

Background Paper to the Public Feedback 17 July 2017

Table of Contents

Introduction		2			
	Focus areas and activities	3			
1	Theme 1: Better regulation	6			
	1.1 Action 1: Guidance on EU regulation and public support for housing	6			
	1.2 Action 2: Capacity building for application of state aid rules in affordable housing sector at				
	a city level	7			
	1.3 Action 3: Revision of the SGEI decision with regard to the narrow target group of social				
	housing	8			
2	Theme 2: Better knowledge	10			
	2.1 Action 4: Affordable Housing Good Practice Database	10			
	2.2 Action 5: Provide policy guidance for supply of social and affordable housing in Europe	11			
	2.3 Links With Other Commitments	13			

Introduction

During the Dutch Presidency of the EU in the first half of 2016 the Pact of Amsterdam was adopted at the informal meeting of the ministers responsible for urban matters. It states that European cities will be more involved with the creation of EU legislation, EU funding and knowledge sharing. The relevance of this involvement is highlighted by the statistics that cities and urban areas now house more than 70% of all Europeans, tendency rising.

This simultaneously makes cities the drivers of innovation and the European economy but also the place for many of the societal challenges such as inclusion, integration and empowerment of citizens of the 21st century. In order to ensure that this is reflected by EU legislation, funding and knowledge sharing, the Urban Agenda for the EU was created. The Urban Agenda focuses recently on 12 priority themes essential to the development of urban areas. Each theme has a dedicated Partnership. These partnerships bring together cities, Member States, key stakeholders from civil society and European institutions and other relevant partners. Together, they aim to implement the Urban Agenda by finding workable ideas focused on the topics of EU legislation, funding and knowledge sharing. One of the partnerships is the **Partnership on Housing**. As stated in the Pact of Amsterdam, its "objectives are to have affordable housing of good quality. The focus will be on public affordable housing, state aid rules and general housing policy".

This Background Paper serves as background information to the Public Feedback on the five draft actions developed by the Partnership on Housing to date. Stakeholder feedback will be considered by the Partnership for the development of a draft Action Plan, which will be published on Futurium later in 2017.

Members of the Partnership on Housing are:

- Cities/City Networks: Vienna (AT, coordinator), Lisbon (PT), Poznan (PL), Riga (LV), Scottish
 Cities Alliance (UK), Eurocities
- Member States: Slovakia (coordinator), Latvia, Luxembourg, The Netherlands, Slovenia + 2 observers (Czech Republic and Sweden)
- Stakeholders: AEDES, Housing Europe, International Union of Tenants (IUT)
- EU- Institutions: DG REGIO, DG ENER, DG EMPL, European Investment Bank (EIB)
- Experts: Faculty for Urban Studies Science Po, Paris on behalf of DG REGIO, URBACT

The Partnership's main themes and its three sub groups are found in the summary table overleaf.

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¹ Page iii of the Pact of Amsterdam

Subgroup	Themes covered	Partners involved	Coordinator
Group 1. State Aid	State Aid, Competition Law, Definition of SGEI VAT issues	MS: Slovakia Cities: Vienna, Lisbon, Eurocities HP: HE, AEDES, IUT EU: EIB, EU Commission	Vienna
Group 2. Finance and Funding	Investments and instruments, loans, innovative funding Golden rule', European semester	MS: Netherlands Cities: Lisbon, Poznan, Riga, SCA. HP: HE, AEDES EU: EIB, URBACT, EU Commission	Scottish Cities Alliance
Group 3. Housing Policy	Part a. a. Land use, spatial planning; building ground (land), anti-speculation b. Renovation, energy efficiency Part b. a. Security of tenure b. Rent stabilization c. Co-management, codesign d. Support for vulnerable	MS: Luxembourg, Slovakia Cities: Lisbon, Vienna, Riga, SCA HP: HE, IUT EU: URBACT, EU Commission	Part a. Housing Europe Part b. Slovakia and International Union of Tenants (IUT)

Disclaimer: The partnership acknowledges that the themes selected do not cover the entire housing field in the EU. The selected themes were identified based on the expertise, priority and ability (including human and other resources) of the members of the Partnership to address them and implement them in the period envisaged by the Pact of Amsterdam.

Focus areas and activities

In overall terms, the Housing Partnership aims to create better legal and financial conditions for EU cities who need to invest in new, renewed, affordable housing for their populations on a broad scale. More specifically, the focus of the Partnership is on the supply of affordable housing, including social and municipal housing, affordable rental housing, affordable cooperative housing and affordable home ownership.

