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Study: European regulation of mortgage credit is not the right approach to facilitating cross-border offers

- Federations in favour of an optional European regime -

Brussels – The way toward cross-border competition in the field of mortgage credit is not harmonisation, but an alternative to national regulations. This is the conclusion reached by the Study „An internal European market for housing finance" prepared at the request of the Federation of German Pfandbrief Banks, the German Federation of Private Bausparkassen and the Bundesgeschäftsstelle Landesbausparkassen by the Institut der Deutschen Wirtschaft (Cologne) in cooperation with the Centre for European Economic Research (Mannheim) and Prof. Dr. Johannes Köndgen (Bonn University). The study was presented by the Federations in a meeting at the premises of the European Parliament in Brussels on 26 April 2010, which **MEP Wolf Klinz** (ALDE) opened with the words: *„The current financial crisis has revealed the strengths and weaknesses of certain housing finance systems. The task confronting Europe now is to learn from this crisis and to make sure that there will never again be a repetition."*

The study has examined the economic and legal frameworks of seven Member States and shown substantial differences. For example, in France and Germany consumers prefer long-term fixed-interest loans, while borrowers in the UK seem to rely more strongly on variable-interest credit agreements. Because of the possibility of borrowers in the Netherlands to deduct debt interest from their tax bills, they prefer to take up loans with high loan-to-value ratios; in Germany the owner's equity share is much higher.

Further efforts of the EU Commission at harmonisation in the field of mortgage credit could hardly be expected to change this situation. A German national, for instance, intending to enter into a credit agreement with a French bank would still have to do so in the French language. Conversely, a French bank would have

to apply German law if the borrower lives in Germany. The bank would buffer this higher risk by charging correspondingly higher prices.

On the contrary, if harmonisation efforts were taken further, clear disadvantages would have to be feared: There would be the threat that proven financing structures meeting national peculiarities would be impaired. In the last analysis, the efforts propagated in Brussels for building a single European market would reduce the diversity of products and, as a consequence, damage proven financing structures such as long-term fixed-interest credit, for which a preference exists in Germany, as well as the choice of consumers. This would be an enormous set-back especially to the mortgage markets in the process of the development in the countries in central and east Europe.

Against this background, the authors of the study have proposed an alternative approach. Consumers should be able to choose between the law of their country and an optional European law. This optional legal arrangement (so to speak the "28th regime" in addition to the already existing 27 national regimes) could provide for high consumer protection standards. This would allow consumers to enter also into cross-border credit arrangements attractive for potentially more favorable terms and conditions. Such an instrument could compete with the national credit products and be at the roots of systemic competition.

The authors of the study therefore call upon the European Commission to pave the way for an alternative, more precisely an optional European regime governing mortgage loan contracts.