



ETHICAL RENTING

MOBILISE THE PRIVATE RENTAL MARKET
TO PROVIDE SOCIAL SOLUTIONS IN EUROPE

DECEMBER 2018

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INTRODUCTION: THE ROLE OF THE PRIVATE RENTAL MARKET IN THE RIGHT TO HOUSING

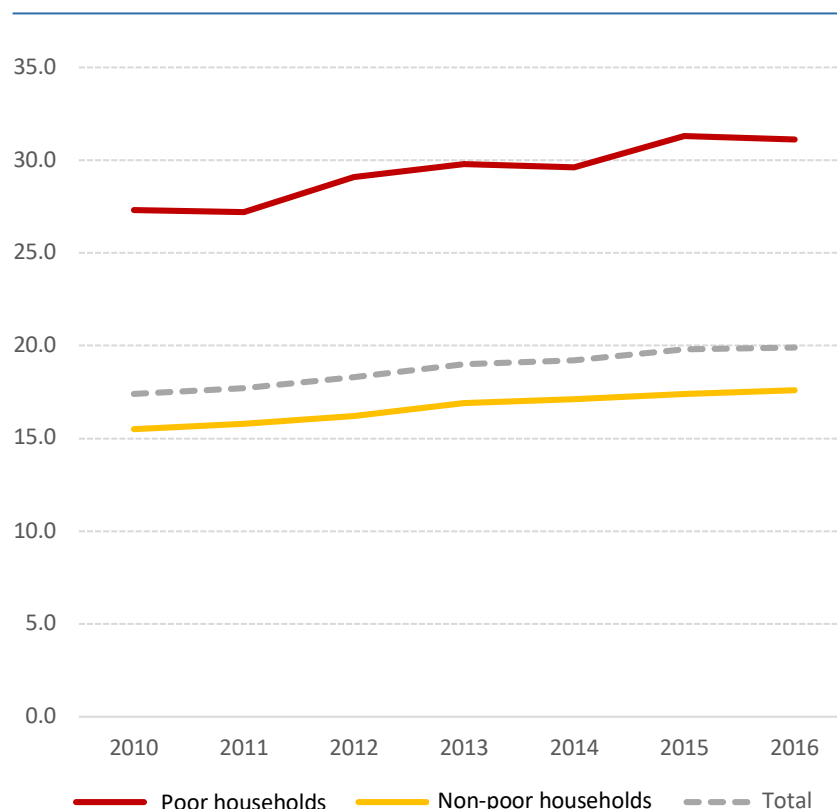
What actions can we take to transform housing, from what is increasingly being seen and used as an asset and a financial product, into a guaranteed right for all?

This is the issue facing Europe today. It is becoming ever clearer that the fight against housing exclusion must be supported by intervening in the housing systems, which are dysfunctional in that they exclude an ever-growing section of the population. Finding somewhere to live in Europe these days often means prohibitive costs, particularly for young people, private renters, low-income households and city dwellers. It is difficult to fight housing exclusion and housing deprivation while the private rental market is becoming more expensive. Social housing plays an essential role but cannot resolve the housing crisis alone; where it exists, it faces pressures of residualisation, budget

cuts & privatisation. Public expenditure on housing construction fell by 43% in Europe between 2009 and 2016 (from EUR 47.8 bn to EUR 27.3 bn)².

According to Eurostat, about one-third of Europeans are renting (31% in 2016). The number of private market renters paying market prices has increased by 14% in the EU between 2010 and 2016, while, in parallel, there has been an average drop of 10% in the number of renters paying reduced rent or living rent-free (in social housing, public housing, etc.). Poor households are at the coalface of this trend: more and more of them are now subject to the vagaries of the private rental market. Take the **Czech Republic** as an example, where the proportion of poor households renting on the private market has tripled from 12% in 2010 to 39% in 2016.

Proportion of renters renting at market price in the EU between 2010 and 2016 (as a percentage of the poor population, non-poor population and total)



¹ FEANTSA & Fondation Abbé Pierre (2018), Third Overview on Housing exclusion in Europe 2018, <https://www.feantsa.org/en/report/2018/03/21/the-second-overview-of-housing-exclusion-in-europe-2017>, or see documentation [in French] by the Observatoire des Inégalités ('Observatory on Inequalities') on the theme of housing, <https://www.inegalites.fr/Logement>.

² Eurostat/COFOG 2018 and Gerald Koessl (2017), Public expenditure on housing: the shift from capital spend to housing allowances. A European trend?, Research briefing, National Housing Federation, available at: http://s3-eu-west-1.amazonaws.com/pub.housing.org.uk/public_spending_housing_europe_uk_briefing.pdf. These figures represent the public expenditure allocated to housing production: development and regulation of housing standards, land acquisition, construction, buying and renovating housing units for the general public or for people with specific needs, subsidies and loans to support expanding, improving or maintaining the housing stock. Expenditure on developing and regulating building standards, social housing assistance and housing-related allowances are all excluded from these figures.

Construction and appropriate allocation of social housing are the first line of defence in housing vulnerable people. However, this cannot be the sole solution as the private rental sector remains the first port of call in many European countries for people on low incomes. In this context, **how can private rental supply be guaranteed with stable and affordable rental conditions that will support access to decent housing for low-income households?**

The idea of intervening in the private rental market and enabling everyone to access it, including the poorest among us, goes back to the First World War in Europe, when rent controls were established in several European countries³. Throughout the 20th

century, there were two main types of intervention. The first was aid to individuals, providing demand-side intervention, via financial support for renters to help them pay their rent. The second was aid to property, providing supply-side intervention, via grants, reduced interest rates, tax incentives, etc. **However, in the context of increasing prices, aid to individuals is no longer adequate⁴; institutional and structural solutions must be considered to rebalance the relationship between landlord and renter⁵. This is the aim of rental market and rent control regulations (1), as well as rental intermediation measures (2). A more incentivising approach is when certain tax initiatives are introduced to support the provision of affordable rental housing (3).**

³ József Hegedüs, Vera Horváth & Eszter Somogyi (2014), The Potential of Social Rental Agencies within Social Housing Provision in Post-Socialist Countries: The Case of Hungary, *European Journal of Homelessness*, Vol. 8 No. 2. Available at: <http://www.feantsaresearch.org/download/article-2-56529072930559942675.pdf>

⁴ Aid to housing is the most common - and most heavily financed - public policy tool in Member States today. We will not address them in detail here because, while their effect on renters' financial stability is beneficial, the effect of their implementation on the provision and affordability of private rental housing has been the subject of many diverse and contradictory studies which deserve greater attention than we can provide here.

