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文学材料和非文学材料
机器翻译适用性比较研究

Comparative Study in the Applicability of
Literature and Non-literature Material
Machine Translation

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A Comparative Study on the Applicability
of Machine Translation between Literary
and Non-literary Materials

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A Comparative Study on the Applicability of Machine Translation between Literary and Non-literary Materials

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摘 要

经济的发展和科技的进步使得全球各国的联系越来越紧密，语言成为连接不同语言文化的国度之间的桥梁。掌握语言成为连接世界的必要途径，如何提高各民族语言间翻译的效率也成为翻译家、语法学家，以及计算机研究人员研究的课题。机器翻译软件应运而生，其诞生和发展，为中国连通世界、世界了解中国添砖加瓦。本文从比较研究的视角，对比了非文学和文学材料翻译标准的差异，结合机器翻译的原理，论证了机器翻译非文学材料比文学材料具有更高的适用性。虽然机器翻译尚不能取代人工翻译，但是机器翻译的优点也是不容忽视的。只要充分利用机器翻译软件的优点，就能快速高效地完成翻译任务。但是不论多么发达机器翻译软件，都是人类智慧的结晶，机器译文仍少不了人工完善。

关键词：翻译标准；机器翻译原理；非文学翻译；适用性；机器翻译

Abstract

With the development of economy and technology, the communication between countries is becoming closer and closer and language becomes the bridge connecting different cultures. It is necessary to master foreign languages to connect the world. Then, how to improve the efficiency of translation between different languages has become a subject of translator, grammarian and computer researchers. Therefore, machine translation software comes into being, which contributes to the communications between China and the world. This paper contrasts the difference in translation standard between non-literary and literary materials in a comparative study perspective. Combined with the principle of machine translation, this paper demonstrates that machine translation of non-literary material is more applicable than that of literary material. Though machine translation is not a substitute for human translation, the advantages of machine translation cannot be denied. If only we can make the most of machine translation software, we could complete translation tasks effectively. As no matter how advanced the machine translation software is, they are still outcomes of human intelligence which needs human modification.

Key words: translation standard; machine translation principle; non-literary translation; applicability; machine translation

目 录

摘 要.....	I
Abstract.....	III
1. 引 言.....	1
2. 非文学材料和文学材料的翻译标准及机器翻译原理	3
2.1 翻译标准的差异.....	3
2.2 机器翻译原理.....	4
3. 文学材料和非文学材料机器翻译适用性比较.....	5
3.1 文学材料机器翻译适用性.....	5
3.2 非文学材料机器翻译适用性.....	6
4. 机器翻译非文学材料的优势.....	9
4.1 词汇.....	9
4.2 句子.....	10
5. 结论.....	13
参考文献.....	15
附录： 翻译资料.....	17
致谢辞.....	49
湖南师范大学学位论文原创性声明.....	51
湖南师范大学学位论文版权使用授权书.....	51

1. 引言

随着科技进步，不同文化之间的交流日益增加，为了提高不同语言间的翻译效率，机器翻译软件应运而生。对于机器翻译软件的可靠性、准确度和适用性众说纷谈。各机器翻译软件的宣传更是王婆卖瓜自卖自夸，有的甚至宣称“翻译质量和人工翻译完全相同”，似乎有了机器翻译，人人都成为翻译家了。而在实际的翻译工作中，我对机器翻译软件的“自信”宣传产生了怀疑：机器翻译真的能够代替人工翻译吗？机器翻译对文学材料和非文学的适用性是相同的吗？或者，由于非文学材料语言、文体的差别及机器翻译的原理，机器翻译出的非文学材料具有更高的适用性。

下面从比较文学材料和非文学材料机器译文的实例，来阐明非文学材料机器译文的高效性，以及人工翻译不可或缺。本文的机器译文全部采纳 Goolgle 翻译的译文。

2. 非文学材料和文学材料的翻译标准及机器翻译原理

文学材料和非文学材料的翻译标准都主张忠实原文,译文合乎译语规范、通顺流畅、风格保持一致性。非文学翻译也可以笼统地称为实用型翻译或应用型翻译,也就是很多学者所称的科技翻译。科技翻译的主要目的是传达信息、交流经验,用知识来充实人类,而文学翻译的主要目的则是传递作者的情感,以情动人。两种文体间的差别决定了其翻译标准的差异。

2.1 翻译标准的差异

距离严复在《天演论·例言》中提出“信、达、雅”的翻译标准已经有110年了。作为翻译标准,它在我国翻译界一直占据着极其重要的位置。然而,长期以来,译员和翻译评论家对“信、达、雅”中的“雅”在理解上存在很大的分歧和争议。尤其是在非文学材料,即科技英语的翻译上。

任何一个翻译过程都是艺术性和科学性的统一。

一般情况下,翻译界都认为科技翻译易于文学翻译。科技的客体主要是科学技术文本,它要求在译文表达方面要尽量追求准确性,侧重于翻译的科学性。而文学作品由于其本身艺术性的特点,在翻译中,不仅要传达原文的意义,关键还要再现原作的艺术性。有学者认为科技翻译和文学翻译之间的本质区别是译意和译味。译意即传达原义,即“信”、“达”;而译味则是在译意的基础上表现句子各种情感上的意味,即“信”、“达”、“雅”。

对于科技英语是否有“雅”存在很大的争论。冯志杰认为科技翻译“文风质朴,文理清晰,描述准确,不像文学作品那样富于美学

修辞手段和艺术色彩，主要表现在语言的统一性和连贯性，语句平时和匀密、简洁而不单调句长而不累赘、迂回。”很多学者宣传无“雅”论，认为“雅”完全的人为的、多余的，也是不科学的、有害的。还有的学者认为科技英语的“雅”与文学翻译的“雅”不同，科技英语的“雅”是简洁明快，流畅通顺，体现科技英语的特点。

2.2 机器翻译原理

机器翻译的技术原理主要有两大分支：基于语法分析和基于语料库。基于语法分析的技术即对源语言语句的词法、语义、语法和句法进行分析并进行判断和取舍，重新排列组合，生成目标语言，即“基于规则”。但由于自然语言的开放性、灵活性和复杂性等特点，规则的建立和完善是很难的。基于语料库技术的工作原理是利用统计学和概率的方法建立包含各种句型的双语对照语料库。在翻译时，从语料库中抽取与输入句子相类似的例句，然后模仿例句来实现源语言与目标语言的转换。

然而，一个单纯的语言处理系统难以应付复杂多变的自然语言，语言现象的个性问题必然使规则的数量增加到无法估量的程度，这也是机器翻译质量难以令人满意的主要原因。

翻译标准的差异及机器翻译软件的原理决定了机器翻译非文学材料的适用性比文学材料要强。例如，蒙特利尔大学研制的英法翻译系统，每天能自动翻译 1500-2000 分天气预报材料，具有很强的实用性。

3. 文学材料和非文学材料机器翻译适用性比较

以语法“规则”和“语料库”为基础的机器翻译，我们可以发现，理论上，若输入计算机中的规则和语言材料越多，翻译的质量就越高。如果把人类所有的语言规则和语言现象都输入计算机中，那么机器翻译完全可以取代人工。但是变化多彩，连人类自己都无法把握的自然语言又岂能被纯理论系统“规则”。毋庸讳言，语言学家和计算机研究者对机器翻译软件的开发做出了重大贡献，不断地创建规则库，充实语料库，覆盖了相当大的语言现象，取得了令人瞩目的成就。但是语言风格、写作目的、篇章结构的差别造成了机器翻译文学材料和非文学材料适用性的差异。

3.1 文学材料机器翻译适用性

文学翻译的对象主要是文学作品，其体裁广泛，例如小说、戏剧、散文、诗歌等，它们都有共同的特点：词汇丰富，语言形象生动，句法变化多端，风格多样等。语言具有韵律感、象征性、讽刺性、含蓄、抒情、形象等特点。既然文学翻译有表意传情之功效，其翻译就不能是语言间的简单转化，还讲究“神似”，讲究内容美、形式美及意境美。因此，出色的文学翻译，既要信，也需达，更不能不雅。不仅需对原文词语、句法修饰、语意、文体风格等方面对应重组、梳理和分析，还少不了译者的主观创作和艺术审美。如此复杂的思维过程，相信目前任何机器都不能取代。

下面我们来看看摘自文学材料的两个句子的机器译文：

1a. I wonder whether he is a Trojan Horse.

(机译) 1b. 我不知道他是否是一个木马。

2a. No one is certain how much energy The Big Apple consumes, but the amount must be enormous.

