

**Etude concernant le secteur du logement public en Belgique,  
dans le cadre du baromètre de la diversité**

**Onderzoek van de publieke huisvestingmarkt in België  
in het kader van de diversiteitsbarometer**

**Study on the public housing sector in Belgium  
using the Diversity Barometer**

**EXECUTIVE SUMMARY**

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## I. Purpose of the study

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### 1. Lines and field of research

This study focuses on discrimination in access to public housing in Belgium through three lines of research:

- an analysis of the housing supply and projects under development,
- an analysis of the (local and regional) regulations and practices to manage demand and allocation of housing, identifying the potential for discrimination of certain provisions or practices;
- possible recommendations with a view to building the Diversity Barometer.

There are many organisations active in the public housing sector. In addition to social housing, the study concerns the Housing Funds, social real estate agencies, communes and public social services centres (CPAS/OCMWs), as well as Vlabinvest. Temporary and emergency housing lie outside the scope of this study.

The types of discrimination analysed in this study are defined by European, federal<sup>1</sup> and regional legislation. The particular reference to the fight against discrimination in public housing falls within the competence of the Regions. In the Brussels-Capital Region, European directives were incorporated with the introduction of Title IX to the Housing Code of 19 March 2009. The Housing Code reform of 11 July 2013 placed these provisions in Chapter 3 of Title X on the principles of equal treatment and justification of distinctions. In Flanders, the directives were incorporated in the Decree of 10 July 2008, which governs ‘the framework of the Flemish policy on equal opportunities and treatment’. Wallonia implemented EU directives in the Decree of 6 November 2008 on the wrestling against certain forms of discrimination.

The Diversity Barometer developed by the Interfederal Centre for Equal Opportunities and Opposition to Racism takes the following types of discrimination into account<sup>2</sup>:

- wealth,
- sex,
- origin,
- nationality,
- disability,
- age,
- sexual orientation,
- philosophical or religious conviction.

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<sup>1</sup> According to the terms of the law of 30 July 1981, which criminalises certain acts inspired by racism and xenophobia (B.S./M.B. of 08.08.81), and of the laws of 10 May 2000 to fight against certain forms of discrimination and against discrimination between women and men (B.S./M.B. of 30.05.2007).

<sup>2</sup> Centre for Equal Opportunities and Opposition to Racism, *Baromètre de la diversité. Emploi*, Brussels, 2012, pp. 23-24.

## **2. Legal framework and regional configurations of public housing**

Public housing is primarily a regional competence, although some tasks are distributed to other levels (federal, provinces and communes).

At the time of the study, the main legislation providing the context for the organisation of public housing:

- Article 23 of the Constitution, which enshrines the right to housing;
- the Housing Code of the Brussels-Capital Region, defined by the Ordinance of 17 July 2003, replaced by the Ordinance of 11 July 2013;
- the ‘Decreet van 15 juli 1997 houdende de Vlaamse Wooncode en het KSH (Kaderbesluit Sociale Huur)’ in Flanders, which regulates the public housing sector as a whole (WoningFonds, Sociale huisvestingsmaatschappij, sociaal verhuurkantoor and communes and Public social services centres (CPAS/OCMWs) since 2012). It has undergone two big changes called “optimisation orders” (14.03.08, 06.02.09);
- the Walloon Housing and Sustainable Habitat Code in Wallonia (B.S./M.B. of 29.10.98, modified by the Decree of 09.02.12).

Given these differences, from a regulatory point of view the public housing sector operates differently in all three Regions of the country:

- in Flanders, it runs in a highly harmonised fashion, with the main operators able to choose between two systems of regulation. Communes and public social services centres (OCMWs) mainly offer targeted housing: temporary housing, reintegration housing and housing for senior citizens;
- in Wallonia, alongside regulations aimed at social and assimilated housing, social real estate agencies operate in a wide variety of ways. Communes and CPASs have different management methods: management of the subsidised part of public housing is entrusted to social housing companies, while the entire non-subsidised part is managed independently (from the most collective to the most discretionary);
- and in Brussels-Capital, each operator has its own regulations. However, the Housing Code does impose some minimum conditions of housing management and allocation. Furthermore, model regulations will be imposed on all operators from now on. The harmonisation of management practices is therefore under way.

In addition, regional and local regulations may promote certain actions to improve access to public housing for the most disadvantaged people (excluding social housing itself). The most common measure taken is establishing a maximum income limit.