At the heart of the partnership's existence is an acceptance that a lack of social and affordable housing is often seen as one of the most critical results of the Global Financial Crisis internationally

(see UNECE, 2015², OECD, 2017³). Nearly 82 million of Europeans face housing cost overburden that forces them to commit more than 40 percent of their family budget and expenditure on housing.

In the period preceding the financial crisis, homeownership was a preferred policy option. In the same period the importance of the social and private rent has decreased along with the stock and funding dedicated to it. Raising awareness about the benefits of the affordable rental housing is one of the first steps that the Partnership undertook. The Housing Partnership (sub-group 3) addresses this issue through increasing knowledge about affordable housing sector. The Affordable Housing Toolkit (see actions below) presents innovative affordable housing practices along with important services that allow the people in housing need to access affordable housing and sustain it. The affordable housing toolkit development presents one of the first and most advanced concrete actions of the Housing Partnership that is in the process of implementation and further development.

The second key concern of the Housing Partnership is **de-blocking the available investment in various** affordable housing options based on specific local market need. The Housing Partnership members based on their long-term experience note that the **State Aid, Competition Law, Definition of SGEI (Sub-group 1)** along with those of the **EU Semester (sub-group 2)**, tend to block affordable housing investment in cities even in cases where funding is available. The Housing Partnership sub-group 1 is focused on de-blocking available investment through suggestions to changes of the State Aid rules and the production of a guidance paper. This is again explained in the actions below.

The review of the social housing investment trends since the 1980s indicates a steady decline. While this move may have been appropriate in the period of the economic growth the reported housing need post financial crisis along with the continued migration toward European Cities in search for employment prompted a revision of this pre financial crisis approach. The Housing Partnership sub-group 2 examines the innovative financial mechanisms and conditions for supporting various affordable housing options (as defined by the partnership) with special regard to the needs in the old and new ("post-communist") Member States. The sub-group proposes actions to address the identified gaps in affordable housing finance and to increase provision of innovative financial options to increase affordable housing supply.

Apart from the lack of affordable housing funding and finance, the lack of access to affordable land (at times the largest expense in delivery of housing in general and affordable housing in particular) has been reported by the Housing Partnership member cities. Sub-group 3 addresses this issue through, examining the ways spatial planning can increase access to land for affordable housing. While the Sub-group has made significant progress in this regard, the concrete actions are in process of definition considering the complexity of the issue and the variation of the needs and possibilities in different EU cities and member states.

The themes that the Housing Partnership will be developing in the next period concern, **safeguards against land and property speculation** (sub-group 3). This is especially important to ensure that the provided affordable housing remains in reach of those in housing need locally. While the Sub-

² UNECE (2015) Social Housing in the UNECE Region: models, trends and challenges. United Nations Economic Commission for Europe, Geneva. Available at:

https://www.unece.org/fileadmin/DAM/hlm/documents/Publications/Social_Housing_in_UNECE_region.pdf

³ OECD (2017) New OECD Affordable Housing Database, OECD, Paris. Available at: http://www.oecd.org/social/affordable-housing-database.htm

group 3 (part a) looks at the issue from the perspective of integrated urban development and property trade, Sub-group 3 (part b) examines the issue from the perspective of the tenants and users. This sub-group examines the ways to stabilize and regulate rents and ensure their sustained affordability while ensuring security of tenure.

While the housing supply may invoke assumptions about new construction only, in the context of the Housing Partnership it also refers to access to existing housing. Low quality, unhealthy, unmaintained housing with low energy efficiency, does not present efficient housing supply. In worst cases this housing is abandoned or squatted. Low quality existing housing that is dilapidated severely because of the above noted challenges can be considered as 'non effective housing supply'. In order to keep the existing housing in the pool of effective housing supply, it is important to ensure its maintenance and renovation (including energy efficiency). The sub-group 3 part b. is examining these issues.

1 Theme 1: Better regulation

1.1 Action 1: Guidance on EU regulation and public support for housing

1.1.1 Bottleneck to be addressed

In recent years in Europe there has been an alarming decline in public investments at the local level. The uncertainty and instability of the finance framework and low expected returns and the lack of legal clarity prevent investment in social and affordable housing. In order to address all these challenges national and local authorities must be able to adopt supportive housing policies in order to create the right conditions for investments in social and affordable housing.