⁵ *Ibid.* & U.C. Schmid, R.J. Dinse (2013), Towards a Common Core of Residential Tenancy Law in Europe? The Impact of the European Court of Human Rights on Tenancy Law, ZERP Working Paper 1/2013, Bremen: Centre of European Law and Politics.

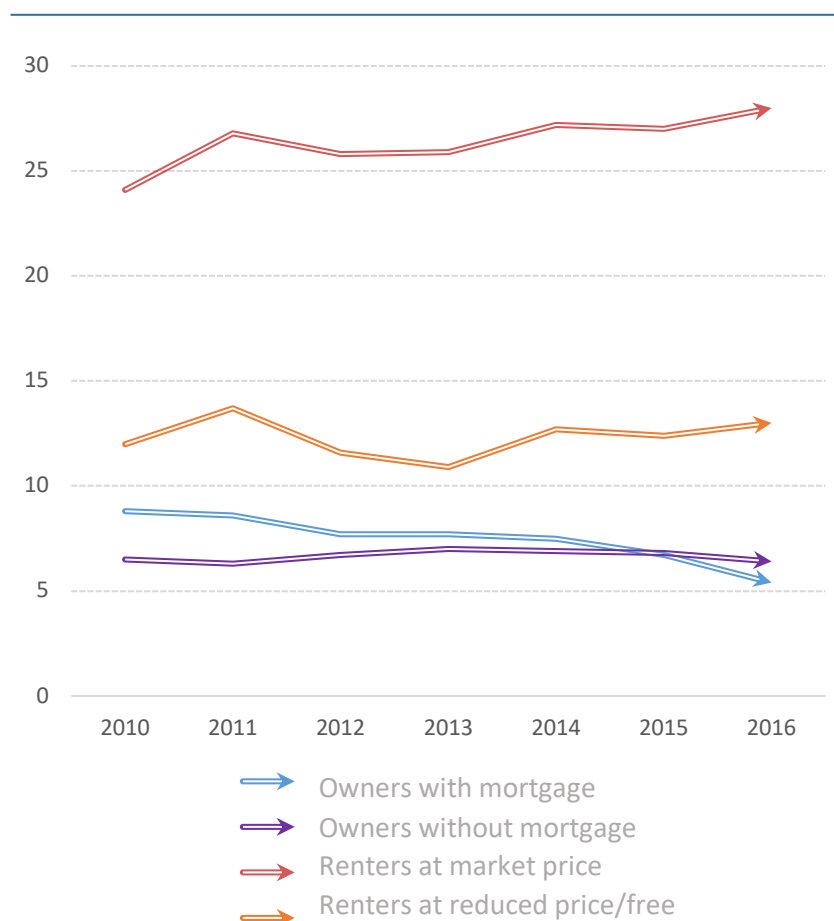
1. RENT CONTROLS

The growth of the private rental market has had a significant effect on the cost of housing. This is evidenced by the 28% of households on the private market, i.e. more than a quarter, who were overburdened by housing costs⁶ in the EU in 2016, not to mention the upward trend over the last six years in the number of households on the private market overburdened by housing costs.

The issue of remuneration is central to the financialisation of housing: housing is increasingly considered simply as an investment product. There

has been a convergence of policies that have worked to commodify housing. An example of this is the massive sell off of social housing along with social housing reforms that have been implemented across several Member States in recent years (**the United Kingdom, Germany, the Netherlands, Sweden**, and more recently in **France**). These reforms were sometimes the result of, and sometimes strengthened by, litigation taken and won at European level by private property developers in cases they took against social landlords accusing them of unfair competition⁷. The alternative vision considers housing to be a fundamental right,

Proportion of households overburdened by housing costs according to tenure status (%)



⁶ i.e. spending more than 40% of their income on housing expenditure.

⁷ The European Commission developed a residual definition of social housing from the Services of general economic interest in the first legal case that was taken on the matter in 2001, on financing social housing policies in Ireland. Since then, from the Commission's perspective, social housing must be aimed at 'those who are disadvantaged or socially less advantaged groups which, due to solvability constraints are unable to obtain housing at market conditions'. Countries where there is a universal approach to social housing, i.e. it is for use by the entire population irrespective of income, such as the Netherlands, are therefore required to reduce their supply of social housing in order to ensure that the organisation of national social housing policies are compatible with competition law. For more information [in French], see Brice Daniel (2018), *Le procès européen fait au logement social – Le droit européen et la faillibilité du logement social en France, aux Pays-Bas et en Suède* ('The European Trial of Social Housing – European Law and the Fallibility of Social Housing in France, the Netherlands and Sweden'), *Actes de la recherche en sciences sociales 2018/1* (N° 221-222), p. 64-79.

with safeguarding measures being enforced to ensure that housing is accessible to all. According to a report by the UN Special Rapporteur on the Right to Adequate Housing⁸, this financialisation of housing demands urgent action. States must ensure that all investment into the housing sector takes account of the social function of housing in order to meet their obligations regarding human rights.

In countries where it is integrated on a continuing basis into the housing system, rent regulation can be a means of limiting price hikes, particularly in areas where the market is ultra competitive and when it is coupled with measures to protect and offer stability to renters.

In **Germany**, renters benefit from greater stability on the private rental market and find housing at more affordable prices, compared to renters living in countries where the market is more liberalised, such as **United Kingdom**⁹. Greater security of tenure, protection against arbitrary evictions, the presumption that the contract is of unlimited duration except where the renter wants to end it, and representation by renter organisations are all elements that contribute to the protection of renters on the German rental market. At the other end of the scale, British renters face increased use of short-term contracts, which leads to excessive mobility and an increase in the amount of rent that can be requested with each new contract.

In **Germany** in 2015, the federal government established a 'rental brake' (*Mietpreisbremse*) meaning that the rental price cannot be set at more than 10% above a local comparative rental price. This measure was first established in Berlin and gradually extended to 300 other cities and towns with ultra-competitive markets.

