

**Response to the public consultation on**

**State aid – Revision of the rules for services of general economic interests**

Vienna, 31 July 2025

**About the Association of Public Services and Enterprises Austria (VÖWG)**

*Our mission is to ensure that essential public services are accessible and affordable for all, while maintaining a high standard of quality. The Association of Public Services and Enterprises Austria (VÖWG) promotes knowledge exchange and cooperation between providers of services of general interest and institutions from politics, business, and academia – particularly in the sectors of energy, public transport, water supply, wastewater treatment, waste management, economic and fiscal governance, housing, social services, healthcare, and education. In addition to organising information and networking events, we also prepare and evaluate legislative initiatives at both national and EU level to support our members in delivering these essential services as effectively as possible.*

Legal form: Registered association

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## Introduction – The Role of Municipal and Limited-Profit Housing Providers in Ensuring Affordable and Social Housing in Austria

The Association of Public Services and Enterprises Austria ([VÖWG](#)) represents more than 120 public, municipal, and limited-profit enterprises operating in systemically relevant sectors such as energy supply, transport, water and waste management, healthcare, education, and digital infrastructure. This also includes limited-profit housing associations and municipal housing providers, which ensure the provision of affordable and social housing in Austria.

Austria – particularly in cities such as Vienna<sup>1</sup> – has established a well-functioning model of affordable housing, combining municipal housing and limited-profit housing<sup>2</sup> (“limited-profit model”) as regulated under the Limited-Profit Housing Act (Wohnungsgemeinnützigkeitsgesetz, WGG)<sup>3</sup>. This model guarantees a long-term, non-profit-oriented supply of housing for broad segments of the population.

Currently, more than two million people in Austria live in housing provided either by limited-profit housing associations or in municipally owned dwellings. The limited-profit sector accounts for approximately one quarter of the national rental housing stock. In Vienna, the combined share of municipal and limited-profit housing exceeds 40% of the total housing stock. While municipal housing is traditionally operated directly by cities, the limited-profit sector is based on a strictly regulated, non-profit corporate model. This model is characterized by mandatory reinvestment of surpluses, capped returns on equity, the direct transfer of public subsidies to tenants via object-related investments, and the permanent application of cost-based rent.

Together, these two models – the public provision of housing by municipalities and the limited-profit housing system based on the Austrian approach – ensure a sustainable, non-profit-driven supply of housing for large parts of the population. In this context, the Austrian limited-profit model represents a clearly defined “third way”: situated between the direct public provision of classical social housing and the speculative, profit-driven private housing market. It constitutes an independent, legally embedded, and internally coherent approach to securing social, limited-profit, and affordable housing.

In particular, Austria’s system of limited-profit housing is one of the few legally coherent, economically viable, and socially balanced models of affordable housing in Europe. It should therefore serve as a reference point for future EU-level discussions on the *prima causa* of “affordable housing”.

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<sup>1</sup> Social Housing in Vienna. [Link for further information](#)

<sup>2</sup> Position Paper. Strengthening EU Housing Policy: Lessons from Austria’s Limited-Profit Housing Model and Vienna’s Subsidy Conditionality and Zoning. Austrian Federation of Limited-Profit Housing Associations (GBV) and the Association of public services and enterprises Austria (VÖWG). Updated Version May 2025. [Link for Download:](#)

<sup>3</sup> Bundesrecht konsolidiert: Gesamte Rechtsvorschrift für Wohnungsgemeinnützigkeitsgesetz, Fassung vom 29.07.2025 [Link for further information](#)

## Affordable, Limited-Profit and Social Housing under EU State Aid Law – A Legal Assessment

From the perspective of the Association of Public Services and Enterprises Austria (VÖWG), there are fundamental objections to the assumption that affordable, limited-profit or social housing constitutes state aid within the meaning of Article 107(1) TFEU<sup>4</sup>. The legal criteria – namely the granting of a selective advantage to certain undertakings, distortion of competition, and an effect on trade between Member States – are not fulfilled in this specific context. The following five arguments substantiate this position:

- First, there is no undertaking-specific advantage. Public support, in the form of subsidies or low-interest loans, is not granted to an undertaking as such, but is passed on directly to end users/tenants – in the form of permanently affordable rents and long-term housing security. This does not constitute a selective advantage in favour of a particular undertaking, but rather a measure serving the general interest.
- Second, there is no relevance to the internal market. The provision of affordable, limited-profit, and social housing takes place in regionally bounded segments with a purely local scope of activity, without any cross-border operations. These providers fulfil core tasks of services of general interest and are structurally distinct from market-oriented, profit-driven housing companies. They are not comparable to such actors and do not compete with them. Furthermore, due to their strictly regional nature, their activities are not capable of affecting trade between Member States and thus have no relevance for the internal market.
- Third, affordable, limited-profit, and social housing must be regarded as a service of general interest (SGI) within the meaning of Article 14 TFEU and Protocol No. 26 to the Treaty of Lisbon. Such services are typically provided by public authorities because the sectors concerned are marked by persistent market failure – particularly in growing urban regions. These services aim to fulfil fundamental social and environmental objectives. The benefits associated with the provision of affordable housing are widely distributed, non-selective, and accrue to large parts of the population. Moreover, if the subsidy system is designed in such a way that all housing providers are eligible to access it, the measure qualifies as a general (non-selective) measure.
- Fourth, the provision of affordable, limited-profit and social housing – particularly in Austria – is governed by a strictly regulated framework that excludes profit maximisation and capital accumulation. The Limited-Profit Housing Act (Wohngemeinnützigkeitsgesetz) obliges providers to apply cost-based rents, to reinvest all surpluses into housing construction or refurbishment, and to guarantee long-term tenancy relationships. These legal requirements systematically prevent any conversion of public subsidies into private returns.
- Fifth, this model generates positive externalities far beyond the mere provision of housing: it reduces commuter traffic and CO<sub>2</sub> emissions, fosters stable neighbourhoods, prevents social segregation and the development of disadvantaged neighbourhoods (“banlieues”), improves energy efficiency in the building stock, and eases the fiscal burden on public budgets by reducing the need for individual housing allowances. These outcomes support both the objectives of the European Green Deal and those of the European Pillar of Social Rights.

Against this background, the current EU state aid regime is neither adequate nor appropriate to effectively support the provision of affordable, limited-profit, and social housing. The underlying logic of EU state aid control is based on a general prohibition of aid to prevent harmful subsidy competition among Member States. In practice, however, this regime proves structurally

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<sup>4</sup> “... [...] (1) Save as otherwise provided in the Treaties, any aid granted by a Member State or through State resources in any form whatsoever which distorts or threatens to distort competition by favouring certain undertakings or the production of certain goods shall, in so far as it affects trade between Member States, be incompatible with the internal market.

counterproductive: it creates legal uncertainty, delays investment, and exerts pressure on existing limited-profit models. A reorientation is thus needed in the form of a clearly defined exemption for both social, affordable and limited-profit housing within the Commission Decision of 20 December 2011.

## **Alternative Funding Logic: The Role of the EIB**

The European Investment Bank (EIB) can play a pivotal role in supporting a social, limited-profit, and affordable housing sector – particularly when its instruments are aligned with the principles of the so-called “third way”, as exemplified in Austria by the combination of limited-profit governance, cost-based rents, and long-term reinvestment obligations. Instead of promoting short-term subsidy incentives or speculative housing models, the EIB should focus on supporting projects that integrate long-term affordability, social mix, and high environmental standards. To strengthen this impact over time, a greater emphasis on sector-specific financing structures would be desirable – prioritising cost-recovery models with reinvestment logic. Such an approach could take the form of framework programmes for social, limited-profit, and affordable housing providers or for municipalities pursuing strategic housing objectives.

To ensure the effectiveness of this role, the following steps are necessary:

- Development of a common, EU-wide definition of social, limited-profit, and affordable housing, modelled on the Austrian system, with the explicit aim of ensuring long-term housing affordability for broad segments of the population.
- Lowering of access thresholds for EIB financing, in order to include smaller housing providers and municipal actors.
- Introduction of simplified and accelerated application and review procedures for projects that meet the criteria of social, limited-profit, and affordable housing.
- Establishment of a dedicated housing finance entity within the EIB, pooling sectoral expertise and operating on the basis of transparent social, environmental, and financial criteria.