The EU does not have an official mandate on housing. However, in practice, the Commission can have an important impact on national housing policies and affordable housing provision, especially through competition policies related to the application of State Aid rules and the concept of "Services of General Economic Interest" (SGEI). The European Commission has provided guidance on implementation of the SGEI. However, this guidance seems to be limited in terms of the housing sector in general and the issues of affordable housing in particular.

Multi-apartment residential buildings deserve special consideration. A significant share of multi-apartment dwellings in Europe – built in the 1970s or 1980s - will soon reach the end of their life-cycle. Those buildings need deep renovation (including energy efficiency improvements) and in some cases demolition and replacement. Renovation and energy efficient enhancements of such multi-apartment buildings can pose challenges if the tenure is diverse and ownership is in different hands.

Qualifying such renovations as SGEI under State Aid rules is also very difficult to organise and entrust to specific housing providers, especially when they do not own (most of) the dwellings in apartment buildings. In practice this proves to be administratively difficult to implement and can create a serious barrier to the implementation of necessary refurbishment works.

There is a need for a clarification and guidance on how to apply EU regulation including state aid rules and beyond to make state support available to housing in general and multi-apartment buildings in particular.

1.1.2 Objective

The objective of this action is to provide more clarity and guidance on the use of state aid support and funding in the housing sector in general and the multi-story apartment buildings in particular. The implementation of this action is expected to contribute to a better understanding at all levels on the application of EU regulations on public support measures for the provision of social and affordable housing. It will also help to develop knowledge regarding current issues in the application of the regulations.

The action will also help to raise awareness of European institutions to continue the work on better EU regulation that can ensure sufficient and adequate supply of social and affordable dwellings in urban areas. Legislative change may be needed in order to ensure more investment can be

channelled in the social and affordable housing sector at the city level. The development of guidance can therefore be adapted in response to changes in regulations as they emerge.

1.1.3 Output

The output from this action is a <u>guidance document</u> that aims to provide greater clarity on the use of state support for social and/or affordable housing, in line with the EU State Aid rules. The guidance will also lay out practical options to provide state support.

The target audience for the guidance document is social, affordable, public and municipal housing providers, tenants associations, financiers and funding institutions as well as legislators at city, region, Member State and EU level.

The guidance document has already been adopted by the Housing Partnership on the basis of indepth analyses of concrete cases in the past years, experiences and data from cities and Member States including the findings, positions and statements of cities, their networks, housing and tenants associations, social partners, academia as well as EU-institutions. More experiences and knowledge sharing on the issue from all levels of government, experts on housing and public investment, legal and economic experts will be welcome.

1.2 Action 2: Capacity building for application of state aid rules in affordable housing sector at a city level

1.2.1 Bottleneck to be addressed

The EU does not have an official mandate on housing. However, in practice, the Commission can have an important impact on national housing policies and affordable housing provision, especially through competition policies related to the application of State Aid rules and the concept of "Services of General Economic Interest" (SGEI). The European Commission has provided guidance on implementation of the SGEI. However, this guidance seems to be limited in terms of the housing sector in general and the issues of affordable housing in particular.

Many city authorities have limited resources to understand the relatively complex rules regarding the application of the State Aid and related regulations. This has led to uncertainty around state aid related to social and affordable housing subsidy in different cities, regions and Member States throughout the EU and prevents housing projects coming forward.

There is both a need for greater understanding in city authorities on the use of state funding support to improve the quality and affordability of housing for households in sustainable and liveable communities as well as for better recognition of the specific needs of cities regarding their specific housing demands by EU institutions.

1.2.2 Objective

The capacity building workshop aims to develop knowledge and mutual understanding on the use of state support in the housing sector in general and the multi-story apartment buildings in particular. It will help to ensure progress towards the more effective application of EU regulations in the housing sector. It will also help to develop knowledge on the specific barriers that cities face in the application

of the state aid rules and identify how regulations and/or guidance can be improved with the goal to increase the supply of affordable housing on the side of EU institutions.

Feedback from the capacity-building process should also allow for further high level discussions on state aid issues related to social and affordable housing with the aim of addressing the negative social, economic, environmental and governance effects of the uncertainty around state aid related to social and affordable housing subsidy in different cities and Member States throughout the EU.

1.2.3 Output

The Housing Partnerships will organise a capacity building workshop of up to 60 participants from cities, Member States and EU institutions, provided that funding through the Technical Secretariat is made available. The workshop plans to take place in 2018.