This strengthens the control mechanisms that have been in place in Germany for 30 years: when setting rental amounts, freedom is the rule but the renter can turn to the courts if he/she feels that the rent agreed is usurious, i.e. more than 20% higher (since 2015, 10%) than the rent demanded for equivalent properties. In this case, the renter must prove that there is an alternative supply that corresponds to her/his search requirements. If the judge decides to lower the rent, the new amount automatically substitutes the one noted in the lease and the renter can recuperate all overpayment made over the previous three years (maximum). With regard to increases during the lease, clauses covering periodic fixed increases or clauses covering indexation are permitted in rental contracts, but if there is no such clause in the lease, the owner can demand an increase (one year at the earliest after the lease is signed and every 18 months at the most) to a maximum of 20% every three years. The renter has three months to negotiate, accept or refuse this increase. In the event that the renter refuses it, the landlord can turn to the courts. The rent decided by the judge, based on rents paid for comparable housing, will be automatically applied; the renter is free to end the lease. These control measures tend to reduce the significant differences that can occur in areas with an ultra-competitive market between rents paid by those relocating and rents paid by those in situ. To function correctly and for renters, owners and judges to be correctly informed, these measures require data on the rent prices being paid¹⁰. For this reason, comparison tools have been developed at municipality level, for example in Cologne, which in the 1970s established the first rental index (*'Mietespiegel'*)¹¹, based on consultation between the various local stakeholders in housing. This experience

⁸ UN General Assembly – Human Rights Council (2017), Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, https://www.uclg-cisd.org/sites/default/files/Report%20of%20the%20Special%20Rapporteur%20on%20adequate%20housing%20AHR3451_0.pdf

⁹ Institute for Public Policy Research (2017), Lessons from Germany – Tenant power in the rental market, <https://www.ippr.org/files/publications/pdf/lessons-from-germany-jan17.pdf>

¹⁰ 'Whether it is the action of the landlord or the tenant that brings the case before the courts, the law dictates that the judge's decision is made based on rents being charged for comparable housing. To this end, the law has set out three methods: recourse to an expert (costs between EUR 700 and EUR 1,500); three reference rents for comparable housing; elements provided by a database of rents.' (Translated) Bernard Vorms (2012), *Le modèle allemand de régulation des loyers est-il transposable en France?* ('Could the German model of rent controls be transposed to France?'), *Métropolitiques*, available [in French] at: <https://www.metropolitiques.eu/Le-modele-allemand-de-regulation.html>

¹¹ 'Cologne's rental index covers all accommodation in the city, except one-off houses and properties that are exceptional in terms of quality or size. It provides rent brackets based on criteria such as quality of the area, size of the property, how well equipped it is, and when it was built. There is a future plan to integrate energy performance into this. It only represents the basic rent, i.e. excluding charges. The figures decided on are the result of expert opinions, they are based on a large amount of data but result from negotiation between the index's stakeholders rather than from sophisticated statistical work. The data is updated every two years.' (translated) Bernard Vorms (2012), *Ibid.*

was then expanded to all German cities - with different calculation methods being applied in accordance with local decisions.

In **Sweden**, rent negotiation has been in place since 1942; it has changed form several times in the intervening years and is applied differently depending on the local context. *Section 55 of the Swedish Rental Law*¹² states that rent prices cannot be considered reasonable if they are substantially higher than rent for properties of an equivalent utility value. At municipal level, a consultation is organised annually between representatives of the municipal housing department, renters' representatives and representatives from the private sector who all decide on changes to rents in the public sector¹³. Changes to rents in the (older built) private rental sector are aligned with the public sector. Rent controls in the public sector therefore have repercussions on the private sector because a renter in the private sector can go before the courts to demand that her/his landlord applies the rental amount demanded in the public sector for a comparable apartment. While this does tend to remove the differences in price between the public and private market, the regulation is not however applied to brand new buildings in the private sector, so these properties are exempt from rent controls for 15 years after construction. This results in significant rental disparities between old buildings and recently built properties in areas with an ultra-competitive market. The rent control system in Sweden is today organised in such a way that if the stakeholders at the table cannot come to an agreement, no rental increase is allowed¹⁴.

Rent controls, in order to be effective, must not only be accompanied by measures to protect renters (if landlords can unconditionally terminate a contract when he/she wants, rent regulations will have little effect)¹⁵, **but must also be enforceable, be transparent and be implemented in an environment where affordable private and social housing are built in sufficient quantities.**

The mass privatisation of social housing in **Germany**, the major slowdown in building rental properties in **Sweden** in the aftermath of the 1990 and 2008 economic crises, and the resulting severe lack of housing in areas with an ultra-competitive market, have limited the positive effects of regulation. In these contexts, rent control, while limiting widespread increases in housing costs, have not curbed them entirely. In **Sweden**, the regulations work particularly well for people who have already managed to secure accommodation on the regulated housing market; however, taking Stockholm as an example, half of its residents (500,000 people approx.) are still waiting for a rental contract on the regulated market, and the wait can be as long as 30 years¹⁶. As a result, the black rental market has thrived, and this is at the root of the increased number of people paying exorbitant rents or living in unfit conditions (41% of poor households in **Sweden** were living in overcrowded housing in 2016, an increase of 38% since 2010¹⁷). Poor households, whose income is too low or too unpredictable to ensure rental payments are made, and those lacking references from previous landlords, such as refugees for example, cannot compete with households in a better position.

¹² Chapter 12 of the Jordabalken (Swedish Land Law) 1970:994. Norberg Per & Juul-Sandberg Jakob (2016), *Op. Cit.*

¹³ Public housing in Sweden is not the same as social housing: while rents are controlled via collective bargaining, municipal housing organisations must, in accordance with legislation that entered into force in 2011, be managed cost effectively and for profit.

