



Submissions on the Netherlands in advance of country visit of the Special Rapporteur on the right to adequate housing

October 2023

Introduction

The Netherlands has been facing a severe and prolonged housing crisis¹ characterized by rising housing costs, escalating private sector rental rates, and a severe shortage of available housing.² While this crisis affects the entire Dutch population, certain vulnerable groups, including those with lower incomes and individuals from migrant backgrounds, are disproportionately impacted. Discrimination in the rental market is widespread, hindering equal access to housing.³ The Minister of the Interior has acknowledged the “alarming” nature of this situation and initiated measures to combat discrimination.⁴ Despite government policies addressing housing access barriers, concerns persist regarding their implementation at the municipal level.

This submission delves into specific vulnerable groups within society and examines the extent to which they are able to exercise their right to adequate housing in the country. It is important to emphasize that while this submission primarily focuses on the situation in the Netherlands, discrimination against vulnerable groups within the housing market is a global issue, affecting communities and states worldwide. Therefore, and due to word count limitations, the list of vulnerable groups discussed in this submission cannot be considered exhaustive. On this basis the Committee on the Rights of Migrants of the Conference of INGOs of the Council of Europe supports the general ideas of the ASSEDEL submission, firmly opposing discrimination in every form, across all communities, and within every state.

¹ 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 et al., ‘Public Communication’ 19 April 2021.

² FEANTSA ‘Discrimination and housing in The Netherlands’ 2021.

³ Netherlands Institute for Human Rights Written, Submission for the 41st session of the Universal Periodic Review Working Group concerning the human rights situation in the Netherlands, March 2022.

⁴ Minister of Interior and Kingdom relations, Letter to the House of representatives, ‘Discriminatie op de woningmarkt; uitkomsten onderzoek en vervolg’ [Discrimination in rented housing: research findings and follow-up] 23 April 2021.

I. *Affordability and availability of housing for people with low-income*

Government policies and legislation have specifically focused on social housing. More precisely, individuals are being evicted from social housing units before these units are made available for sale or rental in the liberalized sector. Consequently, the supply of affordable social housing has dwindled, and there is limited motivation to construct new housing units.⁵

Furthermore, research indicates that the waiting period for access to social housing has substantially lengthened in recent years, with some municipalities now reporting waiting times exceeding seven years.⁶ The availability of housing for individuals with lower incomes has evolved into a critical issue.

Turning to a brighter aspect, the controversial tax⁷ burdening social housing corporations since 2013⁸ is to be phased out by 2023 according to the Dutch Government. Additionally, the government pledged to establish national performance agreements with housing associations, outlining their commitments in the coming years regarding housing construction, maintaining affordable rents or sustainability initiatives.⁹

Nonetheless, some municipalities are still implementing diversification-oriented housing policies, which are exacerbating the social housing crisis. Essentially, these policies aim at restricting the availability of affordable social housing for low-income groups, and favoring more costly options in the private rental sector and home ownership. Such policies directly contribute to spatial segregation.¹⁰ Notably, certain neighborhoods have witnessed a significant concentration of individuals in highly vulnerable situations. Simultaneously, efforts to expand the supply of social housing in newer areas are limited.

⁵ FEANTSA 'Discrimination and housing in The Netherlands' 2021.

⁶ NOS, 'Sociale huurwoning? In zeker een kwart van de gemeenten wacht je meer dan 7 jaar' [Social housing? In at least a quarter of the municipalities you wait more than 7 years], 2021.

⁷ The Dutch association of social housing providers (Aedes) and the Dutch tenant's association (de Woonbond) have consistently advocated for the elimination of this tax. They argue that tenants indirectly bear the brunt of this additional tax through increased rents. Both associations pointed out that the issue of housing affordability for low-income individuals was still a pressing concern.

⁸ This tax is also known as the "verhuurderheffing."

⁹ Ibid.

¹⁰ FEANTSA 'Discrimination and housing in The Netherlands' 2021.