1.3 Action 3: Revision of the SGEI decision with regard to the narrow target group of social housing

1.3.1 Bottleneck to be addressed

EU Competition rules safeguard the single market of the European Union, from distortions such as monopolies, overcompensation through State Aid and more. In the area of housing EU competition rules can be exempted if the performance of certain housing investments complies with the "Services of General Economic Interest" (SGEI) criteria for exemption. This should however not affect the development of trade to such an extent as would be contrary to the interests of the Union. The effects on trade are limited since housing is not a movable item. State aid rules applied to housing mainly protect cross-border capital flows in real estate and SGEI may affect this only in so far as necessary. Therefore, SGEI in housing should be principally guided by specific national, regional or local requirements, since Member States, regional and local authorities have the competence to identify and address the housing needs and living conditions of their citizens.

The Commission laid down conditions in the SGEI Decision (2012) whereby a public support measure that constitutes state aid to a provider of social housing does not have to be notified to the Commission for ex ante approval before implementing the measure. As an indication to what may be seen as social housing activities exempted from notification of state aid, the 2012 SGEI Decision mentions the term "undertakings in charge of social services, including the provision of social housing for disadvantaged citizens or socially less advantaged groups, who due to solvency constraints are unable to obtain housing at market conditions." The term "disadvantaged citizens or socially less advantaged groups" raises questions and creates legal uncertainty in Member States and cities about its exact significance. Moreover, it clashes with national housing policies providing affordable housing for a broader part of the population.

The Housing Partnership notes that the current definition of social housing as set out in the SGEI Decision (2012) generates legal uncertainty for investors, financiers and, local and national authorities. It excludes relevant target groups in need from the access to social and affordable housing. It is questionable from a subsidiarity and proportionality perspective in the context of how Member States and local authorities support social housing provision.

1.3.2 Objective

An eventual review of the SGEI Decision (technically foreseen in the legal text for 2017) and the considerations mentioned above provide the opportunity to clarify the treatment of social housing in the SGEI Decision. The Housing Partnership believes that the provision of social and affordable housing for clearly defined target groups of people, for the promotion of social cohesion and of non-segregated, mixed communities and for the regeneration of declining urban areas should be accepted under the definition of social housing in the SGEI. The future review of the SGEI 2012 Decision should take this into account and delete the mention of social housing as limited to "disadvantaged citizens or socially less advantaged groups". The Housing Partnership has the objective to influence the Commission to provide more clarity and flexibility for the definition of social housing as covered by the 2012 SGEI Decision.

1.3.3 Outputs

The main output from this action would be additional guidance from the Commission that provides more clarity and flexibility in the application of the social housing definition, as covered by the 2012 SGEI Decision. In this context, the acceptance of sustainable goals like social mix and social cohesion as valid public policy objectives for which State aid may be granted shall be explored. The actual review of the SGEI Decision (2012) and any subsequent changes in the definition of social housing will depend on the decision of the European Commission to start the review process of this Decision.

2 Theme 2: Better knowledge

2.1 Action 4: Affordable Housing Good Practice Database

2.1.1 Bottleneck to be addressed

There is an increased need for social and other affordable housing options in Europe, especially in urban areas that are likely to suffer even more from a lack of affordable housing in the future. The level of social and affordable housing across Europe has been in general decline over the last 30 years as privatisation has increased and the global financial crisis has led to a fall in public expenditure linked to housing. The EU social housing systems have gravitated toward the so-called residual social housing model dedicated only to the vulnerable and poor. In the same period, social and affordable housing has often been stigmatised in many countries and the global financial crisis has changed the way that housing markets operate. It has revealed the weakness of the system that focuses and relies on one tenure (home ownership).

Despite affordable housing being a key issue across many of Europe's cities and despite there being a range of good and bad practice linked to tackling this challenge, there is no definitive and single place that city practitioners and/or housing legislators can go to in order to learn about 'what works and why' around affordable housing. This knowledge gap acts as a bottleneck to investment, with housing practitioners and /or legislators not currently having a single source to access in order to learn and swap ideas on this key urban issue. Although the Commission has developed a 'One stop shop' and 'Urban Platform' on a variety of urban issues the information on housing is limited especially at the city level. This means the level of innovation and knowledge transfer in a time where investment is highly needed on this key issue across Europe is currently restricted.