¹⁴ Norberg Per & Juul-Sandberg Jakob (2016), Rent control and other aspects of tenancy law in Sweden, Denmark and Finland: how can a balance be struck between protection of tenants' rights and landlords' ownership rights in welfare states? Paper presented at the European Network for Housing Research Conference, Belfast, UK. Available at: http://findresearcher.sdu.dk/portal/files/120168625/Rent_control_and_other_aspects_of_tenancy_law_in_Sweden_Denmark_and_Finland.pdf

¹⁵ Norberg Per & Juul-Sandberg Jakob (2016), *Op. Cit.*

¹⁶ David Crouch (2015), Pitfalls of rent restraints: why Stockholm's model has failed many, The Guardian, 19 August 2015, available at: <https://www.theguardian.com/world/2015/aug/19/why-stockholm-housing-rules-rent-control-flat>

¹⁷ Eurostat/EUSILC 2016.

In **France** in 2014, the *Alur law* provided general rent control measures for 28 metropolitan areas, inspired by the German model, enabling renters in ultra-competitive markets to demand a downward review of an excessive rental amount (i.e. 20% higher than a median rent as measured by an authorised local observatory and determined based on housing type, floor area, age of property and location)¹⁸. The law was only applied for two years in Paris and even though the measures were the subject of a positive evaluation that noted the stability of private rents in 2016 in the Paris metropolitan area¹⁹, the new government took a step backwards by making the measures optional and experimental. The end of rent controls in Paris has meant price hikes for those seeking to rent a property²⁰.

In parallel, where the private market fails, some local authorities are taking the necessary regulatory and legal measures: for example, to limit the disastrous effects of the **Airbnb phenomenon**. Tourist rentals in the attractive city centres are causing rent prices to soar for local residents by diverting residential rental stock to short-term lets. In **Madrid**, for example, the mayor highlighted the fact that in May 2018, 45.7 % of the central district's population constituted tourists, of which 17.6 % were staying in tourist accommodation and 27.1 % were staying in hotels. The authorities legislated therefore to limit the problem, by following the example set in **Barcelona, Paris, Berlin, Amsterdam, the Lombardy Region, etc.** **It is vital to establish public interventions to limit the effects of financialisation on the housing market and to prevent its effects (pauperisation, gentrification and social segregation) affecting the entire European territory.**

¹⁸ See [in French] Julie Clauzier (2017), L'encadrement des loyers en France ('Rent Controls in France'), *Les Echos du Logement* N°122, pp. 33-35. Available at: http://lampspw.wallonie.be/dgo4/tinymce/apps/echos/views/documents/FlippingBook/Echos_122/35/#zoom=z

¹⁹ OLAP ('Observatory of Rents in the Paris Region') (2017), Evolution en 2016 des loyers d'habitation du secteur locatif privé dans l'agglomération parisienne, ('Changes in 2016 of residential rents in the private sector in the Paris Metropolitan Area'). Available [in French] at: http://www.observatoire-des-loyers.fr/sites/default/files/olap_documents/rapports_loyers/Rapport%20Paris%202017-V2.pdf

²⁰ CLCV (a not-for-profit consumer organisation in France) (2018), La fin de l'encadrement des loyers se fait déjà sentir à Paris (The end of rent controls is already being felt in Paris), available [in French] at: http://www.clcv.org/images/CLCV/CLCV_-_Enqu%C3%AAtes_Loyers_parisiens_2018_copy_copy.pdf

2. RENTAL INTERMEDIATION, A PROVEN METHOD OF MOBILISING THE PRIVATE RENTAL STOCK

Rental intermediation measures have been used widely in Europe since the 1980s, but how they are used differs from one country to the next. **It enables the private rental stock to be used to provide accommodation for households in difficulty, while providing security to landlords by offering them various guarantees; this is done through intervention from intermediaries (public bodies or associations).** In **France, Belgium, the United Kingdom**, these initiatives have been integrated into the system. In **France**, rental intermediation is based on the *public service contract with ANAH* (France's National Housing Agency)²¹, which enables private housing to be rented out at intermediate, social or very social rents in exchange for grants and tax advantages for landlords who commit to the initiative. For vulnerable people and homeless people who have long been locked out of the private rental market mainly due to their financial situation, specific measures have been established and integrated into the system as a result of the 1990 Besson Law: *AIVS (Property Agencies with a Social Purpose)*, or authorised associations, can turn to subletting or management mandate measures (the occupant is thus the direct tenant with a lease in his/her own name). France's national intermediation programme, *Solibail*, was launched in 2008 had 28,656 properties by the end of 2016 (up from 7,935 in 2012), of this 74% are sublets²². *Solibail* and *Louez Solidaire* in Paris, are built on partnerships between local authorities and publicly funded associations. The risks to landlords are covered through guarantees and adapted rental management, tax deductions, grants for renovations, etc.²³ On 31 December 2017, the rental intermediation stock financed by the French State (in

Metropolitan France and the Overseas Territories) was estimated at 34,323 properties, of which 80% are let/sublet and 20% are under management mandates, and more than 50% of properties used in this way are in the Paris region²⁴.

In **Belgium, Ireland, the United Kingdom, Italy**, and more recently **Hungary**, rental intermediation measures have been introduced to compensate for an under-developed or diminishing social housing stock. In **Belgium**, 51 *AIS (Social Real Estate Agencies)* are registered in **Flanders** (of which 44 are subsidised by the regional government²⁵) and they manage approx. 10,000 housing units. In **Brussels**, *FEDAIS (the Federation of Social Real Estate Agencies)* brings 23 AIS together, managing a total of 4,800 housing units in 2017 in the Brussels Region. The sector is still regarded as minor, but stakeholders are trying to increase its share with average annual growth of 250-300 housing units. In the **United Kingdom**, the SLAs (Social Letting Agencies)²⁶ were developed following the mass privatisation of social housing. The widening gap between supply of genuinely affordable housing and demand, as well as the growing number of homeless people, have led to increased political and financial support for the SLAs, which can be managed by local authorities or by social services. A study conducted by Sheffield Hallam University in September 2018²⁷ provides for the first time an evaluation of the sector: early results have counted about 120 SLAs in **England**, which as a whole currently represent 4,500 housing units. The majority manage a very small stock of housing while the largest agencies manage between 450 and 500 housing units.

²¹ Public administrative office in France that implements national policy for improving the existing private housing stock, under the authority of the Housing Minister.