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## II. Study methodology

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### 1. Position: locating risks of discrimination in a complex system

This study on discrimination in public housing in Belgium approaches the sector as a complex system and aims to identify its main problematic trends. Through database analysis, documentary research and many interviews with sector stakeholders, we detected potentially discriminatory behaviour in the general functioning of the sector, and also what appeared to be good practices for fighting against the risks of discrimination. In other words, this study does not aim to establish a systematic diagnosis for each of the many schemes and operators in the sector, nor does it set out to evaluate or compare regional policies on the subject. Its purpose, rather, is to lay the groundwork for a barometer of discrimination in public housing by identifying typical situations of general mechanisms that (potentially) present problems with regard to anti-discriminatory legislation or more general criteria of justice. Therefore, we strongly reiterate that these statements are not an audit of the operators of the sector, but are intended to highlight points of interest, spark ideas, formulate types of questions to ask stakeholders and lead to a structured observation of the sector.

Though legislative changes occurring in 2012 or 2013 may be mentioned, their specific effects on the state of the sector could not be systematically evaluated as part of this study due to the lack of hindsight needed to do so.

### 2. Approach and data

The study's findings are based on three types of sources:

- the responses to a standard questionnaire sent to all institutional stakeholders of the sector (1,500 questionnaires sent, 363 completed);
- accessible activity reports and statistical databases were analysed. It must be emphasised that access to statistical data varied by stakeholder (different kinds of formatting and methods of transmission);
- data from ten case studies, from ten municipal areas (four towns in Flanders, four in Wallonia and two in Brussels-Capital), were used to analyse the practices of public housing managers.

The communes were selected based on four combined criteria:

- geographical diversity (large cities, medium-sized cities, small towns, communes on the outskirts of Brussels),
- socioeconomic diversity (levels of income and demographic structures),
- the situation of the public housing available (multiple supply, reduced supply),
- the willingness of stakeholders to cooperate in the study (reflected in the initial questionnaire).

At the request of the study's sponsors, the names of the communes selected as case studies are not disclosed in this report.

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## III. Findings

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The findings are broken into three main sections: the public housing stock (the supply), gaps between supply and demand and demand management.

The first section examines the risks of discrimination linked to the public housing supply situation, and specifically to the organisation, distribution, size and design of public housing in the different regions of the country.

The second section analyses the relations between supply and demand in public housing and details the inequalities associated with them.

The third section examines the risks of discrimination linked to the ways that public housing demand is managed (conditions and practices related to data, registration, allocation of housing and delisting of prospective tenants).

### 1. Public housing supply and risks of discrimination

#### 1.1. Institutional segmentation of public housing

Belgium's public housing is spread across many different institutional stakeholders: social housing companies, communes, public social services centres (CPAS/OCMWs), social real estate agencies, the Housing Funds, *Associations de Promotion du Logement* (in Wallonia) and *Vlabinvest* (in Flanders). Both directly and indirectly, this distribution creates segmentation in the effective public housing offer:

- social housing companies (*Sociétés de Logement de Service Public*, *Sociétés Immobilières de Service Public* and *Sociale Huisvestingsmaatschappijen*) manage the rental of most public housing (between 80 and 90%);
- communes and CPAS/OCMWs are the second-largest managers of public housing. Part of this consists of emergency, temporary and reintegration housing, which is undoubtedly more important for these stakeholders than for others and is governed by a specific system;
- while active in most Belgian communes, social real estate agencies (AIS/SVKs) manage a rather limited housing stock compared to those of social housing companies, communes and CPAS/OCMWs;
- the public housing stock of the Housing Funds, *Associations de Promotion du Logement* and *Vlabinvest* is the smallest, both in number and geographic extent.

We can see that all these stakeholders *differ greatly in importance in managing the overall supply* available for potential tenants. Therefore, certain stakeholders actually hold more responsibility than others in fighting against discrimination in this area. However, some stakeholders play a central role in providing candidates with information and guidance disproportionate to the size of the housing supply they actually manage. This is primarily the case with communes and CPAS/OCMWs.

	Brussels-Capital	Flemish Region	Walloon Region	Total
Communes and CPAS/OCMWs	7,980 (SLRB 31/12/2010)	No data available	11,411 (estimate on 25/02/2009) <sup>3</sup>	<i>(Incomplete data)</i>
Housing Funds	1,061 (FBL 31/12/2012)	738 (WWF 31/12/2010)	1,011 (FLW 31/12/2012)	2,810
SLRB/VMSW/SWL	39,404 (SLRB 31/12/2012)	146,214 (WMSW 31/12/2012)	102,753 <sup>4</sup> (SWL 31/12/2011)	287,850
AIS/SVK	2,932 (FEDAIS 31/12/2012)	6,401 (WMSW 31/12/2012)	3,647 (FLW 31/12/2011)	288,371
APL	-	-	218 (FLW 31/12/2011)	218
Vlabinvest	-	258 (Vlabinvest 31/12/2012)	-	258
Total	51,377	153,611 <i>(Incomplete data)</i>	119,040	324,028 <i>(Incomplete data)</i>
Number of households in 1/01/2013 <sup>5</sup>	539,702	2,688,876	1,534,159	4,762,737
% of public housing units compared to number of households	9.5%	5.7%	7.7%	6.8%