2.1.2 Objective

The action will design and implement an online <u>database</u> that gathers and presents best practices attached to social and affordable housing across Europe with a particular focus on the governance systems. Its objective is to enable learning about improved provision on affordable housing in Europe's cities that will directly help practitioners to learn from one another and help share innovation. The database on affordable housing will ensure a more systematic collection of good practice in one place and will present projects online so that sharing is easy, interactive and free. At a time when more investment is needed in the affordable housing sector, the database will provide knowledge at national, regional and city level so that a more definitive understanding on solutions can be developed, also in their relevant governance contexts.

2.1.3 Output

The database will aim to get 30 representative examples from across the EU, covering different housing traditions and along a set of categories along first set of thematic priorities, to which the findings of the European Responsible Housing Initiative (ERHIN) can provide a valid contribution, amongst others. The action to pilot the database has already been developed by the Housing Partnership. A sub-group has defined the action, the whole partnership has approved it and started to collect and present the best practice through a project led by Housing Europe and the pro-bono work of Partnership members. The action has created an interactive and interesting online database that is now ready for further development and expansion. Although the action has started to be

implemented it currently has limited coverage which this action will need to address. Currently, the collected examples cover the following issues:

- Integration;
- Social Mix;
- · Social Housing;
- Procurement Policy;
- Aging;
- Energy Efficiency;
- Use of EU Funding;
- Empty Homes;
- Mobilising Private Stock for Social Purposes.

2.2 Action 5: Provide policy guidance for supply of social and affordable housing in Europe

2.2.1 Bottleneck to be addressed

A large part of the Europe's population, especially those in urban areas and those from low income households, cannot access secure, adequate and decent housing. Increasing utility prices, rising housing costs and housing exclusions especially in profit-oriented and speculative parts of the sector have led to the social segregation of marginalised groups. These include not only those on a low income but also those on middle incomes in growing numbers leading to a significant set of negative consequences for both the EU and its Members States.

To overcome these key challenges, there is a clear need for more innovation to help understand, design and implement various interventions at the city and national level. Although a lot of innovative, participatory and integrated projects exist, the good practice is spread far and wide across multiple locations, levels and platforms. In addition, any existing good practice tends to be predominately descriptive and lacks any practical element and therefore does not present housing practitioners (including housing legislators) on city, region and national level with 'tools' that they can easily interpret and utilise in their day to day work or in the development of new legislation aiming on housing. Practitioners working on other urban issues (such as transport, land use and pollution) often enjoy a variety of toolkits from a variety of EU sources. In the housing sector these types of toolkits tend not to exist, particularly at the EU level, and as housing is often affected by different legislative layers (from local building rules to national housing acts), there is a need to identify good paths to pursue in the development of single projects, integrated urban planning and legislation for housing.

2.2.2 Objective

The objective is to develop a Housing Policy Toolkit (building on the best practices data base described in the previous action and additional sources) that provides examples and tools of the ways that social and affordable housing can be provided in Europe's urban areas. The action will enable cities to access information and tools that were proven to have a potential to strengthen the provision of social and affordable housing in urban areas. The objective will not simply provide information on good practice on affordable housing but provide tools that could include templates, models, datasets and policy documents that housing practitioners and legislators can actually use in their work and

easily interpret into their own setting and context. The proposed toolkit will therefore support rather than just inform housing practitioners and legislators.

2.2.3 Output

The action is being developed at the moment by the General Housing Sub-Group and the wider Housing Partnership is also drawing on the initial work of the database described earlier. The Partnership is currently discussing the best ways to cross reference and categorise the practices in order to provide the most relevant toolkit. A concrete option is to align the policy guidance for practitioners, policy makers and legislators with the already existing principles of the Geneva UN Charter on Sustainable Housing and recommendations of the European Responsible Housing Initiative (ERHIN).

The -main purpose of the Charter endorsed by 56 member states of the UN ECE region in 2015 is to ensure the access to decent, affordable and healthy housing in the ECE region. It aims at improving sustainability of housing in the ECE region through effective policies and actions supported by international cooperation. The Charter is based on four principles of sustainable housing:

- Environmental protection
- Economic effectiveness
- Social inclusion and participation
- Cultural adequacy

ERHIN has a more practical perspective. The initiative addresses "Responsible Housing" as a form of fair and ethical housing production and management which improves the economic and social conditions of local communities.