²² DGCS, AHI inquiry, quoted by Fondation Abbé Pierre (2018), L'état du mal-logement en France 2018 – Rapport annuel #23. Available [in French] at: http://www.fondation-abbé-pierre.fr/documents/pdf/23e_rapport_etat_du_mal-logement_en_france_2018_-_partie_2_les_politiques_du_logement.pdf

²³ FAPIL (2017), Mobiliser un parc privé de qualité à bas coût de loyer – Etat des lieux des pratiques des associations de la Fapil et enquête auprès des propriétaires ('Mobilising quality private stock at low rental cost – State of Play among Fapil associations and survey of owners'), available [in French] at: http://www.fapil.net/wp-content/uploads/2017/05/Etude_Developper_le_parc_privé_a_vocation_sociale_web.pdf / Fondation Abbé Pierre (2016), La mobilisation du parc privé à des fins sociales ('Mobilising the private stock for social purposes'), available [in French] at: http://www.fondation-abbé-pierre.fr/documents/pdf/rapport_-_la_mobilisation_du_parc_privé_a_des_fins_sociales_-_novembre_2016.pdf

²⁴ Many homes in rental intermediation are financed by other stakeholders, particularly local authorities. The Ministry of Territorial Cohesion (2018), Instruction of 4 June 2018 on implementing the stimulus package for rental intermediation within the framework of the Housing First plan, available [in French] at: https://www.gouvernement.fr/sites/default/files/contenu/piece-jointe/2018/06/circulaire_imi.pdf

²⁵ To get the support of the Flemish Government, the AIS must meet certain standards: they must manage more than 30 housing units, of which at least 30 must be allocated to poor or vulnerable groups; they must be operating for at least two years and must cover several urban areas; they must also function correctly at an organisational level; etc.

²⁶ See Crisis (2015), Social Lettings Agency Guide, available at: <https://www.crisis.org.uk/ending-homelessness/housing-resource-centre/housing-centre-guides/social-lettings-agency-guide/>

²⁷ Sheffield Hallam University, Scaling-up Social Lettings: Scope, Impact and Barriers (2018), summary available at: <https://www4.shu.ac.uk/research/cresr/ouexpertise/scaling-social-lettings-scope-impact-and-barriers>

Financing can be sourced from local authorities or even private partners via social investment, in addition to funding from government, which announced in the 2017 budget that it wanted to allocate GBP 20 million to SLAs in September 2018. However, the conditions for allocating this budget are yet to be defined. From 2010 to 2014, the Private Rental Sector Access Development Programme coordinated by Crisis was financed to the sum of GBP 11 million and supported 153 projects enabling access to private rental contracts for homeless and vulnerable people. The programme led to the creation of 8,000 rental contracts, of which 90% were greater than six months in length²⁸.

Rental intermediation offers many advantages:

- **Vulnerable people can be targeted:** in **Flanders**, in 2009, 33% of new renters at an *AIS (Social Real Estate Agency)* were homeless at the time they were housed; this is mainly down to the points allocation system which enables those with the most urgent needs to be targeted. In **Brussels**, several AIS have entered into partnerships in order to target people most at risk: A Housing First project in **Schaerbeek** is targeting homeless people, with landlords having entrusted their asset to the AIS through a partner association, the *Cellule Capteur Logement (the housing sensor committee)* of *L'Ilot (a not-for-profit organisation)*. Renters are supported by specialised services within the framework of a transit agreement for up to 18 months which can be converted into a longer term lease. Some Brussels AIS have also developed collective transit housing for ex-prisoners, or single women or single mothers who find themselves homeless following a deterioration of their social situation (linked to domestic violence, abuse or a difficult immigration experience, etc.)²⁹. In **France**, rental intermediation has been designed as a tool to relieve the emergency accommodation system: as part of the *plan to reduce nights spent in hotels*, the French government created space for more than 9,000 people in rental intermediation between 2015 and mid-2017³⁰. The current government announced the creation of 40,000 extra places in rental

intermediation during its five-year term, half of which will be management mandates. The conditions of this action were detailed and linked to Housing First policy in a June 2018 circular³¹.

- **Facilitating support in housing:** rental intermediation measures enable not just the provision and management of private housing in a social way (affordable rent controls, community-based management, rental assistance and monitoring, respect for standards of security and adequacy, a social approach in the event of payment difficulties, maintenance via technical support, etc.), it also sustainably supports and maintains people in housing, with interventions from support services when required. In **Madrid**, rental mediation services provided by the association, *Provivienda*, include a guarantee system for rental payments and renter stability. The association covers any potential defaults in the first year and, if necessary, the second year of the rental contract, in order to encourage landlords to rent to people who are not financially secure or are barely financially secure. Support services are offered to renters in accordance with their individual needs and a network of partners are available to link in with the employment, health, education and leisure sectors. In **Germany**, the social estate agencies, *Soziale Wohnraumhilfen*, are also focussed on rental management and mediating between landlords and renters. The agencies have not however worked towards promotion and regulation at regional or national level; in general, they offer social support in the community in accordance with the individual's needs. While there is no known national data analysing the size and results of these initiatives, and while the proportion of the real estate market that is social is very limited in light of the figures for housing exclusion in Germany, some qualitative studies do exist. In **Karlsruhe** for example, between 2005 and 2015, the *SOZPÄDAL e.V.* project enabled 1,200 people, who are homeless or disadvantaged, to benefit from an affordable rental contract in private housing. Of these, 76% have been kept in their housing or have moved to another apartment, to a retirement

²⁸ Ministry of Housing, Communities & Local Government (2018), Rough Sleeping Strategy, August 2018, pp. 58-59 available at : https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/733421/Rough-Sleeping-Strategy_WEB.pdf

²⁹ FEDAIS (not-for-profit organisation), 2018, Les AIS ont 20 ans ('Twenty years of AIS'), pp. 17-19, available [in French] at https://docs.wixstatic.com/ugd/bc16d2_7be1edd3e1b94ca5b92a5e62c9df119e.pdf

³⁰ Fondation Abbé Pierre (2018), *op. cit.*

³¹ Ministry of Territorial Cohesion (2018), *Op. Cit.*

home or to a specialised care home, and for approx. 17%, the rental contract could not be maintained³².