Table 1: Volume of the public housing stock, by stakeholder and Regions

## 1.2. Incomplete and uneven territorial coverage

The segmentation of the institutional public housing landscape in Belgium is compounded by geographic disparities in terms of supply. In fact:

- the public housing offer is unevenly distributed geographically, with some areas enjoying an abundant supply and others facing a limited or even non-existent one. To address this problem, the regional authorities have set objectives to make the public housing offer proportional to the overall number of housing units in each municipality (15% in Brussels and 10% in Wallonia, while communes with a rate of 9% are exempt from this target in Flanders). In the Brussels-Capital Region, the occupancy ratio for public housing varies from 5.4% to 21.5%. In Flanders this may reach as high as 15.79% in some communes, whereas two towns have no social housing available. The Flemish government monitored achievement of the communes' social objectives in 2012 and assumed control of the creation of social housing on behalf of 30 communes that did not exert (enough) effort to attain them

<sup>3</sup> This figure is an estimation based on the following file (other public operators were not counted) dated 31.12.2008:

<http://dgo4.spw.wallonie.be/DGATLP/DGATLP/Pages/Log/DwnLd/AncrageCommunal/InventaireLogPublics.pdf>

<sup>4</sup> On 31.12.2011, SLSP manage 100.790 housing (99.634 social, 822 medium-sized, 20 insertion, 12 transit, 301 with rent of balance, 1 student housing), and 1.963 housing from private owners.

<sup>5</sup> Statistical unit : number of households. Source: SPF Economie - Direction générale Statistique et Information économique.

by designating a Sociale Huisvestingsmaatschappij for each. For its part, the Walloon government has established a subsidy mechanism to obtain the desired proportion, but it will also punish communes that do not produce enough public housing to meet the goals set.

- The scope of competence of the different stakeholders ranges from the communal (municipal) to the intercommunal (intermunicipal) and regional. Depending on the case, the supply is therefore supported by a rather extensive panel of operators: for example, in the Brussels-Capital Region, there may be dozens of operators working in the same area, whereas in a commune studied in Wallonia, only one (in this case, the CPAS) is “physically” present. This town does not manage public housing and the headquarters or local branches of all other operators (social real estate agencies and social housing companies) are located in another commune. Moreover, while social real estate agencies have been increasing their coverage to 80% of Walloon territory as it stands today, some rental candidates do not yet benefit from this type of offer.

### 1.3. Streamlining the supply

Still, changes in the direction of streamlining the public housing supply may be observed, including a desire to avoid duplication and to merge certain bodies to make their action more effective. The regional government of Brussels-Capital has initiated a process to merge public service housing companies (SISPs), shrinking them in number from 33 to 19. The same process has been under way in the Walloon Region since 2002, with the largest merger occurring in Charleroi in 2012. Merging is also popular in Flanders among both social housing companies and social real estate agencies. A recent Order, moreover, obliges merging in order to avoid duplication. Meanwhile, different sector stakeholders are increasingly getting together at WoonTafels and as part of the Woonoverleg, where various construction projects are presented and discussed.

In any case, due to the weight of the past and cumbersome procedures, it often takes years before all these efforts to streamline supply become effective.

### 1.4. Renovating run-down housing

Public housing was not considered a priority by different governments in the 1980s and 1990s. As a result, stakeholders encounter a generally run-down supply that often requires major renovation. To do so, tenants must be relocated; it means that they overtake people on waiting lists. This process not only takes a long time (not all tenants can be relocated at the same time), but it also creates more scarcity, which intensifies the housing crisis. This is especially the case with social housing, but also with municipal housing and CPAS/OCMWs.

Private housing units managed by social real estate agencies must also often be renovated before they can be rented. Access to financial aid for the renovation work is one of the advantages of these agencies, but it also implies that they have the experience

necessary to finish the job. In the Walloon Region, a technical-social unit has been set up at the Housing Fund to support them in the effort. There is no equivalent system in the Brussels-Capital Region.

### 1.5. Producing new public housing

The governments of all three Regions recently set ambitious targets for overall growth and geographic balance in the public housing supply. To achieve these objectives, the Regions pursue both direct actions (building and renovating public housing through regional operators) and indirect ones (setting goals for local stakeholders regarding the size of the housing offer per commune). Adapted or adaptable housing practices (mainly for people with reduced mobility) vary by Region: in Brussels-Capital, the proportions of buildings announced in 2013 were 75% accessible housing, 20% adaptable housing and 5% adapted housing; in the Walloon Region, 30% of all new buildings constructed by public operators must be adaptable housing from now on<sup>6</sup>; in Flanders, the initiative is left mainly to the OCMWs.

