

Constitutional Treaty, Property Rights, ECHR, VAT & EU REIT

ELO is clearly involved in a number of activities that concern property rights, notably the Constitutional Treaty, the European Court of Human Right - ECHR cases and reduced VAT, with its sister organisations GEFI – Real Estate Private Owners and UEHHA - Union of European Historic Houses Associations.

The Lisbon Treaty

ELO actively lobbied during the period of elaboration of the Constitutional Treaty. ELO welcomed the final version of the Treaty protecting property rights. The inclusion of the European Charter of Fundamental Rights in the Treaty was a key element of ELO's support. On the 12th of December 2007 in Strasbourg, the 3 institutions jointly proclaimed the European Charter of Fundamental Rights. "The Union recognizes the rights, freedoms and principles of the Charter", with a special exception for UK and Poland. As a consequence, their citizens will not have direct access to the European Court of Justice – ECJ on the basis of a breach of their fundamental rights (the option of the ECHR remains for them). The Lisbon Treaty was signed on the 13th of December 2007.

From an ELO and GEFI perspective this is not a mini treaty as the Charter is part of it and the core question of better functioning of the Union is solved. The ratifications should intervene before the 1st January 2009 and most of the Member States have this time opted for a parliamentary ratification.

European Court of Human Rights

ELO is closely following the ECHR court cases and it is to be underlined that a large part of the cases remains related to property rights. Since 2005 a case particularly interested ELO and its sister organization Groupement Européen des Fédérations intervenant dans l'Immobilier - GEFI, the court case *Hutten-Czapska vs Poland* (35014/97 - 22.2.2005), on rent blockage.

Poland was condemned (violation of Article 1 of Protocol 1 – protection of property) as the rent was too low to even enable maintenance of the building by the owner. Poland appealed and the final Grand Chamber upheld the decision. This pilot case is particularly interesting as it clearly condemned rent blockage. On the 24th of April 2008, the ECHR notified the friendly settlement which promises both to resolve fundamental problems with Polish housing legislation – affecting some 100,000 property owners and to provide redress for applicant.

Reduced VAT

Reduced VAT is an important issue for ELO and its sister organisations for housing and repairs. A seminar was organized for our French members in Brussels the 26th February on the need to maintain reduced VAT applied to housing repairs. The issue is regularly raised on many occasions, notably in the context of the European Parliament Intergroup Urban and Housing, and reduced VAT is recognised as an important element for the operators, should they be private or public. The independent evaluation published on the 21st June 2007 by the Danish Consultancy Copenhagen Economics Aps, favourable to reduced VAT applied to repairs, was followed by a Communication of the Commission on the 5th of July 2007 and by a proposal of a Directive modifying the 2006 Directive. ELO is hopeful to see its members viewpoint taken into account in the final proposal, enabling favourable context for repairs on real estate in cities, rural areas and historic houses or places of worship, notably in a context of revision of the Energy Performance of Buildings Directive

EU REIT

ELO joined a coalition led by European Property Federation on the need of an EU REIT – Real Estate Investment Trust. Our European Real estate industry organisations in 2007 lobbied the EU to consider plans for an EU REIT, a cross-border real estate investment company structure that would have similar tax advantages to those in national jurisdictions. The REIT vehicle could enable fair competition across Europe and enhance market security and stability. The coalition viewpoints were elaborated on the basis of the results of a study made by Maastricht University (see www.elo.org). ELO will pursue its work on this issue in 2008 aiming at a favourable scheme for real estate investment.

ENLARGEMENT

Since the recent enlargement of the EU, landownership issues have taken on a new dimension. With the accession of new Member States, the share of rural territories increased to 90% and the question of private property rights remains one of ELO's main issues, as the promotion of private landownership is necessary in both a democracy and a free market economy. **For a long time, ELO has been developing its network of member organisations in new Member States and Candidate Countries.** This has given the organisation a mixture of credibility and visibility even before the Enlargement, helping them to prepare for accession. As the EU continues to consider further expansion, ELO continues to recruit in advance.

THE ENLARGED UNION

The fifth and sixth enlargements, have a political and moral dimension. European, in both geographical and cultural terms, Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia and Slovenia have joined the democratic European family. In taking the enlargement decision, the European Union was not simply increasing its surface area and its population, it was also increasing the EU's competitiveness on the world market, creating positive interdependences between 500 million European Citizens.

The March 2005 European Council decision to enhance the Lisbon Strategy re-launched the entrepreneurial spirit to foster new opportunities also for the rural world and to encourage new ideas for job-creation in the countryside. The Lisbon Treaty is the next step to achieve these goals.



For some years before enlargement, in addition to general services given to all its Members, ELO **provided specific information and advice to its associated Members in the Acceding and Candidate Countries.** The organisation was also lobbying at the European political level in favour of policies supporting rural business and property rights in these countries.

What about Restitution of Land in New Member States?

Despite the fact that this is a national question, property rights are a major issue for ELO, so the organisation is concerned about the restitution of land confiscated by the communist regime after WWII. More than any other concept, private property is at the heart of a liberal economy in democratic countries. The legitimate return of plundered land and payment of fair compensation for nationalized goods by the defunct peoples' democracies allow rural businessmen to inject life into the economy by enhancing the economic and environmental potential of the countryside. With this process still ongoing, ELO, which has Members and Partners all over Europe, supports reforms in the New Member States towards solving this problem. ELO can also bring obstacles such as those (i.e. in Romania, Bulgaria or Poland), which are hampering the development of a liberal economy- particularly in the countryside- to the attention of the European institutions.

Over the last few years, with the support of the European Commission, ELO has organised a series of programmes and events, for example training sessions on "Rural Land Ownership and Utilisation Issues" which informs and trains managers and rural entrepreneurs on legal aspects of landownership in the Union, funding for rural development, and other issues such as the role of the cadastre, banking, or mortgage.

Before and after Enlargement, ELO has continuously worked closely with its Members in New Member States, helping them to deal with the challenges generated by their entry into a Union which is more than fifty years old.