(机译) 2b. 没有人是某些大苹果消耗多少能源, 但金额必须是巨大的。

通过这两个带典故、比喻、习语的例子, 我们可以看出: 对于这类带有文化色彩的语句, 机器译文让人不知英文所云, 很多读者恐怕都看不懂。对于例 1) 中的典故, 机器根本无法识别“Trojan”这个词, 更无法传达其所包含的文化因素。而例 2) 中的 The Big Apple 出自 Edward S. Martin 于 1909 年在他的“The Wayfarer in New York”一书中这句话“inclines to think the big apple gets a disproportionate share of the national sap”, 自此, The Big Apple 便成了纽约的别称。机器翻译软件并不能理解语言文字背后的文化内涵, 只能按照人工输入的规则和语料库进行翻译上的匹配, 翻译成“大苹果”让读者感到茫然。这样的机器译文非但没有起到辅助翻译的作用, 还让读者乱了分寸, 读不出简单词语组成的句子的实际涵义了。对于这种文学材料的翻译, 还是译员通过释义、加注、增益等翻译方法灵活处理, 对遗漏的信息进行文化补偿为好。那么例 1) 译为: 我不知道他是否是个内奸。或者译为: 我不知道他是否是匹特洛伊木马(特洛伊木马源自希腊神话。特洛伊战争时希腊兵藏着大木马的腹中进入特洛伊城, 最后获得战争的胜利。此典故告诫人们谨防内奸)。例 2): 谁也无法肯定纽约市消耗多少能量, 但能源消耗量是巨大的。

3.2 非文学材料机器翻译适用性

非文学翻译的对象是科技信息和科技论文等方面的科技文本, 其具有较强的逻辑性、严密性、正确性、客观性等特点。非文学翻译的主要目的是传达相关信息, 交流经验, 给人以理性认识, 以知识来充实人类, 更注重实效的稳定, 并没有文学翻译那样虚幻多变, 往往也

有着比较固定的翻译模式，甚至可以整理出来一整套翻译的具体操作方式，从而更为准确的进行概念的转换，准确无误的传达信息。

3a.It aims to correct the negative effects of cyclical or structural market failures.

（机译）3b.它的目的是纠正周期性还是结构性的市场失灵的负面影响。

4a.The development of social housing in the EU conforms undeniably to numerous of the community objectives.

（机译）4b.无可否认，在欧盟的社会住房的发展符合众多的社会目标。

从以上非文学材料翻译机器翻译的句子虽然生硬，不足以成为完美的译文，但是基本能让读者读懂大意，做到了传达信息的目的。例3）中机器翻译软件将it机械地翻译成“它”，“or”译成了“或者”，都是属于字对字的翻译，并没有考虑到中文的句式结构。对于表示所有格的“of”短语，机器翻译成“……的负面影响”，还是符合中文的表达习惯，整句翻译只需人工稍稍加工润色即成标准的译文：其旨在调整周期性或结构性的市场失灵的负面影响。例4）的机器翻译也是逐字将原文翻译出来，原本可以省译的介词“in”也被转换成“在”，机器也不能根据将“community objectives”翻译成欧盟目标。但根据研究人员输入的规则，句中的副词“undeniably”被分译成短句“无可否认”。稍加修改，机器译文就能成为标准译文：无可否认，欧盟社会住房的发展符合许多欧盟目标。总的说来，以上两例非文学材料的机器译文尚可传达出原文的意思，与机器翻译出的文学材料相比适用性强，但若要成为正式译文，还是需要人工的修改和润色。

4. 机器翻译非文学材料的优势

Newmark 认为, 科技英语即非文学材料的语言特征可以归结为以下几点: 一是术语, 它在科技文本中所占比例基本达到 5%-10%; 二是语法特征, 科技英语中大量使用第三人称、被动句式、非谓语动词、名词化结构以及结构复杂的长句。

基于语法“规则”和语料库的机器翻译软件处理其这种结构稳定、逻辑严密的科技语言现象比捉摸不透的文学语言得心应手得多。以下从词汇和句子层次分析了非文学材料即科技材料的机器译文的优点。

4.1 词汇

专业词汇是非文学材料即科技材料的语言特点之一。随着科技的发展, 新学科、新专业不断产生, 专业词汇也层出不穷。大量词义精确而狭窄、针对性极强的专业词汇是令译员比较头疼的问题。在机器翻译没有发展的时代, 译员只能靠钻研堆积如山的专业书籍和专业词典解决难题。如今机器翻译中语料库的建立, 节省了翻阅专业书籍、文献的时间, 让译员如虎添翼, 效率倍增。

5a. All facets of engine design should take advantage of Electrostatic Engine Monitoring Systems (EEMS) .

(机译) 5b. 发动机设计的各个方面, 应采取静电发动机监控系统 (EEMS) 的优势。

6a. Electrical and control system trouble shooting Procedures.

(机译) 6b. 电气控制系统的故障排除程序。

7a. The condensate polishing plant shall provide the boiler with a continuous source of high quality feed water and also provide emergency protection in

the event of a condenser leak.

(机译) 7b. 凝结水精处理厂应提供持续的高品质给水源锅炉和冷凝器泄漏事件也提供紧急保护。

上例中 Electrostatic Engine Monitoring Systems (EEMS), trouble shooting, condensate polishing plant 等术语的机器译文分别为“静电发动机监控系统 (EEMS)”、“故障排除”和“凝结水精处理厂”，既快速又准确，给译员节省了很多查阅专业词典的时间，机器翻译软件也成为译员处理专业词汇的好帮手，给译员提供了快速有效的参考。

4.2 句子

由于非文学材料特有的特有格式和语法特征——多第三人称、名词化结构、被动句式、非谓语动词等，此外，科技英语还常使用虚拟语气和祈使句。科技作者在说明事理、提出设想、探讨问题和推导公式时为了避免武断，往往采用虚拟语气；另一方面，虚拟语气可以表达作者的谦逊。祈使句常用在说明书、操作规程、作业指导、注意事项等科技文章中，以建议、命令、劝告和告诫操作者或用户的行动。而机器翻译的技术原理中规则和语料库的运用符合结构较固定、确切客观的科技文本的翻译特点，译出的句子结构比较合理，适应性强。例如：

8a. It is therefore constrained in its defence of its system.

(机译) 9b. 因此，它被限制在其系统的防御。

9a. We should introduce a mixed system of social housing/public open housing, limiting state aid to the social housing sector.

(机译) 10b. 引入社会住房/公众开放住房的混合系统，限制了社会住房部门的国家援助。

10a. It could be argued that the Swedish system of public housing meets the

definition of social housing as a service of general interest because of the specific public service obligations imposed on it.

(机译) 11b.可以说, 瑞典的公共住房制度, 满足社会住房, 因为强加给它的特定的公共服务义务的整体利益服务的定义。

例 8) 中机器对于被动句也还是很准确的, 但是考虑到翻译标准中“雅”的因素, 将形式主语“it”的“它”省去, 将被动句改为主动句, 即“因此, 将其制约在系统的防御中”。例 9) 既有非谓语动词, 也是祈使句, 显然, 机器翻译这样的句子也得心应手。对于例 10) 中的固定句式 it is...that, 机器翻译也是快速精准, 并且句群切分准确, 只需人工稍加修改才更符合中文句式特点。可见机器翻译软件在对付句式简单, 词义确切的科技文本时, 适用性还是很高的。

5. 结论

随着计算机科学和计算机语言学的发展,机器翻译软件迅猛发展,以其词语转换速度和准确度逐渐成为译员工作的好帮手,以大型机器翻译系统 SYSTRAN 为例,在词这一层次的转换准确率高达 95% 以上,每秒处理 3700 字。机器已经建立了成千上万条的语料规则库,涵盖了相当范围的语言现象,但是,由于语言的复杂性,无论创建多么庞大的语料规则库,都不能覆盖所有的语言现象。虽然与机器翻译文学材料相比较,机器翻译的非文学材料更具有适用性,但是机器翻译文学材料也还存在很多不足。如词义错误、词类错误、定语和状语的位置不当等等。

机器翻译完全取代人工翻译恐怕是不可能的。无论机器翻译多么发达,机器翻译软件如何与时俱进,机器都是人创造和设计的,机器翻译软件还是不能像人一样思维。更何况翻译是一项复杂的跨交际的语言活动,是在一定的文化、社会背景下发生的集理解、分析、创造为一体的思维过程。就当前的机器翻译软件而言,机器翻译三分在翻译,七分靠人工修改和润色。但是运用机器翻译减轻人力负担、提高效率,如此一举两得的方法,何乐而不为? 因此,机器翻译必须与人工翻译相结合,相互借鉴、取长补短,让机器翻译成为我们的好帮手。

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附录：翻译资料

原文 1:

17. Social housing as a service of general interest

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Introduction: Social housing and the objectives of the Community

The development of social housing in the EU conforms undeniably to numerous of the community objectives, namely the promotion of the harmonious, balanced and sustainable development of economic activity in the entire European Union, a high level of employment and social protection, sustainable and non-inflationary growth, a high degree of competitiveness and convergence of economic performance, a high level of protection and improvement of the environment,

Raising the standard of living and quality of life.

Community interest is strengthened by the provision of social housing. But it does not essentially conform with the rules of competition and the Single Market. It aims to correct the negative effects of cyclical or structural market failures.

Although the local character of the activity and the low level of distortion of competition are issues taken into consideration in Community law, the whole issue is ultimately a question of political decisions about the definition of a hierarchy between the various objectives entrusted to the European Community by the Member States.

Some objectives support the development of social housing, whilst others are less supportive, as illustrated in the following chart. Figure 1 illustrates the many ways in which social housing contributes to the Community's numerous objectives, but also the obstacles and derogations relating to the rules of operation of the EU (from the point of view of the rules of competition and the Single Market).