Nevertheless, this movement of overall encouragement generates a number of negative effects:

- out of respect for regional objectives, some communes stop investing in the production of new public housing, even facing demand;
- announcements of the creation of new public housing, and particularly social housing, have often given rise in recent years to reactions of opposition from some residents, expressing stereotypes about future tenants. Depending on their extent, such opposition is likely to change the scheduling of housing to be built, in terms of both the overall amount and the architectural design (by favouring small apartments over large housing areas, which allegedly attract “problematic” households).

In addition, two problematic trends in the management of land resources and public property may be observed:

- the production of medium-sized housing (Brussels-Capital Region, Flemish Region) or access to social housing for middle-income households (Walloon Region), which come at the expense of social or assimilated housing and its priority beneficiaries;
- the role of private operators, which takes two different forms:
  - o in the Flemish Region, municipal property is valued on the private market by autonomous communal enterprises (Autonome Gemeentebedrijven), which

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<sup>6</sup> According to the terms of the draft decree of the Walloon government presented in 2013, *accessible* housing is housing whose car parks, access routes, doors, hallways, stairwells, levels and lifts correspond to the technical characteristics laid out in the CWATUPE (Walloon urban planning code) to provide easy access to people with reduced mobility; *adaptable* housing is accessible housing that may easily be transformed into housing adapted to the specific needs of people with reduced mobility so they can move around it and use all its functions independently; *adapted* housing is housing whose layout is appropriate for occupation by a household based on the handicap of one of its members. Note that the subsidy for supporting the creation of social housing, temporary housing and reintegration housing is increased when housing is designed to be accessible to people with reduced mobility and to senior citizens.



takes away buildable land for public bodies, thereby limiting the possibilities to build public housing;

- the regional governments of Brussels-Capital and Flanders have created an “urban planning charge” or “social charge” mechanism. These policies, with their regional particularities, aim to force private operators in some cases to build a quota of public housing in their projects or to pay additional taxes. In the Flemish Region, this mechanism only produced limited results in building new public housing and was finally abolished by order of the Constitutional Court in late 2013 (decisions of 7 November and 18 December). This policy is still too recent to be evaluated for effectiveness in Brussels-Capital, while the Walloon Region have no similar mechanisms.

## 2. Supply and demand: a housing stock structurally insufficient to meet inexhaustible demand

The structural deficit in public housing has long been known. However, it must be noted that despite the efforts to produce housing undertaken in recent years, this gap has not only failed to narrow significantly, but is actually still growing due to a real and potential demand that appears to be inexhaustible.

It must be stressed that estimating the gap between supply and demand poses methodological challenges. For example, one could look at the real demand (number of candidates registered with administrative bodies) or at the potential demand (total number of households whose income is in the range of entitlement to access to social housing): in the latter case, the difference between supply and demand is even more acute. The relation between these two numbers (real demand and potential demand) is also an indicator of access to public housing: it shows the extent to which those entitled to it actually sign up on a public housing operator’s waiting list. In addition, the lack of a centralised registry for communes, CPAS/OCMWs and social real estate agencies makes it impossible to estimate the overall relation between supply and demand regionally, which limits any analysis of the subject.

However, the issue may be approached by measuring the ratio between the public housing supply and the level of demand. Table 2 below shows figures on social housing and housing managed by the Housing Funds, by region.

	Brussels-Capital	Flanders	Wallonia
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Number of housing units – Social housing companies (A)	39,280 <sup>7</sup>	146,214	99,634 <sup>8</sup>
Number of candidates on waiting list(B)	37,050 <sup>9</sup>	91,926	37,983
<b>Ratio (B)/(A)</b>	<b>94.3%</b>	<b>62.9%</b>	<b>38.1%</b>
Number of housing units – Housing Funds (C)	1,061	961	1,011
Number of candidates on waiting list (D)	6,851	1,392	739
<b>Ratio (D)/(C)</b>	<b>692.7%</b>	<b>144.8%</b>	<b>73.1%</b>

Table 2: Public housing supply and demand, by Region  
(Social housing companies and Housing Funds)

It may be concluded from this table that demand is structurally higher than supply in all three Regions of the country, taking into account the fact that the housing stock is already clearly occupied. In the Walloon Region, around 38,000 families are on waiting lists for social housing, so 38% of the housing stock would have to be freed to meet their demand. In Flanders, the ratio between supply and demand at social housing companies is only 62.5%, which means that the number of rental candidates registered is two-thirds that of the total housing supply. In Brussels, in late 2012, 37,050 households were waiting for social housing, which was equivalent to the offer of the Social Housing Company of the Brussels-Capital Region, so the entire housing stock would have to be freed (or the volume would have to be doubled) in order to meet this demand. Likewise, in late 2012 the registry of rental candidates of the Housing Fund and listed 6,851 households, a demand six times larger than the supply.