- **Security in housing**, through the promotion of common law leases. These measures can employ various methods to utilise housing. In **France**, agencies and associations use rental/subletting or management mandates, through which the rental management of private accommodation is delegated to an accredited public operator. Management mandates are more protective as they offer the renter the status of common law renter along with direct rental contracts with the landlord for a minimum of three years. The guarantees provided to landlords boost their confidence in this type of contract and increase the likelihood of a common law lease being signed. In **Spain, Barcelona** City Hall launched the *Borsa de Lloguer / Rented Housing Pool* programme in 2014. Under this programme, landlords agree to rent a property to persons in need for a five-year period with controlled rent. Through this, the City's housing services offer mediation, 100% rent payment guarantees (through the creation of a guarantee fund), a 50% tax rebate on property tax, comprehensive insurance, and technical and legal support, as well as a renovation grant covering up to 100% of works (to a maximum of EUR 20,000)³³. By the summer of 2018, about 1,100 housing units had been mobilised, renovated and made affordable - including the *Hàbitat 3* programme which enables the municipality to temporarily manage vacant private housing in exchange for renovation works³⁴.

Rental intermediation operators are also facing obstacles related to their size:

- **The number of applications and demand pressures on teams** are the main challenges facing these measures. In **Flanders** for example, proportionally, the waiting lists are longer for rental intermediation housing than for social housing.

- **Ensuring affordability of rent to the poorest people being housed** is also a major challenge: the income of renters including housing-related allowances must be sufficient to meet the negotiated rent price, which is highly dependent on the local context i.e. whether the housing market is competitive or not. In **Italy**, the rental intermediation measures initiated by certain urban local authorities have had to address renters' financial problems following the 2008 financial crisis: in **Turin**, the *Lo.C.A.Re* programme commits landlords to reducing their rent by 30% of local market rents, in exchange for tax rebates, regular grants, rental guarantees and mediation in the event of conflict. After 2008, this 30% reduction was not sufficient for the most vulnerable renters however. The **line between social goals and commercial goals**, between social institutions and landlords, can also become blurred and raise certain issues: in **England**, associations are questioning whether the private rental stock managed by *Social Letting Agencies* could become the 'new social housing', and in the event of this occurring, extra guarantees are needed in terms of its social objectives of security, costs, needs and quality. Historically, British social housing meant stable long-term housing with inheritance rights, and with truly social rents agreed by national regulation³⁵, unlike the private rental market where short-term lets with low protection (from 6 to 12 months on average known as Assured Shorthold Tenancies or ASTs) are the rule. In 2014/15 in England, 81% of rental contracts were ASTs³⁶. In 2011, the British government made it possible for local authorities and accredited private social landlords to set rents at up to 80% of the local rental market, thereby introducing a distorted idea of 'affordable housing'. This measure for intermediary housing would mean that the extra funds collected could be reinvested into the development of new social housing. It amounts to a mechanism whereby aid to property is replaced with own-source revenue, in line with the Europe-wide trend of financialising housing policy. This

³² Alex Steffen (2017), 'Neue Wege der dauerhaften Wohnraumversorgung – Soziale Wohnraumagenturen in Deutschland' (New Ways to a Sustainable Housing Supply - Social Housing Agencies in Germany), *BAG-W (Germany's federation of services for homeless people) Wohnungslos 4/17*.

³³ <http://habitatge.barcelona/en/housing-services/rent-your-home-with-guarantees>

³⁴ <https://ec.europa.eu/futurium/en/housing/mobilizing-vacant-private-dwellings-towards-affordable-rental-market-borsa-de-lloguer>

³⁵ David Mullins & Halima Sacranie (2017), *Social Lettings Agencies in the West Midlands: Literature Review and Typology*, University of Birmingham – Housing and Communities Research Group. Available at: <https://www.birmingham.ac.uk/Documents/college-social-sciences/social-policy/SPSW/Housing/2017/REPORT-3-LITERATURE-REVIEW-AND-TYPOLOGY-FINAL.pdf>

³⁶ Julie Rugg & David Rhodes (2018), *The Evolving Private Sector: Its Contribution and Potential*, University of York – Centre for Housing Policy, p. 109, available at: https://omghcontent.affino.com/AcuCustom/Sitename/DAM/105/The_Evolving_Private_Rented_Sector.pdf Note that in Scotland, recent reforms have come into force, from December 2017, for all new rental contracts and renewed contracts in which an undefined duration has replaced the principle of ASTs. This has significantly reduced the potential for evictions that are arbitrary/not the fault of the renter.

intermediary housing is intended to take a majority position in the social stock. In England, supply - construction and acquisition - of new 'social' rental units has fallen by 86% in 5 years (from 37,680 units in 2011-2012 to 5,380 units in 2016-2017) in favour of 'affordable' rental units (which rose from 1,150 units in 2011-2012 to 24,350 units in 2016-2017)³⁷.

- **Finding and securing landlords:** studies in **France** and **Belgium** show that the same types of landlords are signing up. They are predominantly small-scale landlords with only one property for rent. In **Belgium**, a new career has opened up in several towns to address this issue: 'housing sensors' have thus been instated in **Charleroi, Brussels, Namur, Tournai, Liège and La Louvière**. Their role is to expand the portfolio of housing (private and/or public) destined for homeless people, with social support as a priority and access to suitable housing as an objective, along with strengthening the existing structures, with emphasis on working as a network and developing expertise in prospecting private landlords³⁸. In 2015, more than 350 contracts were signed in **Wallonia** and **Brussels** following intervention by a housing sensor committee. A sensor employed on a full-time basis can rehouse on average between 30 and 70 people per year³⁹.
- **Taking on the rental risk:** stakeholders in rental intermediation face significant challenges when supporting the rental risk for housing made available and to meet the many expenses that may arise due to unpaid rent, degradation, vacancy, and legal

fees. The UK organisation, Crisis, has thus created a *specific guide*⁴⁰ which details all the risks associated with SLAs, in their capacity as small enterprises and also regarding the specific welfare reforms for housing integration. In **France**, the Fédération des Acteurs de la Solidarité Île-de-France (Federation of Solidarity Stakeholders in Île-de-France) has since 2001 managed a *regional guarantee fund for housing integration associations*⁴¹ that is financed by the Île-de-France Region and aims to guarantee action from housing integration associations, through compensating for losses incurred from rental risks. Each association must join and pay an annual fee to the fund that is set in accordance with the number of housing units to be secured. The compensation can be used to cover unpaid rent, vacancy periods (beyond what is normal), exceptional damages, legal fees, unexpected charges and cash advances. Cash advance services and training/advice on setting up management tools and on specific topics are also available to associations. In France also, the *Visale (Visa for Housing and Employment)* guarantee can be used within the rental intermediation framework. This is a free guarantee measure granted by Action Logement⁴² to a renter who wants to rent in the private sector. The guarantee aims to take responsibility, in the event of non-payment, for rent payments and charges of the primary residence for the first three years of the lease. This guarantee is aimed at private landlords, individuals or real estate professionals; it enables them to broaden their selection criteria, for free and while minimising the risk, by widening their choice of rental candidates⁴³.