Figure 1 Social housing and Community interest—a balance of interests

<p>Contributions to EU objectives</p> <p>Promotion of the harmonious, balanced and sustainable development of economic activity in the entire</p> <p>European Union (Article 2, European Community Treaty [ECT]): social housing has always accompanied economic development. It can be considered productive infrastructure, as it contributes to the accommodation of employees in locations economic activity.</p> <p>A high level of employment and social protection (Article 2, ECT): social housing provides considerable employment in the building and service industry. It is one of the policies of social protection that aims to meet fundamental social needs.</p> <ul style="list-style-type: none">•Tackling discrimination : social housing accommodates persons suffering from discrimination in the housing market.•A sustainable and non-inflationary growth (Article 2, ECT): social housing can combat real estate speculation and moderate its effects on house-price growth, which affects families' purchasing power. <p>A high level of competitiveness and convergence of economic performance</p>	<p>Departures from EU objectives</p> <p>Freedom of establishment and pursuance of activities (Article 43, ECT): the development of social housing to meet general interest objectives relies on public service obligations imposed on social housing providers (characterised by their non-profit orientation, reinvestment of profits in social housing, limited territorial competence, etc.) and on the specific mandate of a competent public authority, both of which constitute an obstacle to the freedom of establishment and pursuance of activities.</p> <p>Freedom to provide services (Article 49, ECT): the provision of social housing as a service of general interest is based on an official act mandating an enterprise located in the country where the service is provided, in order to guarantee continuity of service and of the social housing</p>
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(Article 2, ECT) : social housing is a factor influencing the competitiveness and attractiveness of nations.

A high level of protection and improvement of the environment

(Article 2, ECT) : social housing contributes to the improvement of the environment, particularly energy efficiency.

Raising the standard of living and quality of life (Article 2, ECT) : social housing contributes to improving quality of life by providing housing and high-quality services.

Economic and social cohesion (Article 2, ECT) : social housing is in line with the objective of strengthening economic and social cohesion.

Acknowledgment of the right to housing benefit (Charter of Fundamental Rights of the European Union): social housing is a valid type of state subsidy for housing.

Respect of the right to housing (Social Charter of the Council of Europe; international commitments of Member States; common constitutional tradition): social housing is a tool for the effective implementation of the right to housing.-

infrastructure. This requirement affects the freedom to provide services.

Free capital movement (Article 56, ECT): the provision of social housing as a service of general interest is based on the imposition of public service obligations regarding the use of housing and its allocation. This affects the free movement of capital, including the freedom to purchase real property and land.

Conditions of imposing and maintaining exclusive and specific rights (Article 86§1 ECT): Exclusive rights imposed to fund the general interest objectives and / or specific rights designed to impose organic public service obligations on social housing undertakings by means of official authorisations may be contrary to the Treaty, but tolerated as long as they are necessary for the effective provision of social housing as a service of general interest.

• State aid issues (article 87§1 ECT): State aid granted to social housing undertakings in the form of compensation for services of general interest is a

Combating social exclusion (Articles 136 and 137§2, ECT): social housing helps combat social exclusion of its residents. •Monetary integration (Articles 87, 98 and 105, ECT): social housing helps to reduce real estate speculation and thus contributes to monetary stability. Service of general interest (Articles 16 and 86 §2, ECT): social housing should be considered a service of general interest, and thus a key value of the Community.	priori compatible with the rules relating to state aid and the exemption from the general restrictions on state aid in the Treaty. The compatibility depends, on the principles of transparency and appropriate compensation, and specifically on the official entrustment of social housing undertakings through an official act of a responsible public authority.
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In terms of competition rules, derogation from the Treaty's prohibition on state aid is permitted if individual member states classify social housing as a service of general interest. The derogation itself has been accepted and justified by Community interest and the role of social housing as a service of general interest. The question remains, though, how to define the scope of application of the service of general interest. The Commission's ruling that the Dutch government made a 'manifest error' in qualifying social housing as a service of general interest illustrates the Community's capacity to impose its own vision of social housing on that of the Member States. This question is presently awaiting final settlement by the authorities of the European Commission and the Dutch government.

According to the European legislature, the provisions of Community law must not affect social housing as a service which is essential for the effective implementation of other objectives of the European Community, i.e. respect for fundamental rights, the preservation of social cohesion and the principle of solidarity. The European legislature has also stated that:"this Directive (the services directive) does not deal with the funding of, or the system of aid linked to, social services. Nor does it affect the criteria or conditions set by Member States to ensure that social services effectively carry out a function to the benefit of the public interest and social cohesion.

In addition, this Directive should not affect the principle of universal service in Member States' social services". The last part of this sentence contradicts the European Commission's position in the case of the Dutch notification.

These differences in the approaches of the European legislature and the Commission illustrate the present balance of power. The European Commission was opposed to the exclusion of social housing and social services in general from the Services Directive. This struggle for power between the executive and the legislature reveals how problematic this issue is for the Community.

The balance between general and community interest

Until now the balance between general interest and Community interest has been defined by default on a case-by-case basis and by derogation from those provisions of Community law which would have obstructed the development of social housing in the European Union. These derogations have not been obtained spontaneously; they are the result of lobbying by CECODHAS, the organisation of European social housing providers. The Community framework for social housing is the result of successive derogations from the general rules of the Treaty and therefore is not necessarily internally consistent.

The European Commission has published a specific communication¹ about social services for general interest, including social housing². The Commission recognises in it the specific objectives entrusted to these social services, their integration in the objectives of the Community and the objectives of the Lisbon Strategy, as well as their organisation and regulation. In this communication the Commission also announced a consultation about "the need and legal possibility for a legislative proposal".

However, the fundamental questions are how to balance sometimes conflicting objectives, how to reconcile general interest and Community interest, and how to codify the informal Community framework. The European Parliament supports this process of providing greater certainty for social services, but it is not clear how the internal power struggle in the Commission will play out and what the next "European strategy for social services" will contain.

Litigation on these issues continues and will most probably end up in painful and irreversible decisions regarding the definition of social housing in the Netherlands, state aid to local housing enterprises in Sweden and the abolition of tax-favoured status for private savings used to finance social housing in France.

Increasing Community litigation and legal uncertainty

The social housing sector has not been subject to the European legal framework that otherwise regulates the entirety of economic activities. Housing seems to have slipped through the meshes of the process of European economic and monetary integration. Only at the end of the Nineties and in the first half of the year 2000 did certain Member States begin reporting their systems of funding and state aid for social housing to the European Commission, in the light of growing uncertainty about Community law in terms of state aid. The Republic of Ireland, the United Kingdom, Italy, the Netherlands, Germany, Sweden and the Czech Republic deemed it necessary to report their state aid systems for social housing to the European Commission to obtain the legal certainty required for their development and modernisation. The suits filed by the European Property Federation against state aid granted to municipal housing enterprises in Sweden and a consortium of French and Dutch banks against specific rights relating to public funding of social housing in France have also contributed to raising awareness of social housing actors, i.e. not only the competent authorities, but also the social housing providers regarding the legal uncertainty of the systems presently existing in the Member States.

Community litigation in connection with the definition of social housing in the Netherlands, the justification of state aid granted to the municipal housing enterprises in Sweden, or the proportionality of specific rights linked to public social housing funding in France can actually jeopardise the way social housing is defined, organised and financed in the European Member States and affect the conditions for its development.

A restrictive and rigid definition of its scope would no longer allow the Netherlands' social housing system to meet the needs of its increasingly diverse population and it would affect future development. It would also jeopardise the cross-subsidies

necessary for new social housing and the economic viability of the sector. Challenging the state aid granted to municipal social housing enterprises would contribute to a further destabilisation of the regulatory tools for the Swedish housing market, in particular the institutionalised negotiation of rents between municipal housing enterprises and local tenants' associations. It would affect the special right to collect savings used for the public social housing funding system in France and could jeopardise the entire funding allocation system, increasing the financing costs for social housing and reducing the present efforts and commitments in connection with the National Cohesion Plan.

These preliminary infringement procedures will result in Community decisions in the near future, and in the event of appeals they may lead to judgments by the Court of Justice of the European Communities resulting in amendments to Community legislation. Such legal decisions will not be neutral for the future development of social housing in the European Union.

Criteria for assessing the permissibility of national aid to social housing

What dispute led the department of the European Commission in charge of competition to determine whether current systems are compatible with Community legislation? What corrections were suggested to render national systems EU compatible?

The Swedish case

The most recent example of an answer to a Member State regarding social housing was the Commission's decision dated 7 March 2007 authorising Sweden to allocate annual subsidies of EUR 54 million per year until 2011 to the construction of social housing for the elderly. Neelie Kroes, the Commissioner responsible, stated that "This aid, which is available to all investors, will help provide appropriate housing for elderly people in Sweden. Public intervention is necessary because currently the Swedish housing market is not able to cope with demand in this sector." The Commission stated that "due to the general lack of housing on the Swedish market, building houses with special facilities for elderly people is currently not a priority for the private sector... (T)he incentives proposed by Sweden adhere to the principle of

social equity without unduly distorting competition in the Single Market." According to Kroes, "this aid, which is available to all investors, will help provide appropriate housing for elderly people in Sweden. Public intervention is necessary because currently the Swedish housing market is not able to cope with demand in this sector." This decision gives some indication of the criteria for assessing whether state aid for social housing complies with Community competition rules. The decision relies on the general principles of the Treaty regarding necessity, proportionality, equality of treatment and non-discrimination, as well as on assessment of how the subsidy may affect competition.