Yet we should be careful here, as this table does not allow us to make strict regional comparisons. First, the socio-economic characteristics of the Regions are different. Considering only the indicator of risk of poverty or social exclusion used by Eurostat, we can see that in 2011 this included 40% of the population in the Brussels-Capital Region (or twice the national average), while it was 25% in Wallonia and 15% in Flanders (Table 3). We also note that the financial crisis since 2008 has had a heavier impact on this percentage in Brussels-Capital because it is an exclusively urban region where the most vulnerable segments of the population concentrate. This helps us to understand why the Brussels-Capital Region has a relatively larger eligible population than the other two Regions. Therefore, the challenge of social housing is more critical in Brussels-Capital than in the other Regions. Moreover, registration requirements (particularly income criteria) are not necessarily equivalent. This could stress or lessen the importance of the socio-economic characteristics of households when estimating potential demand.

<sup>7</sup> Of which 3,397 are unoccupied due to renovation or leasehold holidays.

<sup>8</sup> On 31/12/2011, public service housing companies (SLSPs) managed 100,790 housing units (99,634 social housing; 822 medium-sized; 20 reintegration; 12 temporary; 301 break-even rent; and 1 student). SLSPs also manage the rental of 1,963 housing units made available to them by their owners. Just under 600 of these housing units belong to the Walloon Housing Agency (SWL), which entrusts their management to the relevant local SLSPs. The SWL has accommodated 96,503 families and the number of unoccupied housing units can be estimated at around 4,287.

<sup>9</sup> Number of applications after removals/cancellations.

	2004	2005	2006	2007	2008	2009	2010	2011
<b>Belgium</b>	21.6	22.6	21.5	21.6	20.8	20.2	20.8	21.0
<b>Brussels-Capital</b>	38.9	40.5	36.3	37.4	34.6	35.2	40.2	40.4
<b>Flanders</b>	16.6	17.0	16.5	15.9	15.2	14.6	14.8	15.0
<b>Wallonia</b>	25.5	27.1	26.1	26.8	26.6	25.4	25.7	25.4

Table 3: People at risk of poverty or social exclusion by NUTS 2 region – % of total population (Eurostat data<sup>10</sup>)

In all three Regions, there is also a significant gap between the architectural structure of the offer (types of housing and number of rooms) and the family structure of the population of prospective tenants. One of the most problematic findings includes the lack of studios and 1-bedroom units corresponding to the needs of isolated persons and childless couples, as well as the shortage of large 4- or 5-bedroom units, especially in large cities where isolated persons and large families are the ones who face the greatest challenges in finding housing in the private rental market.

The conclusion is clear: the shortage of public housing creates a situation of widespread social injustice and the government cannot ensure equal opportunities for all those entitled to social housing, not even all prospective tenants (mainly when making interregional comparisons).

### 3. The experience of prospective tenants and the risks of discrimination

#### **3.1. Operators, target populations and treatment of prospective tenants**

Public housing stock in Belgium is divided up among a large number of institutional operators. Both directly and indirectly, this distribution not only creates segmentation in the effective public housing supply, but it also leads to different treatment of people entitled to public housing based on whether or not they fit the target population defined by each operator.

The social housing sector is characterised by a “*centralised and uniform policy that allocates housing to a limited target population, leaving little room for local differentiation*”<sup>11</sup>. The Housing Funds, as regional bodies, also take a regional approach.

<sup>10</sup> Source:

<http://epp.eurostat.ec.europa.eu/tgm/table.do?tab=table&init=1&language=en&pcode=tgs00107&plugin=0>

<sup>11</sup> Bervoets W., Loopmans, M., *Diversité et discrimination dans le logement social : pour une approche critique de la « mixité sociale » - Diversiteit en discriminatie in de sociale huisvesting. Een kritische benadering van sociale mix*, Brussels, Centre pour l’Egalité des chances et la lutte contre le racisme/Centrum voor Gelijkheid van Kansen en Racismebestijding/Centre for Equal Opportunities and Opposition to Racism, 2010, p. 9.

While the regulatory framework governing the housing supply of communes, CPAS/OCMWs and social real estate agencies tends to strengthen and harmonise practices, it also grants a certain level of autonomy in terms of management and allocation. The practices we have found in our case studies show great differences for the same operators in the same region.

The situation and personal attributes of the rental candidate households come into play in different ways during the registration, allocation and rental regulation processes according to the operator in question. Thus, the Bervoets and Loopmans report states that: *“generally speaking, strengthening the rules of allocation and monitoring compliance with them has greatly lowered abuse and discrimination in the social housing sector. Before, political considerations and institutionalised discrimination, as well as ethnic quotas, were still widespread. In principle, the new legislation excludes such aberrations”*.

