

Social Services Europe

Reply to the EC Call for Evidence “Revision of the state aid rules for services of general economic interest, in particular on housing” (31 July 2025)

Social Services Europe (SSE) is a network of 9 European umbrella organisations – currently comprising Caritas Europa, CECOP, CEDAG, E.A.N., EASPD, EPR, Eurodiaconia, FEANTSA and the Red Cross EU Office – representing over 200,000 not-for-profit social and health care organisations. They provide care, training, support and guidance to millions of people across Europe – such as children, older persons, persons with disabilities, people at risk or experiencing poverty and social exclusion, homeless people, migrants and asylum seekers and other vulnerable groups – and this in various stages in life. The national members of the 8 EU-level networks being members of SSE are active in a sector employing over 11 million people in the EU 27, of which about half are employed by social economy organisations.

This contribution builds on earlier work of SSE on the topics “state aid” and “public procurement”.

- SSE response to the EC Call for Evidence on the Revision of the [general de-minimis Regulation](#) (20 July 2022).
- SSE reply to the EC Call for Evidence on the Revision of the [SGEI de-minimis Regulation](#) (1 June 2023).
- SSE input into the webinar “[Services of General Economic Interest \(SGEI\)](#)” (29 June 2023) organised by the EC in the context of the Mutual Learning Programme “State Aid & Social Economy”. It is accessible via the [EU Social Economy Gateway](#).
- SSE [input](#) into the Round Table “Social Economy facing State-Aid”, 13 February 2024, Liège, held at the European Social Economy Meeting 2024, organised by the Belgian EU Council Presidency.
- SSE contribution to the EC Call for Evidence on the Revision of the [Public Procurement Directive](#) (4 March 2025) and Joint Statement of the Network for Sustainable Development in Public Procurement, “[Letter of the Civil Society Organisations calling for reforms in public procurement to achieve sustainable development goals](#)” (24 January 2025), signed by SSE
- The replies by SSE to both the questionnaire and more in-depth to selected aspects covered there in this document also uses insights from the Study “[Impact of State Aid on the Development of the Social Economy and on Service Providers for Persons with Disabilities](#)” (15 November 2023). It was commissioned by SSE member EASPD and finalised in 2023.

This written contribution is complementing SSE’s reply to the questionnaire the EC has elaborated and issued for the above-mentioned EC Call for Evidence.

It elaborates further on some of the questions - mainly under the section “Other changes to the SGEI rules” of the questionnaire – on aspects which SSE could not include there due to the limitations of characters for the text boxes of the questionnaire.

In-Depth Reply by Social Services Europe (SSE) to the EC Call for Evidence “Revision of the state aid rules for services of general economic interest, in particular on housing” for selected questions of the questionnaire (31 July 2025)

Question “Do you consider that the proposed definition is sufficient to allow Member States to implement affordable housing SGEIs under the SGEI Decision while avoiding (i) undue interference with market forces, which could crowd out private investment and distort competition, and (ii) an impact on social housing to the detriment of the most vulnerable groups in society?”

N.B.: The answer below is a longer version of SSE’s reply to the same question in the questionnaire. The first two paragraphs below have been included there, too.

Even though there is some ECJ case law and “soft law” in the SGEI Communication, SSE considers that the proposed definition for “affordable housing” will not sufficiently reduce legal uncertainty, notably around the concepts of “affordable conditions, market outcomes and market failures”. They are all still open for some interpretation and risk being understood differently in and within EU MS (on the different levels of government and by different public authorities), not least on the backdrop of diverging national definitions, scopes, income thresholds or traditions for “social housing”. On a legal level, SSE considers likely that legal uncertainty and bureaucratic complexity around the proposed concept of “affordable housing” will spill over into the state aid rules social housing. Politically, the use of the definition for SSE risks diverting public support from social housing as the most affordable type and hindering the delivery of the EU wide goal to end and prevent homelessness, at a time when homelessness is increasing across Europe.