Necessity The decision recognised the structural failure of the housing market to meet the specific needs of the elderly. The acknowledgment of a 'general housing shortage in Sweden' suggests that the market failure is not limited to accommodation for the elderly, but extends to the entire housing market. State intervention is therefore considered necessary to combat this cyclical housing market failure, especially in light of the objective of social equality.

Proportionality The decision confirmed that the aid was proportional for the following reasons: it was limited to 10% of construction costs, profit margins in the sector were narrow, the subsidy period was capped at five years, and the housing was allocated exclusively to elderly people.

Equal treatment and non-discrimination The aid was available to all investors who accept the public authorities' allocation of flats to the elderly.

Distortion of competition The effects were considered limited, given the local character of the activity, the limited state aid and its availability to any investor.

Other Swedish cases - the legality of state aid to local housing enterprises

A second Swedish case, brought by the European Property Federation, contested the legality of state aid to local housing enterprises. This aid was given for restructuring enterprises in depressed regional markets and construction of new housing in regions with tight markets, such as the Stockholm area. According to the plaintiffs such aid was incompatible with competition rules and should be reimbursed. The Commission decided that the case was admissible.

Sweden has a universal concept of public housing: it is by definition open to anyone, and is used as a means of regulating the housing market and preventing real estate speculation. Because of this, Sweden does not qualify local housing enterprises explicitly as social housing undertakings. It is therefore constrained in its defence of its system. The new government recently appointed an ad hoc commission to develop the country's official reply to the European Commission. It has come up with three possible options:

To shrink the scope of the local housing system to that permitted by the European Commission in its decisions regarding Ireland and the Netherlands— that is, to limit it to serving the disadvantaged.

To introduce a mixed system of social housing/public open housing, limiting state aid to the social housing sector.

To maintain the open system of public local housing that is fully integrated with the market, and to discontinue state aid in line with the principle of equal treatment. This would require reimbursement of such aid granted illegally since Sweden joined the European Union.

A consensus seems to be forming around the third option, as the EU definition of social housing is inconsistent with the Swedish universalist tradition. This third option is actually the closest to the current role of public local housing enterprises in Sweden.

The European Property Federation's complaint had two elements. The first questioned the legitimacy of occasional state aid by Swedish local authorities to those housing enterprises in difficulty because of population decline and low demand—particularly in the north and centre of the country. The EPF argued in this case that, unlike in the one concerning elderly housing, state aid could not legitimately be given because Sweden has not qualified public local housing as a Service of General Interest.

The second questioned the lawfulness of giving state aid on a long term basis to local public housing enterprises in the form of public loan guarantees, which it alleged distorted competition. The EPF also opposed the current system of rent regulation in the private housing sector. Swedish regulation of the local rental market is based on a

public housing sector that is fully integrated with the general housing market, rather than dedicated to meeting the needs of the disadvantaged. Rents in the private sector are based on agreements between tenants associations and the public local housing enterprises. These rent agreements are used as a reference by courts in litigation in the private market. The public service obligation imposed on the public housing companies includes the duty to implement this rent policy, to allocate dwellings through waiting lists rather than selecting the most risk-free tenants, and to allow local authorities to allocate a certain percentage of vacancies to those in need — and thus the public housing companies do in fact house some disadvantaged tenants, although this is not their only mission.

It could be argued that the Swedish system of public housing meets the definition of social housing as a service of general interest because of the specific public service obligations imposed on it. However, Swedish law does not refer to the concept of services of general interest, and the historical concept of social housing has given way to that of a universal housing service. The new Conservative government wishes to find an internal solution based on a compromise between all stakeholders (tenants' association, the federation of local public housing enterprises and the Swedish Property Federation).

The European Federation finally agreed to withdraw its legal action if its call for modifications to the rent regulation system is considered. Yet this conditional withdrawal of the suit does not affect the procedures started by the European Commission, which feels itself exploited in a struggle for power intended to result in rent deregulation and likely to trigger considerable rent increases which could be attributed to its decision. Even if both suits were withdrawn, the European Commission would have to deal with the dossiers of illegal state aid. As there is no explicit condition that state aid is allowed as compensation for public service obligations, it will be judged on the basis of the extent of distortion of competition and of the respect of the principles of necessity, proportionality, non-discrimination and equality of treatment.

The Swedish case illustrates that social housing can be considered a service of general

interest because it meets social needs, but also because it provides accommodation that complements that available in the general housing market. It is interesting to note that neither the government, which aims to support the private housing market and boost the values of the existing housing stock, nor the public local housing enterprises, which wish to maintain their freedom to manoeuvre, want housing formally to be qualified as a service of general interest in Swedish law. Only the tenants' federation considers this desirable.

The capacity of the various Member States to adopt the reference framework of services of general interest differs, leading to mutual incomprehension. This is regrettable, because public local housing enterprises in Sweden and other Member States such as France, the Netherlands and the United Kingdom, have to cope with the same social realities and challenges. When the Commission acts or is forced to act, it mechanically applies the rules for a given sector. It is sometimes ignorant of the workings of the sector, which can lead to fairly brutal decisions, e.g. in the case of the Netherlands.

'Manifest error': the Dutch case

In reply to the notification by the Dutch government, the European Commission considered that the Dutch social housing funding system should comply with the principles set out in 2001 for Ireland³. It stated that "when allocating their dwellings, the housing corporations are under the obligation to grant priority to persons with difficulties to access decent housing due to their income or other circumstances". But, it continued, "(...) their housing activities are, nonetheless, not limited to socially disadvantaged persons. In cases of overcapacity, the housing corporations also let their social dwellings to persons with relatively high income, whereas private landlords do not benefit from state aid and are, therefore, disadvantaged." The Commission concluded that "the possibility of allocating social housing to high income groups or to enterprises has to be considered as a manifest error in qualifying Dutch social housing as a service of general interest". Given that a service of general interest must have a social character, "the definition of the activities of the Dutch housing corporations therefore has to have a direct link to socially disadvantaged

persons and not only to the maximum value of the dwellings". Therefore, the European Commission determined "that letting dwellings also to other persons who are socially not disadvantaged cannot be considered as a service of general interest". It directed the Netherlands to sell all rented social housing that did not comply with that definition of a service of general interest; this was considered by the Commission to be "overcapacity". This decision is also significant because the state aid in this case takes the form of public guarantees and tax concessions, rather than flows of funds.

The European Commission's analysis of the 'social nature' of the service of general interest is at odds with the principle of universal access to social services as defined by the Member States and, in a wider sense, to services of general interest in the European Union. It is also in conflict with the principle of subsidiarity and the freedom of Member States and their public authorities to define services of general interest.

However, there is nothing in Community law that prevents organisations from managing both social housing that meets social needs and private housing that does not meet any specific obligation, as long as its operations are transparent, with separate accounting for both activities, and state aid goes only to help those in housing need. The obligation to sell dwellings is unjustified and disproportionate. Because direct subsidies for social housing have been abolished in the Netherlands, cross-subsidies between private and social housing are necessary to ensure the continuity of social housing as a service of general interest and the development of new social housing.

The European Commission concluded that the housing corporations could let on a share of their social dwellings on the private market, if the profits were reinvested in funding the social share. These profits would have to be deducted from the state aid. Although the Commission did not state precisely how the proportion disposed of at market rents or for sale was to be calculated, this option introduces new room for manoeuvre in the definition of the scope of social housing as a service of general interest and in defining the boundary between activities relating to a service of general interest and private activities.

The proportionality and necessity of derogation: the French case

In response to repeated suits filed by French banks and one Dutch bank with the European Commission, the Commission notified France that the tax-favoured treatment granted to the Livret A savings scheme, which finances social housing in France through a single national public bank, was incompatible with Community law. France holds that it is necessary for providing general services such as social housing funding. France refers to article 86§2 of the EU-Treaty which stipulates that "undertakings entrusted with the operation of services of general economic interest (...) shall be subject to the rules contained in this Treaty, in particular to the rules on competition, in so far as the application of such rules does not obstruct the performance, in law or in fact, of the particular tasks assigned to them. The development of trade must not be affected to such an extent as would be contrary to the interests of the Community".

The European Commission's White Paper sets out a principle of primacy to fulfil general interest objectives in compliance with the rules of the Treaty from this key article of the EU-Treaty. However, the criteria for the effective implementation of this principle of "non-failure" have been left to the discretion of the stakeholders and culminate in a judgment that is by definition subjective and set within the context of proportionality and necessity.

In its decision relating to the special treatment of public social housing funding, the Commission considered that this was not necessary to fulfil the general interest mission of the provision of social housing and that there was no evidence of a risk of destabilising the French system of social housing funding. On the contrary, the Commission considers that its abolition was "likely to provide for more transparent and more efficient objectives of bank accessibility and social housing funding". It therefore requested that France put an end to this treatment within nine months. France can appeal against this at the Court of Justice of the European Communities, and the government of Prime Minister Fillon announced on 19 June 2007 that it would do so. The government has also announced that it will study the reform of the Livret A to make it compatible with Community rules and to preserve its function of

funding social housing.

