of insufficient maintenance is even today higher than new construction. This could become even worse in a couple of years. Today new construction under the conditions of capital market is not affordable for lower income groups. There will be no system of state subsidies, which can cover the gap as a whole.

4. INTRODUCTION OF SCHEMES OF HOUSING SUBSIDIES:

No Western Country goes without different schemes of housing promotion: housing subsidies, grants, tax reliefs, subsidised contract savings schemes and many more. In particular for building up a social housing sector subsidies are inevitably.

Most Western Countries invest 0,5% to 2% of GDP to housing promotion. The models differ quite a lot.

But in any case new systems of housing subsidies only make sense, if they are developed closely related to the development of private capital market instruments.

In this context the financing of local authorities has to be discussed.

In many European countries the demand for affordable housing for lower income groups is successfully achieved by a limited-profit housing sector, which has a preferable access to subsidies or funds. Building up such a sector means respective regulations, the introduction of specific subsidies, but more than all the active promotion of municipalities, companies and charity institutions to found such companies.

A FINANCING INSTRUMENT WITH BIDDING FUNCTION:

A HOUSING INVESTMENT BANK FOR EASTERN AND SOUTH EASTERN EUROPE

Starting from the present situation of housing financing instruments in the region a new approach is aimed.

Existing instruments for housing financing in the SEE-Countries are:

- Savings banks.
- Contract savings schemes exist in most of CEE-countries, Bosnia & Herzegovina and Croatia.
- Housing funds have been set up, under various formulae, in a number of countries: Croatia, Bulgaria, Romania.
- Capital market funding: Some countries in the region have already designed adequate mortgage bond legislation: Bulgaria, Romania, Croatia.

None of the private capital market activities shall be contradicted with a new instrument. Quite in contrary: existing initiatives shall be supported by offering an efficient funding of capital. A new institution, for working purposes termed "Housing Investment Bank" HIB, shall not be in direct contact with the end-users in the housing sector, but shall cooperate with local banks. HIB shall have the following tasks:

➤ Acquisition of guarantees

A first-class international rating is essential for the financing structures to work. To achieve this, corresponding guarantees have to be acquired. The guarantors should be one or several established European institutions as well as national institutions. The guarantees can take the form of deficiency guarantees to avoid additional capital requirements for the guarantor institutions.

➤ Capital provision



Western European bond markets may provide the necessary funds. Eastern European bonds in local currency may also be tapped. Capital transfers to banks in the CEE/SEE countries do not increase their public debt and have therefore no effect on the debt ratio according to the Maastricht criteria and the EU's Stability and Growth Pact.

➤ Provision of capital through local banks

Customer contact is to be made through local commercial banks, to be selected according to their professional performance. HIB would not directly contact or advise end-users of housing funds. It raises funds and passes them through to local banks. Such capital is to cover only part of the customer's total financing needs, thereby avoiding undesired incentives for the customers and local banks.

➤ Advisory services

The HIB offers advisory services to government agencies, central banks, banks, real estate business etc., covering fields such as property rights, cadastre and registration, regulatory issues, development of housing financing schemes (Pfandbrief scheme, Bauspar scheme, other financing schemes, etc.).

➤ Temporary interest in banks

To facilitate the establishment of a financing network, the HIB could support the development of mortgage banks and Bausparkassen through acquiring shares in their capital. In due time, these shares should be placed on the market.

➤ Own projects

If deemed necessary for attracting private investors, the HIB could participate in concrete housing construction projects.

CONCLUSION

Fifty years ago a large number of Central and Western European countries experienced that housing policy measures not only covered the urgent needs of appropriate housing, but supported in particular economic and social consolidation of the states undergoing reconstruction at that time by assisting

- social stabilisation,
- stabilisation of migratory pressures,
- stable employment,
- gradual building of national wealth,
- forming of private capital,
- strengthening industry and the craft trades,
- strengthening local business cycles.

The same effects can be achieved today by implementing housing policy measures in Central-Eastern and South-Eastern Europe. Introducing an new instrument for the financing of housing construction and refurbishment might be an efficient lever to render the necessary legal reforms in housing.