The underuse of the SGEI Decision for social housing seems to reflect its complex and bureaucratic use and implementation, e.g., in view of the requirement of an entrustment act, by the competent local and regional authorities – which take the decisions on the attribution of state aid and the use of the state aid instrument,—, not the fact that it had not yet been extended to “affordable housing”. Moreover, most EU MS are short of an adequate and (social) needs-related social housing stock. Both in countries with higher and lower social housing stocks, waiting lists are growing, highlighting the need to give priority to boosting the social housing stock. We also note that a reorientation of public spending towards higher-ent forms of affordable housing is already ongoing in EU MS, to the detriment of the most vulnerable, in particular homeless persons, and their access to affordable and appropriate (social) housing.

There has been no assessment made of the impact of the proposed changes on social housing and the housing market in general. The proposed revision, thus, raises multiple concerns:

1) In some countries, social housing already covers a wide range of population. The necessity of a new category of “affordable housing” is questionable given this type of housing could be often provided under the social housing already included in the SGEI decision. That being said, it is true that in some EU MS, social housing is defined rather narrowly.

2) Regardless of its specific content, SSE thinks that introducing a specific category of “affordable housing”, distinct from social housing, is likely to negatively impact the provision of social housing. Knowing that this issue goes beyond the use of state aid, SSE does not see effective safeguards for the crowding out issue, in absence of a detailed housing policy regulatory framework. One example of such a framework is the French one, which allows social housing organisations to develop affordable housing

within the limit of 10% of their housing stock. SSE, however, sees good reasons to doubt that complex regulation on “affordable housing” would be easily workable across EU MS, which again would affect its take up.

3) There is, thus, a risk of diluting the focus from those in greatest need — people experiencing homelessness, low-income families, and minority communities — who often face the longest waiting lists and the worst housing conditions. Across the EU, we are not able to provide sufficient social housing: The social housing stock has been shrinking in many EU MS — not least due to their increased privatisation — i.e., waiting lists are growing, public investment is insufficient to meet demand) so introducing a new category of affordable housing without first resolving the chronic underfunding of social housing risks spreading resources too thin. It could become a policy distraction rather than a solution.

4) For SSE, defining social housing in opposition to affordable housing as addressing only the most vulnerable amounts to a misrepresentation of the heterogenous reality of social housing in Europe. In several countries, a large proportion of the population is eligible for social housing. EU MS have a wide margin to define the target group of social housing, and to use it to respond to a broad range of housing needs in the general interest (e.g., in France).

5) For SSE, market regulation to prevent from or to correct for “unsocial” housing market outcomes is unavoidable in order to structurally address housing unaffordability. E.g., the housing scheme in the Czech Republic was approved by the EC precisely on the grounds that its effect would be marginal on the housing prices in the Czech Republic. Furthermore, the scheme mismatches the extent of the need, in addition to not providing sufficient clarification on how the cost-rentals would be affordable to the lower income groups who are identified as being in acute housing need.

6) Affordable housing, as defined, may allow higher rents, lower targeting, and more flexible eligibility. This makes it more attractive to private developers and even public housing companies. It may again result in a shift in focus away from social housing, which is less profitable but more socially necessary.

Question “Home ownership: In your view, should it be required that, once purchased, subsidised housing cannot be resold at market price/at a price beyond a certain limit or to households not meeting some eligibility requirements for a minimum duration in order to prevent its use for speculative purposes?”

N.B.: The answer below is a longer version of SSE’s reply to the same question in the questionnaire. Only the first paragraph is included there, the examples provided by SSE’s member FEANTSA from France, Spain and the United Kingdom only in this document.

SSE sees the need for a strong regulation around reselling, in order to prevent speculation, but also as a means to protect public investment.

In this sense there are lessons to be learnt from France, Spain and the United Kingdom, in particular from their social housing selling practices.