State aid in the new member states⁴

A reassessment of neighbourhoods with large-panel prefabricated buildings is a priority in the new Member States. The ten Heads of State and Government teamed up in the Council to obtain the eligibility of such neighbourhood renewal programmes under the cohesion policy 2007 to 2013. In most of the new Member States, these large neighbourhoods with public housing were privatised in the nineties, but to different degrees in each country. These large prefabricated housing estates and tower blocks had been sold to their tenants at token prices, so that the municipalities transferred to tenants, often of modest means, the heavy burden of refurbishing and maintaining badly constructed buildings which had not been maintained for nearly 30 years.

The buildings, which are now managed by commonholds or cooperatives, need thorough modernisation, both structurally and energy-wise. The Czech Republic reported its modernisation programme to the European Commission on 6 July 2005. The programme consisted of the refurbishment, improvement of energy efficiency, urban renewal and ghetto-prevention in these areas, as well as preservation of the existing social mix. The state aid of EUR 63 million over the period from 2005 to 2009 consists of subsidised loans and bank guarantees for the co-owners to enable them to finance the refurbishment. The European Commission holds that this state aid, granted to private commonholds, cooperatives and municipalities is subject to the control of state aid. Indeed, although this aid is in fine granted to owner-occupiers, nothing prevents them from renting out their dwellings, which would be an economic activity. The same applies to municipalities which refurbish their own public housing stock. The Commission also holds that the funding of large prefabricated housing estates affects intra-Community exchanges, as the European real estate market is open to competition and exchange. Nevertheless, based on the analysis of the proportionality and necessity of the aid, the European Commission concluded that the aid is compatible with the provisions of the Treaty, as the impact on exchange would not conflict with the interest of the Community. However, maximum amounts of state

aid were specified, which considerably reduce the capacity of the new Member States to develop large-scale renewal schemes with the support of the Structural Funds which they used to implement before they joined the European Union. Paradoxically, their entry into the European Union has diminished their capacity to intervene to improve poor co-ownership housing, due to Community state aid rules.

These examples illustrate the sometimes seemingly Kafkaesque bureaucratic procedures and the importance of the principles of necessity and proportionality for appraising the compatibility of state aid granted for social housing or even private or privatized housing, regardless of its qualification as a service of general interest. The mechanical application of the general rules prohibiting state aid to the housing sector leads to reduced capacity for Member States to prevent urban and social decay and to avoid increased long-term costs

The definition of Community interest is also essential, as long as any public intervention in run-down neighbourhoods in the "European real estate market" necessarily has an impact on intra-Community exchange, according to the European Commission.

Limited to what is necessary: the proportionality rule is challenged

The application of the principle of proportionality to the arrangements used for organising and funding social housing is a complex exercise. The judgments of the Court of Justice of the European Communities relating to such matters in other fields⁵ seek to demonstrate that the objectives of a particular measure can be accomplished in a manner which is less harmful for the Community interest and comply with Community law if it is in conflict with Community interest. In other words, the measures taken must be disproportionate considering the intended objective, which means that their effects have to be limited to what is strictly necessary for the protection of the interests that they strive to guarantee.

Social housing funding in France

In the French case, the Commission judged that special tax treatment of Livret A savings was incompatible with the provisions of the Treaty. It held that the scheme was not indispensable to ensuring funding for social housing without considerable

additional costs to public finances, and asserted that funding for social housing could be ensured by numerous fiscal and budgetary means. Although it acknowledged that the use of national savings with a special untaxed savings book was a helpful tool, it said this did not require specific exclusive rights. In effect, it rejected the French argument that the abolition of these specific rights was likely to result in decreasing savings and increased costs for social housing.

This purely theoretical and judicial approach omits any economic assessment of the potential impact of the scheme's abolition. In its decision, the Commission failed to consider the context: the tremendous housing shortage in France, the programme for construction of 500,000 new social dwellings in the next five years, the ambitious urban renewal programme for disadvantaged neighbourhoods. The Commission also failed to taken into account the possible impact of its decision on the funding of activities and social housing enterprises. Nor did it consider the often irreversible nature of the abolition of tax-favoured treatment.

The judgment of proportionality was not backed up by any assessment of alternative hypotheses, but based on a simple assumption that an alternative was envisageable. However, there is a limit to that mode of decision-making when an issue is as complex as the funding of social housing. The decision could affect financing for five million social dwellings and their rent levels. Challenging the Livret A risks seriously affecting the economic viability of the system of funding social housing in France. This system relies on long-term loans of funds collected by the untaxed Livret A. The tax treatment is intended to guarantee the steady and accessible provision of funds. And it enables a few large accounts to cross-subsidise a large number of small saving accounts with fairly high management costs, often held by disadvantaged families. Jeopardising this form of savings would inevitably put an end to the cross-subsidies, as the large account-holders would move their money to alternative savings products. This would threaten the viability of the entire system and make social housing less affordable.

French law relating to solidarity and urban renewal imposes on each and every local authority the obligation to provide for at least 20% of social housing. This legal

obligation is intrinsically linked to the funding mode of social housing. In addition, the Social Cohesion Plan and the National Urban Renewal Program both have significant inputs from social housing. These activities require long-term stability of financing conditions.

Conclusion

The development of social housing can only contribute to the implementation of the objectives of the Community and its general principles: guaranteeing fundamental rights and the right to housing, maintaining a high level of social protection, improving the quality of life, combating social exclusion and promoting economic and social cohesion. In both new and old Member States, social housing will have to cope with new challenges in terms of sustainable urban development, occupational mobility, the increasingly insecure and inequitable distribution of income, competition between territories, mitigating the impact of real estate speculation, and housing affordability. It thus contributes to the Community's mission of harmonious development of economic activities, sustainable and non-inflationary growth, stability of the Eurozone and a high level of competitiveness.

Above all, however, the sustainable development of social housing in the European Union requires that all Member States understand the Community legal framework as it relates to social housing. Such a framework should not be based merely on successive derogations from general provisions. A stable framework would allow Member States to:

- define the scope and specific role of social housing, adapt it to individual needs and develop their local housing market in coordination with other providers and stakeholders

- define and impose public service obligations relating to the nature and quality of the service, i.e. its financial affordability, priority households, and tenure issues;

- define and impose public service obligations regarding the operation of social housing providers—for example, that they be non-profit specialised organisations rooted in the local community; that they re-invest profits; that they operate on a partnership basis with participatory governance.

ensure funding for social housing and the economic viability of the sector in the long run;

guarantee the effective continuity of the service at local level and its universal access as a service of general interest.

The choice of instrument

How can this framework be implemented in a coherent way? Do we have to continue with derogations? Is a framework directive needed to cover all services of general interest? Do we need a sector-related directive covering social and health services of general interest, similar to the regulations that protect vulnerable consumers in matters of basic social needs? Do we have to revise the Single European Act? Should we review the Treaty and complete it with a social dimension that reflects life in the 21st century rather than that of the past?

The choice of the instrument is one for Council—that is, the Member States, their governments, the ministers responsible for social housing and their informal Council. Then it will pass to the European citizens, with the new European referendum on institutional reform that succeeds the failed Dutch and French referenda on ratification of the constitutional Treaty. Only a clear mandate from the Council can secure the future of social housing and its contribution to Community interests.

译文 1;

17. 服务大众的社会住房

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简介: 社会住房和社区目标

欧盟社会住房的发展无可置疑地符合许多欧盟目标, 即:

推动整个欧盟的经济活动和谐、均衡和可持续发展;

高水平的就业和社会保障;

可持续的, 非通货膨胀增长;

高度的竞争力和经济表现的收敛;

较高水平地保护和改善环境;

提高生活水平的质量标准。

提供社会住房加强欧盟利益。不过，这本质上并不符合竞争和统一市场的规则。其旨在调整周期性或结构性的市场失灵的负面影响。

虽然活动的地方特色和低水平的竞争扭曲，是欧盟法律考虑的问题，整个问题最终是一个政治决定的问题，关于各成员国提供给欧盟的各种目标之间的定义层次的问题。

下图表所示，有些目标支持社会住房的发展，而另一些不太支持。图 1 说明了社会住房在很多方面有助于达成欧盟的许多目标，但也是欧盟的运作规则（从竞争和统一市场的规则的角度看来）的障碍和减损。

图 1 社会住房和社区利益--利益平衡

对欧盟目标的贡献

促进整个欧盟经济活动的和谐、平衡和可持续发展(第 2 条，欧洲共同体条约 [ECT])：社会住房一直伴随着经济发展，可以被视为是生产性基础设施，因其有助于经济活动开展地的员工住宿。

高水平的就业和社会保障（第 2 条，ECT）：社会住房给建设和服务行业提供可观的就业。它是旨在满足基本社会需求的社会保障政策之一。

•消除歧视：社会住房可容纳在住房市场中的歧视的人。。

可持续、非通货膨胀的增长

（第 2 条，ECT）：社会住房可以打击房地产投机和温和其对房价增长的影响，这影响了家庭的购买力。

高水平的竞争力和经济表现收敛（第 2 条，ECT）：社会住房是影响国家的竞争力和吸引力的一个因素。

高水平地保护和改善环境

（第 2 条，ECT）：社会住房有助于改善环境，特别是提高能源效率。

提高生活水平和生活质量（第 2 条，ECT）：社会住房通过提供住房和高质量服务有助于提高生活质量。

经济和社会凝聚力（第 2 条，ECT）：社会住房与加强经济和社会凝聚力的目标一致。

承认住房福利的权利（《欧洲联盟基本权利宪章》）：社会住房是一类有效的国家住房补贴。

尊重住房权利（欧洲理事会社会宪章；会员国的国际承诺；共同的宪法传统）社会住房是实施住房权利的有效工具。

消除社会排斥（第 136 和 137 § 2 条，ECT）：社会住房有助于消除居民的社会排斥。
•货币一体化（第 87 条，98 和 105 条，ECT）：社会住房有助于减少房地产投机，从而维持货币稳定。