³⁷ Department for Communities & Local Government (2017), Affordable Housing Supply: April 2016 to March 2017 England, Housing Statistical Release, available at: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/657902/Affordable_Housing_Supply_2016-17.pdf

³⁸ Ilot not-for-profit Housing Sensor Committee (2015), available [in French] at http://www.86400.be/wp-content/uploads/2014/11/Rapport-final-de-recherche-action_Capteur-logement.pdf -- / L'Ilot (2017), Une matinée dans la peau de capteur et créateur de logements ('A morning spent in the shoes of a housing sensor'), available [in French] at: <http://ilot.be/une-matinée-dans-la-peau-de-capteur-et-créateur-de-logements/>

³⁹ Centre Permanent pour la Citoyenneté et la Participation (2016), Capteur de logements – Une nouvelle fonction sur laquelle miser? ('Housing Sensors: a new function worth investing in?'), p. 10, available [in French] at http://www.cpcp.be/medias/pdfs/publications/capteurs_logement.pdf

⁴⁰ See Crisis (2015), Social Lettings Agency Guide, available at: <https://www.crisis.org.uk/ending-homelessness/housing-resource-centre/housing-centre-guides/social-lettings-agency-guide/>

⁴¹ <http://www.federationsolidarite.org/ile-de-france>

⁴² Action Logement is a group of agencies that grew out of the PEEC ('Employers' participation in the construction effort'), which has become a stakeholder and major donor of social and intermediate housing in France.

⁴³ Action Logement (2017), Guide Visale Intermédiation Locative, available [in French] at: http://www.federationsolidarite.org/images/stories/champs_d_action/Logement/pdf/Guide-Visale-Intermediation-Locative_28032017.pdf

'At Crisis, we are calling on the governments of England, Scotland and Wales to financially support Social Letting Agencies, so that homeless people can get support to access the private rental sector if needs be. In our experience, we know that SLAs offer low-income renters a real choice, whereas they usually are forced to accept the worst that the private rental sector has to offer. By offering a viable alternative, we can reduce the number of renters who are victims of unscrupulous landlords and force these landlords, by using the market itself, to improve their property and their behaviour. We also know that there are landlords asking for support in the management and improvement of their rental property; in exchange for affordable rent and longer leases, the SLAs can provide this support and can prove to be competitive when compared with real estate agency fees. However, to be effective, the SLAs require start-up funding in order to become operational, in accordance with their size, as fast as possible. It is also necessary to provide housing benefits that are adequate for the given market.'

Chris Hancock, Head of Housing, Crisis (United Kingdom)

Rental intermediation must be invested in and expanded, and other models can be created in accordance with needs: in the **United Kingdom**, the social impact investment fund, *Big Society Capital*, offers different relief funds, made up of public and private funding, to housing associations and charitable organisations in order that they may acquire housing units on the private market to house and support vulnerable people (homeless people, handicapped people, young people, old people, etc.)⁴⁴. A variety of funds (*Funding Affordable Homes, Cheyne Social Property Impact Fund, Real Lettings Property Fund*) offer either loans at low interest rates, or long-term management contracts to associations that are struggling to acquire or develop new housing due to the borrowing limits they

face and the difficulty of accessing capital. In **Germany**, the city of **Dresden** through its Social Protection Office, has signed a partnership agreement with Vonovia, one of the biggest real estate groups in the country, and with 132 private landlords in order to temporarily house asylum seekers in private apartments, by turning to housing that has been on offer for more than six months without uptake⁴⁵. In June 2018, two-thirds of asylum seekers in Dresden were housed throughout the city in private housing and supported by social workers in order to help them find permanent housing. Vonovia has set aside 10,000 permanent housing units with security of tenure for the city of Dresden, allocated to low-income households and refugees.

⁴⁴ <https://www.bigsocietycapital.com/our-themes/homes>

⁴⁵ On 31 May 2018, the City of Dresden's Social Protection Office had 2,634 asylum seekers in its care. In 2016, this number stood at 5,022. Two former hotels with a total capacity of 563, open since 2015 to accommodate asylum seekers, will be closed at the end of 2018 because large-scale, fast and permanent rehousing has been carried out. Interview with Dominic Heyn, Social Policy Advisor for the City of Dresden, June 2018.

3. SUPPLY INTERVENTION THROUGH TAX AND INCENTIVES

Besides rent controls and rental intermediation, publicly funded supports for private landlords are another commonly used instrument for increasing the supply of affordable rental accommodation. They come in different formats:

Direct financial assistance: in **Scotland**, the *Rural Homes for Rent* programme established in 2008, aims to increase the construction of new affordable rented housing units in rural areas, by offering a subsidy to landowners who commit to renting below market price for at least 30 years. The *Rural Housing Fund* then took the reins: with funding of GBP 25 million for the period 2016 to 2021, it offers subsidies and loans for the direct production of new affordable housing and for the renovation of former homes now lying vacant. To be eligible, the projects must show that the local housing market is ultra competitive, must get the support of the relevant local authority, must be prepared to coordinate an agreement that is adapted to the local community, and must be affordable in the long term⁴⁶. In the south-west of **England**, the district of North Somerset established a pilot project in 2008 for one year that provided direct subsidies of GBP 2,000 to private landlords in order to renovate housing into affordable rentals. It involved a five-year rental contract being signed, with appointment of renters entirely managed by the local authority with the aim of housing people in need. The housing must be of high quality and the rent set below the Local Housing Allowance⁴⁷. For ten years, the district has been developing its experience in this area, and now offers turnkey assistance services for rental including free evaluations for health and safety standards, free support services for

rental, subsidies and loans⁴⁸. In **Switzerland**, some municipalities offer land with building authorisation to not-for-profit organisations, on a lease basis. The lease is often subsidised to ensure that rents are below market prices. Different systems exist depending on the municipality: in **Zurich** for example, 25% of housing units are owned by not-for-profit agencies, foundations or cooperatives⁴⁹.