1) In France, the selling of social housing has been encouraged by the government as a strategy for HLMs to raise equity for new construction. Although still rather marginal, the selling of social housing mostly concerned lower rents housing, leading to losses of very social homes (PLAI); it also led to sales not so much to the tenants, but to other parties that then resold these homes. The topic made the focus of a research project that looked into the effectiveness of anti-speculative clauses, and suggested as a safeguard, among others, the separation of land and building and the possibility of selling only the unit, not the land.

2) In Spain, the majority of social housing developments (VPO) were directed towards low-income ownership (Fernandez et al, Cities, 2025¹), with regional level regulations regarding the protected status timeframe and selling conditions. Recent data show that only in the past 5 years over 220.000 units built with some form of public protection were sold on the open market, representing a constant 8% of market transactions. Despite regional regulations around reselling, mass media noted the emergence of companies offering consultancy to navigate and bypass these reselling rules. However, in some autonomous communities in Spain, such as the Basque country, the implementation of pre-emption rights by public authorities (“*tanteo y retracto*”) has led to their purchase of privately owned social housing whose protection status in regards to reselling expired, which are to be converted in permanent rental social housing.

3) Moreover, to control speculative resales predicted on increases in land price, in the UK land value taxation that would capture for public gain said hikes in land value has been suggested as a more general policy option (Ryan-Collins 2019²).

Question “Renovation or new construction for affordable housing SGEIs”

N.B.: The answer below is a longer version of SSE’s reply to the same question in the questionnaire. Only the first and the last paragraph below have been included there. The paragraphs between build on input provided mainly by SSE members Red Cross EU Office and FEANTSA as well as one reflection also by Caritas Europe.

In general, renovation is often more time- and cost-effective, and should thus, for SSE, be prioritised where possible, but a flexible, context-specific approach is necessary. The balance between renovation and new construction should be guided by social need, climate objectives, and spatial equity, not a fixed hierarchy.

Renovation should be prioritised where it makes social, economic, and environmental sense - especially in areas with vacant or substandard housing stock. Renovating such buildings can bring unoccupied homes back into use, helping to alleviate housing shortages without consuming additional land or resources.

Renovation also significantly contributes to the EU’s climate goals, not only by avoiding emissions associated with new construction, but by improving the energy efficiency of homes, thereby reducing ongoing energy waste and lowering energy bills for residents. Importantly, all renovation initiatives must incorporate accessibility requirements to ensure that people with disabilities can fully benefit from improved housing conditions. Inclusive design must be at the core of renovation strategies to support independent living and uphold the right to adequate, accessible housing for all.

However, these benefits can only be realised if renovation schemes are equitable. People living in poor housing conditions should be prioritised, but pre-investment requirements must be avoided, as many low-income households cannot afford to pay upfront—even if reimbursements follow. At the same time, strong tenant protections are essential to ensure renovations do not lead to rent hikes, displacement, or the erosion of housing rights. One big problem in many EU MS is that many households (and especially larger families) struggle to afford their first home due to the renovation requirements, which then keeps

¹ Fernández, Alejandro, Haffner, Marietta, Elsinga, Marja. 2025. When land is not enough: Drawing in private investment to increase social rental housing in Spain. *Cities* 159

² Ryan-Collins, Josh. 2019. Breaking the housing–finance cycle: Macroeconomic policy reforms for more affordable homes. *Economy and Space* 0(0) 1–23

them in the often-over-priced rental market (due to unavailability of social housing / very long waiting lists).

New construction remains crucial, particularly in areas where existing housing is inadequate or where population growth outpaces current stock. It should be targeted where renovation is not viable - such as in isolated regions lacking access to employment, services, or infrastructure.

Although renovation and repurposing would be a less environmentally damaging option, we think it would go beyond the scope of the current regulation to set such a hierarchy. Such prioritisation should be decided at the local level, as it depends on the existing vacant stock and its state. In addition to that, more important than renovation vs. new build would be to not assume that lowering the construction or renovation costs through the intervention would automatically translate into increased housing affordability. Additional safeguards would have to be considered, for e.g. on rent/price setting regulations that would ensure the housing is genuinely affordable across the income spectrum, as well as on the types of providers that would deliver the housing; restricting the provision to non-profit and public providers would contribute to ensuring that lowering costs would not translate into return maximisation, but into better delivering on the social mission.