服务大众利益（第 16 和 86 § 2 条，ECT）：社会住房应为大众利益服务，从而成为欧盟的关键价值。从欧盟的目标出发

自由成立和活动追求（第 43 条，ECT）：满足大众利益目标的社会住房发展，依赖于有公共服务义务的住房提供者（特点是非营利的定位，社会住房利润的再投资，有限的土地管辖权等）和主管公共机关的具体任务，这都构成了自由成立和活动追求的障碍。

提供服务的自由

（第 49 条，ECT）：提供社会住房服务大众利益以官方授权当地企业提供服务为基础，以确保服务和社会住房基础设施的连续性。这项规定将影响提供服务的自由。

资本自由运动（第 56 条，ECT）：提供社会住房服务大众利益以根据房屋使用和分配情况的公共服务义务为基础。这会影响到资本的自由流动，包括购买不动产和土地的自由。

实施和保持排他性和具体权利的条件

（第 86 条 § 1 ECT）由官方授权的资助大众利益的独家权利，和/或为社会住房事业施加机构公共服务义务的特殊权利，可能违反该条约，但只要其满足大众利益，有效地提供社会住房，则可被接纳。

•国家援助问题（第 87 条 § 1 ECT）：

以补偿形式提供给服务大众利益的社会住房事业的国家援助，与该条约中有关国家援助规则和一般限制的例外兼容。兼容性取决于透明度和适当补偿的原则，特别取决于通过负责的公共机关对的社会住房事业的正式委托。

在竞争规则方面，如果个别会员国将社会住房归为大众利益的服务，则允许减损条约中禁止国家援助的条款。减损本身已被欧盟利益和社会住房服务大众利益的

作用接受和合理化。但仍然存在一个问题：如何界定服务大众利益的应用范围。委员会称荷兰政府犯了个“明显的错误”，将社会住房界定为大众利益的服务，该裁决说明了欧盟将自己的观点强加给成员国的能力。这个问题目前正在等待欧洲委员会和荷兰政府当局最终解决。

根据欧洲立法，欧盟法律的规定不得影响社会住房的服务功能，这是有效执行欧盟其他目标必不可少的，即尊重基本权利，保护社会的凝聚力和团结的原则。欧洲立法也表示：“本指令（服务指令）不处理社会服务资金，或相关援助制度。也不影响会员国制定的标准或条件，以确保社会服务的有效执行服务大众利益和社会凝聚力的功能。此外，本指令不应影响会员国的社会服务的普遍服务原则。这句话的最后一部分与荷兰通知案中欧盟委员会的立场相矛盾。

欧洲议会和委员会方法的这些差异说明了目前的权力平衡。欧盟委员会遭到服务指导委的反对，因其通常排斥社会住房和社会服务。行政机关和立法机关之间的权力斗争，揭示了这个问题对于欧盟是个怎样的难题。

大众和社区的利益之间的平衡

到目前为止，总体利益和欧盟利益之间的平衡已经确定，由在各案件的基础上默认，以及由欧盟法律规定引起的减损，那些规定会阻碍社会住房在欧盟的发展。这些减损不是自发产生，是 CECODHAS（欧洲社会住房提供者）游说的结果。欧盟的社会住房框架是该条约的一般规则的连续减损的结果，因此，不一定内部一致。

欧盟委员会发表了一份关于大众利益的社会服务的特殊通告，包括社会住房。委员会在其中承认其委托给这些社会服务的具体目标，其融入欧盟的目标和“里斯本战略”的目标，及其组织和管理。在此通告中委员会还宣布了有关“成立立法机构的必要性和法律的可能性的建议”的咨询会。

然而，最根本的问题是平衡间或冲突的目标，如何调和总体利益和欧盟利益，以及如何编纂非正式共同体框架。欧洲议会支持为社会服务提供更大的确定性的过程，但是，目前尚不清楚在委员会内部的权力斗争将如何发挥出来，还有未来的“为社会服务的欧洲战略”将包含什么。

有关荷兰社会住房的定义，瑞典当地住房企业的国家援助，和法国取消私人储蓄投资社会住房的税收优惠地位，在这些问题上的诉讼会持续并且很有可能会以痛

苦的和不可逆转的决定结束，

增加欧盟诉讼和法律的不确定性

社会住房领域尚未受制于欧洲的法律框架，否则此框架将调节全部经济活动。房屋似乎已经通过的欧洲经济和货币一体化进程的网格下滑。只在九十年代末，和2000年上半年，由于欧盟法律有关国家援助的不确定性日益增长，某些会员国才开始报告他们向欧盟委员会的社会住房提供的注资体系和国家援助系统。爱尔兰，英国，意大利，荷兰，德国，瑞典和捷克共和国认为有必要向欧盟委员会报告其对社会住房的国家援助系统，以获得其发展和现代化建设所需的法律确定性。欧洲房地产联合会提交的诉讼，反对对市住房企业在瑞典的国家援助，法国和荷兰银行组成的财团，反对法国社会住房的公共资金的具体权利，也有助于提高社会住房的重要性意识，即不仅主管部门，而且社会住房供应商，都认为目前在各成员国现有系统的法律上的不确定性。

荷兰的社会住房的定义，瑞典的国家援助市政住房企业的理由，或法国有关社会住房资金的具体权利的比例，与之有关的欧盟诉讼其实可以危及社会住房在欧盟成员国的定义、组织和资助方式，并影响其发展的条件。荷兰的社会住房制度因其范围限制和僵化的定义将不再满足日益多样化的人口需要，会影响未来的发展。它也将危及新的社会住房必要的交叉补贴和部门的经济可行性。挑战授予城市社会住房企业的国家援助，将进一步动摇瑞典住房市场的监管工具，特别是市住房企业和当地居民协会之间的租金的制度化协商。它会影响法国用于社会公共住房拨款制度的收集储蓄的特殊权利，并可能危及整个资金分配制度，增加社会住房的融资成本和减少目前与民族凝聚力计划有关的的努力和承诺。

这些初步的侵权程序将引发不久的将来欧盟的决定，并在上诉的情况下，他们可能导致共同体法院修订共同体法律的判决。这样的法律决议不会对欧盟社会住房的未来发展保持中立。

评估允许国家援助的社会住房标准

什么纠纷导致欧盟委员会负责竞争的部门确定当前的系统是否与欧盟立法兼容呢？怎样的更正建议使国家体系欧盟兼容？

瑞典的情况

有关社会住房一个会员国答案的最近例子，是 2007 年 3 月 7 日委员会的决定，授权瑞典每年为老年人的社会住房的建设拨出 540 万欧元的补贴，直到 2011 年。负责理事尼利·克洛斯表示：“这种援助，有利于所有投资者，将有助于给瑞典的老人提供适当的住房。公共干预是必要的，因为目前瑞典的住房市场不能够满足需求”。委员会指出：“由于瑞典市场上的住房普遍缺乏，为老人建造带有特殊设施的房屋并不是私营部门优先考虑是事情.....瑞典提出激励机制，坚持社会公平在单一市场的竞争而不过度扭曲的原则。”据克罗斯称，“这种所有投资者都可以得到的援助，将有助于给瑞典的老人提供适当的住房，公共干预是必要的，因为目前瑞典的住房市场不能满足需求。”

这一决定提供了一些评估社会住房的国家援助是否符合欧盟竞争规则的标准。决定依赖于“条约”的一般原则，有关处理必要性，相称性，平等性和非歧视，以及对评估补贴如何影响竞争。

必要性 决定承认住房市场的结构未能满足老年人的特殊需要。”瑞典的普通住房短缺”表明，市场失灵不仅限于老人的住宿，而是延伸到整个住房市场。因此，有必要国家干预，打击这种周期性的住房市场失灵，尤其是社会平等的目标。

分配比例 决定证实说援助按以下的原因分配：只占建设成本的 10%，该部门的利润空间狭窄，补贴期限上限为五年，并且住房专门分配给老人，。

同等的待遇和非歧视性 援助提供给所有接受的政府当局给老人分配住房的单位。

竞争的扭曲 考虑到活动的地方特征，其效果是有限的，有限的国家援助和对任何投资者的实用性。

其他瑞典案件 -地方房企国家援助的合法性

第二个瑞典案件中，欧洲房地产联合会对国家援助当地房企的合法性进行抗辩。该援助提供给低迷区域市场的改制企业和紧张市场地区的新住房建设，如斯德哥尔摩地区。原告称，这种援助是不符合竞争规则，应予以赔偿。委员会决定受理该案件。