Target populations are defined specifically by setting maximum income conditions according to the type of housing. This is a positive action, limiting public housing to households with limited income. Various developments must be mentioned, however. The incomes of tenants of social housing companies have fallen sharply since the regionalisation of the sector, creating a structural financial deficit within it. The financial situation of the communes and CPAS/OCMWs has also deteriorated. These developments have resulted in an open debate on the issues of social mixing in public housing policies and of creating constraints on financial management—notably financial balance. One of the public authorities’ responses to these issues is to produce medium-sized housing or expand access to social housing to medium-income households.

Moreover, as previously emphasised in the Bervoets and Loopmans report, *“rental income from social housing companies keeps on shrinking and they often lack the means necessary to fund renovation work and new projects. This combines to give a negative image of social housing which no longer enjoys the same support from the population”*. Efforts to produce new public housing and especially social housing provoke discriminatory reactions among residents of the selected sites.

### **3.2. The prospective tenant’s (non-)mastery of information**

Candidates for public housing face an offer with many considerations, and their degree of mastery and understanding of this information is not always clear. We also see that essential information (housing stock and rules of allocation) about certain local stakeholders is not always easily available. This raises the influence and responsibility of those working on the ground in terms of information and guidance, but also the social support that must be given to candidates. However, some operators are not experienced in social support even though it is indirectly expected of them, so the need only continues to grow. Moreover, the diversity of operators results in a proliferation of procedures for rental candidates, who have to contact each of them if they want to improve their chances of gaining access to public housing.

### **3.3. Local integration**

The inclusion of the criterion of local integration in conditions to gain access to public housing is potentially problematic, mainly on the municipal level, but also for Vlabinvest. Certain regulations reserve communal housing for people that have a pre-existing link with the commune. It is thus a necessary condition for registration to be effective. Others give priority points to people residing in the commune. In this case, it is a criterion for allocating housing. The position taken by the Interfederal Centre for Equal Opportunities and Opposition to Racism is that applying it as a condition for granting access to public housing is disproportionate and that assessments of allocation status must simultaneously consider the legitimacy of the aim pursued, its consistency with this aim and its proportionality, because links based on residence, workplace, age, mastery of the local language or the receipt of CPAS/OCMW support may potentially lead to indirect discrimination<sup>12</sup>. The Brussels-Capital Region recently banned the use of the condition of local integration when managing candidates for public housing (reforms to the Housing Codes of 2012 and 2013, respectively). In the Walloon Region, all priorities linked to local integration have been abolished in regulations for allocating social housing, although some remain in municipal regulations. In Flanders, Vlabinvest has been running a priority system for local integration while other operators in the Flemish Region may include local integration into their allocation regulations, which can especially be seen in communes on the outskirts of Brussels.

### **3.4. Ways to calculate rent and risks of discrimination**

Calculating the rent for public housing may be based on a comparison with the private market (“private” housing of some land boards or CPAS/OCMWs in the Walloon and Brussels-Capital Region), on the cost price or housing model (for example, the rent of medium-sized housing in the Brussels-Capital Region) or on a combination of the cost price and the household’s income (such as social housing). Only social real estate agencies propose another mechanism, based on negotiations with the private owner and capped by a regional reference table (Brussels-Capital Region) or a table determined by the social real estate agency (Walloon Region). The regional reference table is also valid for subsidised housing in communes and CPAS/OCMWs in the Brussels-Capital Region.

Mechanisms for calculating rent that do not take tenant income into account complicate accessibility to public housing for candidates with lower incomes. Moreover, many managers are coping with increasingly onerous financial constraints and “preventively” try to avoid rental candidates that could have trouble paying the rent.

Some managers impose an affordability ratio on their tenants, a measure designed to fight future indebtedness. This limits the tenant’s income spent on rent to a maximum percentage, which effectively excludes some low-income prospective tenants from this type of housing. Some discriminatory practices are also observed, such as the requirement of proof of payment of past rent. Far from helping rental candidates to break out of potentially problematic situations, this requirement simply prolongs their effects by blocking their access to public housing. In other words, the imposition of conditions aimed at “guaranteeing” a candidate’s solvency raises serious concerns regarding the principle of equal treatment. The candidates most likely to be victims of income-based discrimination

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<sup>12</sup> Centre for Equal Opportunities and Opposition to Racism, *Annual report*, Brussels, 2012, p. 112.

(and its method of calculation) are households with very low-income, single-parent families, senior citizens with small pensions and large households. However, certain local managers sometimes apply this criterion flexibly or in an understanding way.

### **3.5. Waiting times and application renewal requirements**

The disparity between the waiting times to obtain public housing (between 3 and 10 years on average) and the (annual or biannual) administrative deadlines to renew applications is striking and, to our eyes, disproportionate. In housing allocation systems favouring seniority of registration, non-renewal has immediate and profound consequences for rental candidates, whether by forcing the candidate to start the procedure all over or by further prolonging the waiting time before allocation. It is clear that a large number of cancellations are linked to lack of information or follow-up of candidates, especially the poorest, whose access to public housing, for which they already face an extremely long wait, is in jeopardy. Some operators have nevertheless abolished this obligation to periodically renew applications, concluding that it was a disproportionate requirement for the candidate.