Safeguards related to accessibility requirements need also to be considered addressing the inadequate housing provision for persons with disabilities across Europe. Persons with disabilities [face significant difficulties](#) when trying to find accessible housing. A large proportion of Europe's housing stock remains inaccessible, [11% of persons with disabilities are being overburdened by housing costs](#), [4.4% face severe housing deprivation](#), and [15.1% are unable to keep their homes adequately warm](#). These factors are compounded by the reality that inaccessible dwellings are a key reason many people are forced to leave their homes upon acquiring a disability or as they age. Enhancing accessibility and enabling the adaptation of existing homes would allow more individuals to remain in their communities and live in dignity. The lack of accessible, affordable housing in the community continues to push persons with disabilities into institutional settings, in direct contradiction to their right to independent living.

The question refers to “affordable housing”, not to “social housing”. For SSE, a good scenario as outcome of the revision of the SGEI Decision would be to better link together the task and challenge of massive renovations of buildings to improve their energy efficiency and climate adaptability with the more systematic and general use of Art. 2 1. c) of the SGEI Decision covering “social housing”. Such a link would make it much easier for the EU MS and all relevant public authorities from the national to the local level deciding on state aid based on the SGEI Decision to prove that this is what is meant by „infrastructure“ in Art. 5 3. d) concerning the compensation for costs linked with investments concerning infrastructure necessary for the operation of the SGEI, given a broad divergence of national practice and considerable unclarities in this regard.

Question “Other changes to the SGEI rules”

Sub question “Are there any other elements of the SGEI Decision that should be modified or updated?”

N.B.: The answer below is a longer version of SSE's reply to the same question in the questionnaire.

European state aid law currently leads to legal uncertainty and application problems in the provision of social services. These are increasingly jeopardising the provision of these services in an adequate, sustainable and high-quality social services for all and the maintenance of and investment in the related social infrastructure. An effective, transparent and unbureaucratic provision of social services also depends on a supportive EU competition policy framework including in the field of EU state aid law. Not only must all actors apply the rules lawfully, but the relevant rules must also be simplified and adapted

to make them more practical. This includes the SGEI Decision on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (2012/21/EU).

The complexity of the SGEI exemption decision, in particular the rigid rules regarding the entrustment act (Art. 4), requirements for determining the amount of compensation for the delivery of a SGEI (Articles 5 and 6), and the citation requirement (Article 4(f)), has led to it being used far too little in the area of social service provision. E.g., in Germany, funding guidelines stipulate the application of the much less bureaucratic general de minimis Regulation or of the General Block Exemption Regulation (GBER). These funding guidelines make it difficult to apply the SGEI Decision in the area of social SGEI (under Art. 2 1. c). At the same time, low-bureaucracy funding opportunities are severely restricted due to the low de minimis thresholds.

The distinction between economic and non-economic activities in the field of social services continues to cause considerable legal uncertainty and difficulties in application. The final document of the evaluation of the SGEI Decision (2022)³ points out that the definition of an “economic activity” in the field of social services is not always clear. Although the EC has recognised that the resulting legal uncertainty has negative consequences, it has not yet taken any steps to increase legal certainty in the distinction between non-economic and economic activities in the field of social services.

A fundamental problem is that state aid law is designed to review individual cases, which is why the EC prefers not to publish lists of criteria or examples for non-economic activities. There is also still no generalised decision-making practice on the part of the EC or the national or EU courts that could be used as a basis for assessment. In practice, this case-by-case approach leads to a high degree of legal uncertainty. As a result, the approval of an application for state aid, including based on the SGEI Decision, is often significantly delayed (or the granting of aid is even prevented altogether) because a complex case-by-case review under state aid law must first be carried out before approval can be granted.