Tax incentive mechanisms: in **France** since 1999, tax incentive measures have come one after another (the latest being the *Pinel Act*). They allow investors/landlords to benefit from a tax reduction if they commit to renting out a brand new housing unit as a primary residence for a minimum duration of six years. The housing unit must be located in areas with an ultra-competitive market. Landlords who want to benefit from the Pinel Act must comply with income ceilings for the renters and to rent ceilings - which are very high⁵⁰- based on the geographic area and revised annually. In April 2018, the Court of Auditors published a report denouncing the 'high cost' of these financial subsidies 'in light of their lack of quantifiable effectiveness'. 'The economic impact of these supports has proved to be limited and their effectiveness - in terms of the growth in numbers of accessible rental housing - is weak'. The supposed cooling effect on market rents has not been borne out according to the report: the volume of supported housing created every year is 'weak' in relation to the existing rental stock, and in particular the difference has at times turned out to be 'incoherent, between rent ceilings linked to the tax benefits and market rents with the former in certain areas being higher than the latter'. The Court

⁴⁶ <https://beta.gov.scot/policies/more-homes/rural-housing-fund/>

⁴⁷ Shelter (2008), *Building Blocks – Exploring ways to deliver more affordable homes in the housing downturn*, p. 30, available at: https://england.shelter.org.uk/_data/assets/pdf_file/0005/147983/Building_Blocks.pdf

⁴⁸ <http://www.n-somerset.gov.uk/my-services/housing/help-landlords-letting-homes/help-renting-out-a-property/>

⁴⁹ <http://www.wohnungspolitik-schweiz.ch/?lang=fr>

⁵⁰ Rent ceilings for the year 2018 are 16.96€/m² for zone ABis (Paris and its 29 surrounding municipalities), 12.59€/m² for zone A (Ile de France, Côte d'Azur, Lille, Lyon, Marseille, Montpellier), 10.15€/m² for zone B1 (cities with more than 250,000 inhabitants, outer Parisian suburbs and certain cities where property prices are high), 8.82€/m² for zone B2 (cities of more than 50,000 inhabitants) and for zone C (the remaining territory, not eligible for the Pinel Act until 2016, with exceptions in 2017 and 2018). The rent ceiling for a 40 m² housing unit in Paris (which is eligible for Pinel) in 2018 is EUR 793.72.

noted that 'other public spending, by comparison, led to a similar sized but more sustainable increase in the rental housing stock'. On calculating the annual cost to the public purse of a housing unit benefiting from the Pinel Act, the Court stated that, all else being equal, this cost is three times higher than a comparable social housing unit, 'yet the rental period in the latter is far higher (40 years)⁵¹. Tax incentive measures to support the supply of accessible rentals also exists in the majority of European countries⁵², for example **Spain**, where since 2011, landlords who rent their property to a low-income young person (aged 18-30) can deduct 100% of the rent received from their taxable income. Some

tax resources can also be diverted towards affordable housing: in the **United Kingdom**, particularly in rural areas and in Wales, several local authorities have reinvested funds collected through the local tax on secondary residences into the production of housing for people on the social housing waiting list⁵³. In **Poland**, a preferential VAT rate is applied to housing that falls into the 'social housing' category, which can include rental, ownership as well as cooperative housing. There is a scarcity of data available analysing the impact of these tax incentives on the production of affordable housing, and the data that is available does not mention any effect on those most excluded from housing.

⁵¹ Court of Auditors (2018), Référé - Les dépenses fiscales en faveur de l'investissement locatif des ménages ('Summary - Fiscal spending promoting rental property investment for households'), available at: <https://www.ccomptes.fr/fr/publications/les-depenses-fiscales-en-faveur-de-linvestissement-locatif-des-menages>

⁵² OECD, Affordable housing database – Measures financing affordable housing development, available at: <http://www.oecd.org/social/affordable-housing-database.htm>

⁵³ Shelter (2008), *op. cit.*, p. 27.

CONCLUSION

Public action must be taken regarding the private rental market to contain rent price increases and their effect on housing exclusion. This action must hinge on the supply of social housing so that everyone, including the most vulnerable among us, have their fundamental right to be housed respected. At local level, the markets must be regulated and solutions must be encouraged to compensate for the market failing people whose stability and security are in danger through the lack of adequate and affordable housing. Fiscal measures encouraging private landlords to rent to vulnerable people at an affordable price must be clearly oriented towards the affordable nature of the housing in order to function. Financial efforts must support the array of institutional mechanisms, involving intermediation professionals in the social work, social investment and real estate sectors. It is absolutely necessary to invest public funds into rental intermediation, scaling it up to complement the social housing sector. However, measures incentivising rental investment via massive tax exemptions wastes billions of euro without any true evaluation of their social impact.

Mobilising vacant housing is another resource that needs to be used - as discussed in a previous edition⁵⁴. Public intervention in housing requires strong political will that goes beyond the confines of the electoral calendar. In **France**, while the rent control measures were undergoing adjustment (after being operational for two years in Paris and a few months in Lille) and evaluation, the government chose to back pedal prematurely, in spite of early encouraging results.

Profits gained from property can be staggering. A part of these profits can be reinvested creatively into the real world of housing, instead of being accumulated as unearned income. Incentivising is not enough when it comes to affordable housing; structural, institutional and partnership-based solutions must be established to invest in, acquire and make housing accessible for all.

⁵⁴ See FEANTSA & Fondation Abbé Pierre (2016), Filling Vacancies - Real Estate Vacancy in Europe: Local Solutions to a Global Problem, available at: <https://www.feantsa.org/fr/report/2016/09/11/cocher>



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