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## IV. Recommendations

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### Create public housing

Demand for public housing greatly exceeds the existing supply. After decades of very low production of social housing, regional governments have initiated new construction programmes. Yet no matter how ambitious they may be, the rate of production is still insufficient to meet short or medium-term demand. As a result, waiting periods before candidates are allocated a public housing are incredibly long. The main priority measures to develop (or continue) include: ensuring the construction of a larger proportion of small (studios and 1-bedroom) and large (3-bedroom and up) housing units, the shortage of which is structural; reducing the under-occupancy rates of large housing units by encouraging changes within the housing supply; resorting to administrative procedures governing the production of new housing and promoting the development of any scheme supporting access to housing in the private market.

### Ensure the renovation of the public housing stock

The social housing stock is ageing and a significant portion of it is or ought to undergo renovation work to comply with current standards of minimal comfort (double glazing, bathroom, central heating). Significant renovation programmes are also under way to ensure their sustainability. One of the roles of social real estate agencies is to assist in renovating private property in return for making it accessible to conditions similar to those of public housing. These housing renovation measures help to combat the indirect risks of discrimination associated with relegating stigmatised or disadvantaged populations to the unhealthiest parts of the housing offer.

### Streamline the offer

There are many stakeholders in public housing, but sometimes their housing offers target the same objectives. As a result, it would be a good idea to specialise the public housing offer among the various stakeholders (target populations and social situations), either to reduce the total number of operators or to ensure better coordination among them to keep the schemes closer to rental candidates and tenants' realities.

### Harmonise housing allocation while providing the means to respond to the most critical social situations

The criteria for allocation used by social housing companies, communes, CPAS/OCMWs and social real estate agencies converge on a system of objective points, even though in many systems this objectivity may purely and simply be reduced to a chronological order, which weakens the sector's ability to fight reactively against the effective discrimination of the housing market. This trend is continuing. It is also intended to harmonise and make the

operations of allocation committees in different areas of public housing even more transparent, since some still allow largely discretionary practices. But a housing allocation system based exclusively on priority points is not always adequate, insofar as it does not allow specialists to act in extreme emergencies. In addition, weighing qualitative criteria (housing status, family situation, handicap) in relation to the points obtained based on the seniority of the application plays a pivotal role in gaining access to public housing. The assessment system to allocate social housing in the Brussels-Capital Region strongly favours points earned through seniority over “social” points. By limiting the number of seniority points possible to 6, Walloon legislation strikes a better balance between these points of such a different nature. It is up to regional legislators to adjust their criteria to this reality, while recalling that (re)defining the importance of each criterion has an impact on the target populations subject to the criteria.

### Two scenarios for rethinking the entire public housing supply

There is a specific reason to improve coordination between public housing operators: in order to better meet the needs of those entitled to public housing by considering them in a housing history. To speak of a housing history is not just to consider possible movement from one public scheme to another (from a social real estate agency to social housing or from social housing to medium-sized housing, for example), but also movement (in both directions) from public or socialised providers (social real estate agencies) to private rental or purchase markets. Two scenarios may be considered to meet these coordination requirements: the first emphasises a strict division of roles among operators while the second seeks to facilitate movement between housing allocation schemes likely to overlap.

The first scenario (the “government” scenario) acknowledges that the public housing supply mostly consists of social housing. As a result, the sector should be organised to make operators compatible with a central social objective: access to social housing for prospective tenants. The first level would be that of the communes, CPAS/OCMWs and social real estate agencies, whose main purpose would be to manage social emergencies and temporary situations with the possibility of working with specific target populations. Situations in the social housing sector that are currently exempt would henceforth be managed at this level. The next level would be that of social housing itself, as a structural response to a (non-urgent) housing problem. To promote the movement from an emergency scheme to social housing, attempts could be made to extend the practice of linking the allocation of temporary housing to registration with a social housing company, like a social real estate agency already experiments in the Walloon Region. Finally, the production and supply of medium-sized housing could be aimed at households that leave social housing or that have an income bracket slightly above that granting access to social housing. This could act as a buffer zone between social housing and the private market.

The second scenario (the “soft governance” scenario) assumes no definitive centralisation around a central player, but it does tend to improve coordination between stakeholders in looking after the social needs of public housing. It relies fully on autonomy for sector stakeholders (including the communes) and on the possible adjustments and allowances implied by these variable institutional (and financial) approaches. This scenario calls for



setting up housing policy coordination committees on the local, regional and federal level. Periodically, it would collectively act to determine priorities of access adapted to local assessments, assign action accordingly and even offer some households incentives to pursue residential mobility between schemes, according to the means at their disposal and their room for manoeuvre. The action then necessarily evolves in an “ex post facto” fashion. This scenario assumes a greater exchange of information regarding waiting lists: a single registration process for more than one scheme would make it work easier.