The simple reference to the existence of “supply and demand” for a service and thus interpreting the term “economic activities” very broadly, means that almost all social services provided by not-for-profit/social economy organisations can be classified as “economic activity”. One consequence is that even in cases where the Commission has confirmed a non-economic character, Member States apply stricter requirements (presumably to avoid legal uncertainty). Such an approach is not in line with the perception of social services (of general interest) in the EU MS and by the large majority of their national, regional and/or local governments.

The introduction of Article 2 1. c) of the SGEI Decision for social services (of general interest) has not led to the desired simplification and less bureaucracy, to the contrary, as the idea of entrusting the provision of each individual social service and fulfilling the other conditions of the SGI exemption decision (overcompensation, separate accounting, reasonable profit) is in itself a bureaucratic process and seen as it by the competent public authorities⁴.

When it comes to the policy field of housing, SSE sees the need for further clarification (e.g. through a Commission Communication) on how the current definition of social housing as SGEI can be used in a

³ Commission Staff Working Document: Evaluation of the State subsidy rules for health and social services of general economic interest (“SGEIs”) and of the SGEI de minimis Regulation, SWD(2022) 388 final, p. 35: [State subsidy rules for health and social services of general economic interest \(evaluation\)](#)

⁴ The SGI Report by the German Federal Government to the EC, e.g., is instructive in this regard as it points out that the application of the Almunia package regulations has not led to greater legal certainty, but rather to “an increase in bureaucracy” (p. 23).

way that is flexible and in accordance with housing needs and locally identified housing policy priorities.

There is also a need for a workable simplification of the use and implementation of the SGEI Decision for social housing, based on an assessment of the existing obstacles which are not related to the definition, i.e., concerning the requirements of an entrustment procedure (in line with Art. 4 of the SGEI Decision) or of separated accounts (as set out in Art. 5 9.) or the need to proof the lack of overcompensation (Art. 6).

SSE asks the EC to issue a Communication on “Social SGEI” as set out in Art. 2 1. c) that clarifies all “sticky” points hindering the broad use of the SGEI Decision in practice. It should address the following points:

1) Prioritise non-profit social service providers in the provision of social services: This should be done by including the new definition of “non-profit entity” contained in the SGEI de-minimis Regulation also in the SGEI Decision. The clarifying exception that umbrella organisations must not be the “linking entity” in the “linked enterprise” definition must also be brought into the SGEI Decision to avoid any legal uncertainty regarding the question of a “purely local effect”. More generally speaking, it is not feasible to run social needs checks on a case-by-case basis after having done a complicated analysis of which non-profit provider is considered linked to other non-profit providers, a check which is currently done differently depending on which linked enterprise definition is used in the state aid law instrument considered.

2) There should not be a profitability requirement check on a case-by-case basis to proof the requirement “meeting social needs”. For SSE, there should be a prioritisation of using the SGEI Decision in the field of social services as a matter of principle. EU MS should not be allowed to use the general de-minimis Regulation in areas that are clearly covered by Art. 2 1. c). Instead, the instrument for all social service provision should be the SGEI Decision, where it is clearly defined that there is a priority for non-profit service providers in meeting social needs. There are also social needs to be met in border regions. If the social services provided to meet them are delivered by non-profit providers they should be able to do this in the least bureaucratic way, given the very low incidence of cross-border social service provision – based on research into public tenders (cf. [Monitor Deloitte \(2020\): Study on regulatory burden and level of cross-border dimension of public procurement of social health services](#)).

3) There should be a simplified entrustment act for non-profit social service providers. The EC should organise a series of bilateral meetings with the EU MS and the main non-profit social service providers or their networks to ensure the legal validity of the entrustment acts used – “the form of which may be determined by each Member State” (Art. 4) – and to propose practical changes of how to reduce bureaucracy, so that social needs can be met faster and with more efficiency. SSE would like to see the recognition by the EC of national solutions that help overcoming the “blocking effect” stemming from the complexity of how to determine entrustment acts, also for the provision of social services, requested by the SGEI Decision.