瑞典有公共住房的普遍概念：根据定义对所有人开放，并用于调节住房市场、防

止房地产投机的手段。正因为如此，瑞典将本地房企明确限定为社会住房事业。因此，将其制约在系统的防御中。新政府最近任命一个特别委员会，以便于该国正式答复欧盟委员会。提出了三种可能的选择：

- 缩小当地住房制度的范围，在欧洲委员会关于爱尔兰和荷兰的决定允许的范围内——限制对弱势群体的服务。
- 引入社会住房/公众开放住房的混合体系，限制社会住房部门的国家援助。
- 保持完全符合市场的公共地方住房的开放的系统，并停止与平等对待的原则一致的国家援助。这将需要赔偿自瑞典加入欧洲联盟后给予的非法援助。

由于欧盟的社会住房定义与瑞典的普遍传统不一致，围绕第三个选项似乎要形成一个共识。这第三个选项实际上与瑞典本地房企的目前作用最接近。

欧洲房地产联合会的投诉有两个元素。第一质疑瑞典地方当局对困难房企的国家援助的合法性，其困难由于人口下降和低需求造成——特别是在北部和中部。公积金局认为与有关老人住房的案件不同，此案件不能合法给予国家援助，因为瑞典没有将公共地方住房限定为大众利益服务。

第二质疑以公共贷款担保的形式为当地公共房屋的企业提供长期国家援助的合法性，它涉嫌扭曲竞争。公积金局也反对现行的私人住房的租金规管制度。瑞典对当地的租赁市场的调控，基于一个完全与普通住宅市场整合，而不是专门满足弱势社群的需要。私营部门的租金根据租户协会和本地公共房企之间的协议。租金协议作为法院在私人市场进行诉讼的参考。公营房屋公司的公共服务义务包括落实租金政策，轮候名单分配住房，而不是选择最无风险的住户，并允许地方政府拨出一定比例的空房给需要的人——从而真正让一些弱势租户住进公共房屋公司的房子，虽然这不是他们唯一的使命。

可以说，瑞典的公共住房制度，由于其特殊的公共服务义务满足社会住房服务大众利益的定义。然而，瑞典法律并没有提及服务大众利益的概念，社会住房的历史概念也已让位于一般住房服务。新的保守党政府希望在所有利益相关者（租户协会，地方公共住房企业联合会和瑞典房地产联合会）之间找到一个内部解决方案。

欧洲联盟最终同意若其修改租金监管制度的要求被考虑，则撤回其法律行动。然而，这有条件的撤诉不会影响欧洲委员会的程序，这让其感觉自身被撤销租金的

权力斗争剥削，而且由于其决定可能大量提高租金。即使撤销两个诉讼，欧盟委员会将处理非法国家援助的档案。由于没有明确的条件允许国家援助作为公共服务义务的补偿，其将在扭曲竞争的程度和尊重必要性、比例性、非歧视和平等对待的原则的基础上判断。

瑞典的案例说明社会住房可被视为为大众利益的服务，因为它符合社会的需求，其提供的住宿可作为普通住房市场的补充。有趣的是，既不是旨在支持私人楼宇市场、并提高现有住房存量的价值的政府，也不是希望保持自己的自由回旋的公共地方房企，希望在瑞典法律中正式界定住房为服务大众利益。只有租户联合会认为这是可取的。

各成员国采纳的服务大众利益的参考框架的能力不同，从而导致互不理解，这是令人遗憾的，因为瑞典和其他会员国，如法国，荷兰和英国地方房企，要面对相同的社会现实和挑战。当委员会行动，或者是被迫采取行动，它机械遵守某一部门的规则。它有时对该部门的运作一无所知，这可能会导致相当残酷的决定，例如荷兰的情况。

“明显错误”：荷兰的情况

在答复荷兰政府的通知时，欧盟委员会认为，荷兰的社会住房资金系统应符合成立于 2001 年爱尔兰原则，称“分配住所时，住房公司有义务根据收入或其他情况，给予不能住好房子的人优先权”。但是，它继续，... .. 然而，他们的住房活动，不仅限于社会弱势者。在产能过剩的情况下，住房公司也让他们的社会住宅提供给收入相对较高的人，而私人业主不受益于国家援助。委员会得出结论认为，“向高收入群体或企业分配社会住房的可能性将荷兰社会住房界定为大众利益服务的明显的错误。鉴于服务大众利益必须有一个社会特点，”因此，荷兰住房机构的活动的定义与弱势群体有直接联系，不仅要为住宅有最大价值”，因此，欧盟委员会决定”也提供住宅给其他非社会弱势群体不被视为服务大众利益”。它指示荷兰出售不符合服务大众利益的所有租用的社会住房，委员会认为这是”产能过剩”。这个决定也意义重大，因为这种情况下的国家援助是公共担保和税收优惠的形式，而不是资金流。

欧盟委员会关于为大众利益服务的”社会性质”的分析与会员国定义的享受社会

服务的普遍性与辅助性原则、会员国的自由和政府定义大众利益服务相冲突。然而，欧盟法律不能防止机构建造社会房屋满足社会需要，也不能防止其建造不满足任何特定义务的私人房屋，只要其业务透明，这两项活动的单独核算，国家援助只帮助那些需要房屋的人。出售住宅的义务是不合理和不相称的。因为在荷兰已经取消了对社会住房的直接补贴，有必要利用私人和社会住房之间的交叉补贴确保的社会住房的连续性，服务大众利益和发展新的社会住房。

欧盟委员会推断如果资助社会份额的利润再投资，住房公司可以在私人市场引进社会住宅份额。这些利润必须从国家的援助中扣除。尽管该委员会没有明确说明市场租金或出售的比例如何计算，此选项给定义服务大众利益的社会住房范围和服务大众利益的有关活动和私人活动之间的边界界定引入了新的回旋余地。

减损的比例性和必要性：法国的情况

为答复法国银行和荷兰银行向欧盟委员会反复提交的诉讼，委员会通知法国，其对待 Livret 储蓄计划的税收优惠待遇与欧盟法律相抵触，该计划通过一个单一的国家公共银行给法国社会住房提供资金。法国认为有必要提供一般的服务，如社会住房资金。法国参考欧盟条约第 86 条 § 2 规定，“受托运作服务大众经济利益的事业(...)应遵守本条约中的规则，特别是竞争的规则，到目前为止应用这些规则，在法律或事实上，并不妨碍其执行分配的特定任务。不能影响贸易的发展使其违反欧盟利益”。

欧盟委员会的白皮书阐述了优先的原则，以按照《欧盟条约》中的重要条款《条约》实现大众利益为目标。然而，这种有效贯彻“成功”原则的标准已经留给利益相关者判断，在主观的定义和相称性和必要性的背景下的判断。

在其有关特殊处理社会公共住房资金的决定中，委员会认为没有必要提供服务大众利益的社会住房，以及没有任何破坏法国的社会住房资金系统的风险的证据。相反，委员会认为废除“可能为银行贷款和社会住房资金提供更透明和更高效的目标”。因此，要求法国 9 个月内结束这种处理。法国可向欧盟法院提出上诉，总理菲永政府于 2007 年 6 月 19 日宣布上诉反对。政府还宣布将研究改革 Livret A，使其与欧盟的规则兼容，并保留其社会住房的资金功能

新成员国的国家援助

对大型面板的预制装配式建筑物的居民区进行重新评估，是新成员国的优先事项。十个国家和政府首脑合作组成理事会，在 2007 年至 2013 年的凝聚力政策下取得邻里重建计划的资格。在大多数新成员国，这些大型公共房屋街区在 20 世纪 90 年代被私有化，但是每个国家的程度不同。这些大型预制屋和塔块已经以象征性的价格出售给租户，使市政公债以最温和的方式将沉重负担移交给住户，翻修和维护将近 30 年未维护的严重损坏的建筑。

现在终身拥有或合作拥有的建筑需要通过全面的现代化建设，合理使用结构和能源。2005 年 7 月 6 日，捷克共和国向欧盟委员会报道了其现代化计划。该计划包括翻新，提高能源利用效率，这些地区的城市改造和防止贫民区，以及维护现有的社会组合。从 2005 年至 2009 年期间的 6300 万欧元的国家援助，包括共同所有人的贴息贷款和银行担保，使他们能够融资翻新。欧盟委员会认为，提供给私人终生共有、合作拥有和市政公债的国家援助是受国家援助的控制。事实上，虽然这种援助是精心提供给自住的业主，但不能阻止他们出租自己的住宅，这将是一项经济活动。这同样适用于翻新自己公共住房存量的市政公债。委员会还认为，投资大型预制屋会影响到欧盟内部交流，因为欧洲的房地产市场对竞争和交流是开放。然而，在对援助的必要性和比例的分析的基础上，欧盟委员会认为援助是与该条约的规定相一致，因为其对交换的影响不会与欧盟的利益冲突。然而，国家援助的最高金额指定了，从而大大减少新成员国的能力，在建筑基金的支持下，发展大规模的重建计划，加入欧盟前使用此基金实施建设。奇怪的是，由于欧盟的国家援助规则，他们加入欧盟削弱了自己改善贫困的共同所有的房屋的干预能力。

这些例子说明了不论其服务大众利益的资格，有时看似卡夫卡似的官僚程序和必要性和相称性原则的重要性，以获得国家援助的社会住房兼容性评价。机械应用一般规则禁止给住房部门国家提供国家援助，导致会员国防止城市和社会腐败以减少的能力，避免增加长期成本。