In both scenarios, the issue of moving from public or socialised housing to the private market remains. In a context of scarcity, access to public housing may be the key. Meanwhile, rejecting or leaving such schemes could prove even riskier than it is today. This is particularly the case with social housing, where waiting times make “returning” unrealistic once people leave it. This situation is all the more problematic at a time when professional careers have become highly flexible, with some households quickly entering and leaving allocation categories (divorces, job loss, blended families). In the second scenario, local discussions about criteria could consider action (in terms of priority points, incentives, etc.) that softens the consequences of leaving public housing (social, socialised or medium-sized rent) by wagering that the possibilities of return provided by social or socialised housing could be matched by greater internal and external mobility in the sector.

### **Improve information and support**

While demand for housing is huge, it is also managed in a very disparate way. One solution that has appeared at the municipal level is to provide a housing office that allows rental candidates to sign up on different lists (in terms of functional and territorial competence). Although some operators have reservations about the single housing office concept, we see it as an important step towards greater transparency in the system, and therefore a reduction in the social divide of knowledge. Another essential requirement must include systematic publishing of and accessibility to the regulations and, if possible, a description of the housing stock. Improving social support for access to housing (for example, by creating “cell housing”, by designating people or resources that can be mobilised by different operators if necessary, through effective collaboration with the civil society sector, etc.) would also help the most disadvantaged people to cope with the complexity of the sector.

### **Reduce the burden of multiple and repeated applications**

The chances of gaining access to public housing are not the same for candidates that register with several operators and those that only sign up with one. This practical inequality could be reduced if a single registration scheme or a centralised information scheme were set up in all three Regions. Moreover, the obligation to renew applications annually or biannually should be relaxed, as failure to comply causes drastic consequences for the potential tenants concerned. We believe that the most balanced scheme puts applications that are not specifically renewed on standby, but does not cancel registrations and priority points linked to them if the candidates reactivate them.

## Improve data formatting and accessibility: recommendations for indicators to establish a social housing barometer

Given the wide disparities in practices in this area, and sometimes the lack of essential information among some operators, some steps appear essential in order to regularly monitor the public housing system. Databases need to be systematised, professionalised and standardised and authorised observers must have quick and full access to them. This goal should be pursued within each Region of the country and immediately framed by the competent federal authorities for the purposes of interregional harmonisation and for potential usefulness internationally as well.

More specifically, it is essential to estimate the relation between supply and demand in order to create a Barometer of public housing. There are several methodological options for measuring this relation solidly. Below we propose a list of indicators that would require systematising and harmonising the databases managed by the operators of the sector if implemented:

- the ratio between the number of public housing units and the number of households signed up on the waiting lists;
- the relation between the composition of the housing stock (types of housing in terms of number of rooms and status of adaptability) and the composition of the tenant and rental candidate households (number of adults and number of children);
- the rate of households entitled to public housing (excluding average housing) based on their income, with a maximum limit set by the different operators (harmonising this maximum income limit would make composing such an indicator easier);
- the ratio between both aforementioned indicators measures the rate of access to public housing, indicating the extent to which entitled people actually sign up on a waiting list;
- the distribution of income, average income and median income per Region: used as time series, these socioeconomic data could explain the differences between people entitled to public housing in the three Regions and could put regional differences and similarities over other indicators into perspective.

The availability of data regarding nationality, disability and age would help us to estimate possible structural discrimination. When we mentioned the issue of nationality, for example, most operators were dismissive, since the removal of that category from their files or databases is supposed to prevent discrimination when housing is allocated. We think it is possible and desirable to respond to this legitimate concern by uncoupling a statistical database from an operational database: in terms mainly of social housing, as managers would not have these data available they would not be used. In the same way, activity reports issued by all operators (also crucial regarding operators that manage less housing units) ought to publish not only these statistical data, but also the ways they actively or passively fight against direct and indirect discrimination.

## Summary of recommendations

The following measures must be taken to reduce the risks of discrimination in public housing:

- prohibit the inclusion of any local integration requirement in granting access to public housing and consider its proportionality in terms of allocation,
- block the inclusion of any language or language-learning requirement in granting access to or allocating public housing,
- prevent the establishment of excessively high margins of exemption in the allocation of public housing (10% should be a maximum limit) and the obligation to justify exemptions in operators' annual reports,
- harmonise and relax application registration and renewal procedures in order to protect the rights of rental candidates and to avoid the cumulative effects of circumstances often linked to the precarious living conditions of those entitled to public housing,
- require each operator managing public housing or subsidised by public funds to formalise and publish its rules for allocating housing.

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