Such a reform is necessary to ensure that social, limited-profit and affordable housing is recognised as a European structural objective and is not impeded by inappropriate state aid barriers.

## **Definition of Social, Limited-Profit and Affordable Housing Based on the Austrian Model**

As outlined above, VÖWG sees no distortions of the internal market arising from public support measures in the field of social, limited-profit, and affordable housing. However, if a definition is deemed necessary for the purpose of allocating funds through the EIB or other European financial institutions, the comprehensive Austrian model of “limited-profit housing” provides a suitable reference framework. It must be emphasised, however, that while such a definition can serve a useful purpose in structuring the allocation of funds – for instance through EIB financing programmes – it must not be used as a basis for compatibility assessments under Articles 106 and 107 TFEU and should not be applied indiscriminately as a general reference across all housing models in Europe.

“Affordable housing refers to housing for households provided by undertakings that apply a limited-profit approach and reinvest any surplus into the construction of new or the renovation of existing affordable housing.”

**Clarification of the Limited-profit approach:** The term “Limited-profit approach” refers to an operating model in which the following four parameters are fulfilled:

- (1) **Cost-based rents:** Permanent rental contracts are set at a cost-recovery level and only cover loan repayments and interest, operating and maintenance costs, plus a limited surplus to build up equity.
- (2) **Reinvestment of equity:** Any equity generated from surpluses must be reinvested into housing to reach affordability and to meet minimum energy performance levels.
- (3) **Capped return on nominal capital:** A return on nominal capital is permitted but capped at the State Aid recovery interest rates published by the European Commission.
- (4) **Long-term financial sustainability:** To enhance affordability, loan repayment cost-recovery shall occur over a minimum period of 30 years. Equity build-up following loan repayments shall be capped at 2% of the total reinstatement costs per year—that is, the cost of financing a new building from internal revenues.

## Additional Comments

- Social, limited-profit, and affordable housing does not constitute a homogeneous category, but is shaped by national property regulations (protected by the exemption of Article 345 TFEU<sup>5</sup>) and protected by the principle of subsidiarity. A harmonised, market-based definition at EU-level is neither practicable nor legally permissible.
- In order to provide legal certainty for existing social, affordable and public-interest housing models across the EU, it would be appropriate to extend the scope of the SGEI Decision – in particular Article 2(1)(c) – to explicitly include the notion of “affordable housing and limited-profit”. This would ensure that models which are not exclusively targeted at narrowly defined social groups but are permanently oriented towards the common good – such as Austria’s limited-profit housing sector – also fall within the scope of the state aid exemption. Such clarification is not only legally necessary but also essential for a structurally sustainable European housing policy that reflects the diversity of social housing needs beyond narrowly defined social indicators.
- The European Investment Bank (EIB) represents the more appropriate institution to support the limited-profit housing sector, as opposed to the EU State aid regime, which proves structurally inadequate and legally uncertain when applied to such models. To fulfil this role effectively, simplified procedures, lower access thresholds, and the establishment of a dedicated housing finance unit within the EIB would be required.

## Conclusion

The VÖWG rejects any redefinition of the term “affordable housing” under EU state aid law based on market-oriented criteria. Such an approach would not only jeopardise well-functioning national models but also contradict Article 107 TFEU, as the legal criteria are not met in the case of limited-profit or municipal housing. These forms of social, limited-profit and affordable housing do not confer advantages on certain undertakings, but directly serve the public interest. They are territorially bound, irrelevant to the internal market, and subject to clear, legally codified obligations regarding reinvestment and public benefit. Their qualification as state aid therefore

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<sup>5</sup> ... The Treaties shall in no way prejudice the rules in Member States governing the system of property ownership.

lacks any legal basis under Union law.

Rather than introducing regulatory constraints, the EU should support the expansion of social, limited-profit, and affordable housing through appropriate funding instruments, such as those provided by the European Investment Bank. Austria's limited-profit housing model, legally anchored in the Limited-Profit Housing Act (*Wohngemeinnützigkeitsgesetz*), offers a viable, well-established and socially effective framework. It guarantees long-term affordability and generates broad societal benefits – without distorting competition, yet with a strong public impact. This model should be strengthened as a European reference structure – as part of a European “third way” that ensures the ongoing provision of social, limited-profit and affordable housing.

### **Responsible for Content**

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