欧盟委员会称，欧盟利益的定义也很关键，只要任何对“欧洲房地产市场”的破落街区的公共干预一定影响欧盟内部交流。

限制于必要：相称原则受到挑战

将相称性原则应用于组织和资助社会住房的安排是一项复杂的工作。欧盟法院对其他领域有关事项的判决力图证明某项措施的目标如果与欧盟利益冲突，能以较小损害欧盟利益完成，并符合欧盟法律。换句话说，所采取的措施必须考虑预期的目标，这意味着要严格保护其利益。

法国的社会住房资金

在法国的情况下，委员会判决 Livret 储蓄计划的特殊的税收待遇不符合条规定。它认为，为确保社会住房的资金，而不用大量的公共财政额外费用，该计划并不是必不可少的，并断言，社会住房的资金，可以通过大量的财政和预算手段来保证。虽然它承认，使用一个特殊免税储蓄书的国民储蓄是一个有用的工具，它表示这并不需要特定的专有权利。实际上，它拒绝了法国的论点，取消这些特定权利可能导致社会住房的储蓄减少和成本增加。

这种纯理论和司法方法忽略了任何取消计划的潜在影响的经济估计。在其决定中，委员会没有考虑具体情况：法国巨大的住房短缺问题、在未来的五年中建设 50 万新社会住宅的计划、雄心勃勃的贫困市区重建计划。该委员会还没有考虑其决定对活动和社会住房企业的资金可能产生的影响。它也没有考虑取消税收优惠优待的不可逆转的性质。

相称性判断并不由任何备选假设评估支持，而基于一个简单的假设，那就是可以想象替代选择。然而，遇到提供社会住房资金这样复杂的问题时，这种决策模式作用有限。这一决定可能会影响 500 万社会住房的融资与其租金水平。反对 Livret A 可能严重影响法国社会住房集资制度的经济可行性。该系统依靠免税 Livret A 募集资金的长期贷款。税收待遇是为了保证提供稳定和可用的资金。它使一些大账交叉补贴小型储蓄账户，具有相当高的管理成本，通常由弱势家庭持有。危及这种储蓄形式，将不可避免地终止交叉补贴，因为大额帐户持有人会将他们的钱转移到其他储蓄产品中。这将威胁到整个系统的可行性，使社会住房很难承担。法国有关团结和市区重建的法律规定每一个地方当局有义务提供至少 20% 的社会住房。这一法律义务与社会住房的资金模式有着内在的联系。此外，社会凝聚力计划和全国市区重建计划都投入了大量的社会住房。这些活动需要长期稳定的

融资条件。

结论

社会住房的发展不仅有助于实现欧盟的目标和一般原则：保障基本权利和住房权利，保持高水平的社会保障，改善生活质量，消除社会排斥，促进经济和社会凝聚力。在新老成员国中，社会住房将应付城市可持续发展、职业流动、越来越不安全和不公平的收入分配、领土之间的竞争、减轻房地产投机炒作的影响，房屋的负担能力方面的新挑战。因此，它有助于实现欧盟的使命，即经济活动的和谐发展，可持续的、非通货膨胀增长，欧元区的稳定和高层次的竞争力。

然而，最重要的是，欧洲联盟的社会住房的可持续发展要求所有会员国了解欧盟的法律框架，由于它涉及到社会住房。这样的框架不应只基于一般规定的连续削减。一个稳定的框架将允许会员国：

- 定义社会住房的范围和具体作用，满足个人的需要和发展当地住房市场，与其他供应商和利益相关者一致
- 定义和施加有关服务的性质和质量的公共服务义务，即其财政的承受能力，优先户主，和土地使用权问题；
- 定义和施加公共服务的义务，关于社会住房提供者的运作——例如，他们是当地的非营利专门机构；将利润再投资；伙伴关系的基础上经营管理。
- 从长远来看，确保社会住房集资和部门的经济可行性；
- 保证地方级有效的服务连续性在和其作为大众利益服务的普及。

工具的选择

这个框架如何能够以连贯方式实施？我们要继续损失吗？需要一个知道框架包含所有大众利益服务吗？我们是否需要一个相关的部门指令，涉及的大众利益的社会和保健服务，类似在基本的社会需要方面保护弱势消费者的规定吗？我们必须修改欧洲单一法？我们应审查该条约，让它 21 世纪的生活的社会层面，而不是过去的？

该工具的选择理事会是一个——即会员国，他们的政府，负责社会住房和非正式理事会的部长。然后，它会传递给欧洲公民，引发新的欧洲制度改革的公民投票，

正如荷兰和法国批准宪法条约失败的公投。只有安理会明确授权，才可以确保社会住房的未来和其对社会利益的贡献。

原文 2:

Condensate Polishing

If the Bidder proposes to supply a condensate polishing system and oxygen feed water treatment, the condensate polishing plant shall comply with the requirements of this Section.

The condensate polishing plant shall provide the boiler with a continuous source of high quality feed water and also provide emergency protection in the event of a condenser leak. The constant feed water quality obtained downstream of the polishing plant shall allow the application of the combined water treatment (i.e. oxygen treatment) to the feed water for the whole water/steam cycle.

The polishing plant shall obtain the requirements of the turbine supplier or minimal the following treated condensate quality considering the total condensate flow at normal operating condition.

Treated Condensate Quality	Start-up	Normal
Total suspended solids (ppb)	< 100	< 5
Conductivity (µs/cm at 25°C)	< 0.15	< 0.1
Sodium (µg/l as CaCO3)	< 5	< 1
Chloride	20	< 1
Iron (µg/l)	100	< 5

Each condensate polishing plant (one per condensate system) shall consist of three (3) x 50 % pre-filters associated to three (3) x 50 % mixed bed polisher vessels. Each mixed bed polisher vessel shall be supplied with a mixed charge of strongly acidic cation and strongly basic anion exchange resins supported on a bottom nozzle plate collection system. The condensate polishing units shall be rubber lined pressure vessels, each complete with all necessary pipework, valves, controls and instrumentation.

Condensate shall be distributed across the top of the mixed strong cation and anion resins and shall flow down through the bed to the bottom. Treated condensate shall then pass out from the mixed bed polishers via a wedge-wire resin trap.

A 100 % duty bypass control valve shall be supplied to protect the mixed bed resins from high differential pressure and high condensate temperature.

External Regeneration System

Regeneration of the mixed bed resins may be done externally in a common external regeneration system for all of the units' water-steam cycle.

A spare resin charge shall be held in the cation regeneration/resin hold vessel. When a mixed bed resin charge is exhausted, this resin shall be transferred to the resin separation / anion regeneration vessel using demineralised water supplied by the regeneration water pumps.

The spare resin charge shall be sent back from the cation regeneration/resin hold vessel to the corresponding mixed bed polisher vessel giving a minimum plant downtime during resin regeneration. The mixed bed polisher vessel shall thus only be off line whilst resin is being transferred and shall not be kept off line during regeneration of exhausted resins.

译文 2: 凝结水精处理

如果投标人提出提供凝结水精处理系统和补给水处理, 凝结水精处理厂应符合本节规定。

凝结水精处理厂应给锅炉提供持续的优质供给水资源, 也提供发生冷凝器泄漏时的紧急保护。下游的精处理厂得到的恒定的给水质量, 应允许对整个水/蒸汽循环中的给水应用联合水处理 (即氧处理)。

考虑到正常运行条件下冷凝水总流量, 精处理厂应获得涡轮供应商的要求, 或者至少达到以下的加工冷凝水质量要求。

加工凝结水质量	初值	标准
总悬浮固体 (ppb)	< 100	< 5
电导率 (µs/cm, 25° C)	< 0.15	< 0.1
钠(µg/l ,CaCO3)	< 5	< 1

氯化物 $20 < 1$

铁 ($\mu\text{g/l}$) $100 < 5$

二氧化硅 (mg/l , CaCO_3) < 50 < 10

每个凝结水精处理厂（每冷凝系统一个），应包括三个（3） \times 50%的预过滤器与三个（3） \times 50%混合床处理船相连接。每个混合床处理船应安装一个强酸性阳离子和强碱性阴离子的混合电荷，由底部的喷嘴板收集系统支持交换树脂。凝结水精处理的单元应当为内衬压力容器的橡胶，各连结所有必要的管道，阀门，控制和仪器仪表

冷凝水应分布在混合强阳离子和阴离子树脂的顶部，并应沿床流到底部。然后，处理的冷凝水通过楔形导线树脂存水湾，从混合精处理床流出。

应提供一个 100%负责旁路控制阀，以防止混床树脂受高压差和高冷凝温度的影响。

外部再生系统

混床树脂的再生可在一个位所有单位的水蒸汽循环提供共同外部再生的系统的外部完成。

备用树脂电荷应安装在装有阳离子再生/树脂的船上。这种树脂混合床树脂耗尽时，应当使用再生水泵提供的软化水将树脂移送到树脂分离/阴离子再生船上。

备用树脂电荷应从阳离子再生/树脂容器输送到相应的混床精处理容器，再生期间给最低的工厂停工时间。混床精处理器在树脂被转移的时候，而且在树脂用尽再生过程中，不得下线。

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