4) There should be a simplified system for how “reasonable profit” is calculated for non-profit providers of social services. It should not be required to calculate SWAP rates, based on the implicit assumption that non-profit providers do not make and distribute profit “per definition” (as laid down in the [Social Economy Charter](#)). The application of the very definition of a non-profit entity (not distributing profits, i.e., applying the non-distributional constraint characteristic to organisations of the social economy) which has since 2023 been included in the SGEI de-minimis-Regulation should be sufficient to prove the fulfilment of this pre-condition for the use of the SGEI Decision.

5) The obligation to keep separate accounts should be removed for non-profit providers that have an “overall social” purpose. The cross-subsidising of economically unviable provision of social services (i.e.

the running of homelessness shelters – which were considered a non-economic activity by the EC in [Decision C\(2017\) 7686 final](#)⁵) with revenues from more economically viable sectors, like old-age care, is often the only way how to be active in the social economy and a broader range of subsectors of social services. SSE sees the criteria of keeping separate accounts as an unnecessary strict and bureaucratic criteria and would like to see it adapted to the economic realities of non-profit social service providers delivery SGEI in the context of national welfare states, social protection schemes and social, health, employment and/or (social) housing policies.

6) Clarify that the category of social SGEI is legally distinct from all other SGEIs under Art. 2 1. a), due to its emphasis on “meeting social needs”. This requirement needs to be kept in order to keep social SGEI, and, thus, also social services (of general interest), distinct from other SGEIs.

7) There should be no cumbersome and practically impossible requirement to prove market failure in order to define social SGEIs according to Art. 2 1. c). Instead, “meeting social needs” should be the only requirement needed in order to prove market failure. It is not practical and severely hinders the actual meeting of social needs if there are very cumbersome requirements for how to prove market failure. EU MS should have the freedom to design their social service provision as they see fit to meet social needs. The SGEI Decision must no longer be a “stumbling block” for the use of this EU state aid instrument in the field of social services in line with those set out in Art. 2 1. c) but, instead, should become the “number one choice” for how EU MS ensure state aid conformity in the area of social services provision.

8) Art. 2 1. c) should be adapted so that climate adaptation, energy efficiency and digitalisation requirements (as examples) are clearly seen as being part of the social service provision itself. Art. 5 3. d) concerning the compensation for costs linked with investments concerning infrastructure necessary for the operation of the SGEI does not go far enough in this respect. SSE urges the EC to quickly and comprehensively increase the legal certainty for this category in this respect.

SSE also would like to mention here two other points:

9) Despite their public mission and the lack of market alternatives, SGEI support for social economy actors remains underutilised due to insufficient understanding of rules, lack of legal clarity, and limited awareness and/or recognition of their characteristics by authorities. The EU Council Recommendation (C/2023/1344) acknowledges these challenges, advising Member States to explore the higher SGEI thresholds. SSE shares a proposal by RREUSE that the SGEI Decision and Communication should then reference the Recommendation and the Social Economy Action Plan Communication (COM(2021)0778) to help clarify that SGEI entrustment to social economy entities is possible, ultimately reinforcing the objectives of Article 2 1. c).

10) As done by RREUSE, SSE advocates for the explicit inclusion of environmental services in the SGEI Decision to reduce ambiguity regarding public compensation for public funding support for infrastructure necessary for the operation of the SGEI in line with Art. 5 3. d) in the context of renovations of buildings to improve their energy efficiency and climate adaptability as well as for social service providers in green sectors. There is evidence that social economy organisations active in the circular economy have been denied funding due to their circular activities despite the inherent link between their environmental and social services (e.g., reuse and repair initiatives for employing individuals facing labour market barriers).

⁵ [Decision C\(2017\) 7686 final](#) “State Aid SA.42268 (2017/E) – Germany State aid for the promotion of public welfare services & State aid SA.42877 (2017/E) – Germany CarePool Hannover GmbH,” 23 November 2027: The decision reads under 2.1 (9): (...) whereas non-economic activities are e.g. “warming-up facilities” and night-shelters for homeless people and support for migrants (...).