In a very holistic and integrated way, the initiative puts housing in the context of social cohesion, local development and attractiveness, quality of life for tenants/residents and local actors, thus maximizing long term shared value. Corporate social responsibility (CSR) is used as a tool to help providers address current and upcoming challenges. The core elements of responsible housing in this sense are:

- · Economic responsibility and sustainability
- · Local social sustainability
- Environmental sustainability
- Good governance and fair relations with stakeholders
- Responsible human resources management

On the basis of the best examples in the data base as well as the principles of the Charter and experiences of the ERHIN and other sources, the output from this action could provide practitioners, policy makers and legislators with recommendations to develop projects and norms on the provision of affordable housing. Additionally, a set of such recommendations could be taken up by financial institutions as EIB and others in the further development of their funding guidelines.

2.3 Links With Other Commitments

The EU Urban Agenda Housing Partnership is one of four pilot partnerships established under the Pact of Amsterdam and within the framework of the EU Urban Agenda. The EU Urban Agenda has an aim to provide urban dimension to the European policies and it is a part of wider EU efforts to implement international agreements, especially those with an urban dimension.

The Pact of Amsterdam⁴, highlighted that

"The Urban Agenda for the EU will contribute to the implementation of the UN 2030 Agenda for Sustainable Development, notably Goal 11 'Make cities inclusive, safe, resilient and sustainable' and the global 'New Urban Agenda' as part of the Habitat III process'. (The Pact of Amsterdam, 2016, para 8 5). "

In 2015 the UN General Assembly formally adopted a resolution 70/1: Transforming our world: the 2030 Agenda for Sustainable Development, including a new set of 17 measurable Sustainable Development Goals (SDGs)⁶, ranging from ending world poverty to achieving gender equality and empowering women and girls by 2030. The Agenda was agreed by 193 Member States of the UN in September 2015. This document first recognised the importance of cities and towns, which will constitute up to 70% of the world population by 2050⁷. While it could be argued that all the SDG goals are relevant to cities, Goal 11 is specifically dedicated to them.

SDG Goal 11: 'Make cities and human settlements inclusive, safe, resilient and sustainable'

While housing has an indirect relationship with other targets (under the goal 11), SDG target 11.1 is the only SDG target that has an explicit reference to housing and is the key SDG target being advanced by the EU Urban Agenda Housing Partnership:

SDG target 11.1: By 2030, ensure access for all to adequate, safe and affordable housing and basic services and upgrade slums.⁸

Significantly, the New Urban Agenda adopted at the Habitat III⁹ conference in 2016 expands UN member states commitment to housing. Housing is addressed in 24 out of 175 articles. While housing is not the responsibility of the European Union, Housing Partnership presents a unique opportunity to highlight the importance of this issue for the European Cities within the EU Urban Agenda and to advance their implementation.

The core themes of the Housing Partnership align with recent international commitments focusing on urban development in cities. When considering the EUUA Housing Partnership, the unique

13

⁴ Pact of Amsterdam is a framework for the establishment of the EU Urban Agenda Partnership

⁵ http://ec.europa.eu/regional_policy/sources/policy/themes/urban-development/agenda/pact-of-amsterdam.pdf

⁶ These are to succeed the Millennium Development Goals (MDGs), a set of eight measurable goals which were signed in September 2000.

⁷ https://unhabitat.org/new-urban-agenda-adopted-at-habitat-iii/

⁸ http://www.un.org/ga/search/view_doc.asp?symbol=A/RES/70/1&Lang=E

⁹ The United Nations Conferences on Housing and Sustainable Urban Development are taking place once in 20 years (1976 Vancouver, 1996 Istanbul, 2016 Quito)

characteristic of the Housing Partnership working method should be taken into account. Notably, the partnership examines selected themes, defines and implements its actions simultaneously. In addition to the actions that have been agreed for a public feedback at this time, the Housing Partnership has a greater working plan that involves analysis of 10 themes related to housing. This means that the precise links to articles in the New Urban Agenda will be available at the later stage.

At a broad level, the EU Urban Agenda Housing Partnership goal is strongly in line with the NUA article 107 and has a capacity to contribute to implementing this NUA goal directly:

Article 107: We will encourage developing policies, tools, mechanisms, and financing models that promote access to a wide range of affordable, sustainable housing options including rental and other tenure options, as well as cooperative solutions such as co-housing, community land trust, and other forms of collective tenure, that would address the evolving needs of persons and communities, in order to improve the supply of housing.