A noteworthy example of this is the diversification policy put into effect by the municipality of Rotterdam in its southern region. The National Programme for Rotterdam South (NPRZ) is a joint initiative managed by both the Dutch Government and the city of Rotterdam.¹¹ One of its objectives is to reduce the number of affordable housing units by 15,500 homes, while increasing the supply of rental or owner-occupied houses in the middle and higher price segments by 46,600 units.¹² This policy is based on the assumption that the surplus of social housing units exceeds the number of households eligible for social housing. Nevertheless, the former Special Rapporteur on adequate housing, has highlighted that this policy may lead to a deficit of 9,000 affordable homes.¹³

II. Migrants or people with a non-Western migration background

Within the low-income demographic, individuals with migrant backgrounds or those from migrant communities bear a disproportionate burden arising from the housing crisis and the acute shortage of social housing. They face both direct and indirect discrimination.

a) Direct discrimination

Research findings indicate that individuals with migrant backgrounds or those from migration communities face discrimination within the private rental sector. Two comprehensive studies, commissioned by municipal authorities, focused on assessing the extent of discrimination against migrants seeking rental housing in Amsterdam¹⁴ and The Hague.¹⁵

These studies followed a two-step approach. Initially, a telephone survey with undercover testers, posing as prospective tenants, assessed rental companies' willingness to discriminate against individuals with non-Western migration backgrounds. The second phase comprised a written email investigation, probing discrimination against housing seekers based on migration background.

¹¹ 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 et al., 'Public Communication' 19 April 2021.

¹² Ibid.

¹³ UN 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 et al., 'Public Communication' 19 April 2021.

¹⁴ RIGO Research and Advice, Report 'Discriminatie op de Amsterdamse woningmarkt' [Discrimination in the housing market in Amsterdam: Practical tests in the private rental sector] January 2020.

¹⁵ RIGO Research and Advice, Report 'Discriminatie op de Haagse woningmarkt' [Discrimination in the housing market in The Hague: Practical tests in the private rental sector] February 2021.

The outcomes revealed that in Amsterdam, 33% of rental agents expressed a willingness to discriminate against home seekers with non-Western migration backgrounds. Notably, half of these rental agents were aware that such discrimination was prohibited by law.¹⁶ Similarly, in The Hague, 42% of rental agents contacted were willing to engage in discriminatory practices against home seekers with non-Western migration backgrounds.¹⁷ Furthermore, the results demonstrated that in both The Hague and Amsterdam, individuals with non-Western last names encountered disadvantages in comparison to applicants with Dutch names in 19% of cases.¹⁸

Following these studies, the Dutch government has committed to combatting discrimination in the private rental sector. Proposed actions include raising awareness among property owners and intermediaries, introducing a permit system, implementing mystery guest assessments, and imposing sanctions for discrimination. Progress reports will be issued to assess the measures' effectiveness.¹⁹

However, organizations such as the European Federation of National Associations Working with the Homeless (FEANTSA) emphasize that for these measures to have a substantial impact, an all-encompassing policy addressing both direct and indirect discrimination is essential.²⁰

b) Indirect discrimination

Migrants also experience indirect discrimination, in addition to the direct discrimination they may face when trying to access the private rental sector. In 2006, the Dutch government introduced the Special Measures for Metropolitan Problems Act, aimed at addressing segregation to protect the quality of life and security in specific areas. Municipalities must seek permission to implement this Act.²¹ This legislation, however, gives rise to significant concerns due to its discriminatory nature, manifesting in two distinct ways: the evaluation of municipalities' applications to implement the Act and the actual implementation of the Act itself.

¹⁶ RIGO Research and Advice, Report Discrimination in the housing market in Amsterdam (n.11) p.11

¹⁷ RIGO Research and Advice, Report Discrimination in the housing market in The Hague (n.12) p.6

¹⁸ Ibid.

¹⁹ Netherlands Institute for Human Rights Written, Report To the 104th Session of the Committee on the Elimination of Racial Discrimination (CERD) concerning the examination of the 22nd to 24th periodic reports of the Netherlands, July 2021.

²⁰ FEANTSA 'Discrimination and housing in The Netherlands' 2021.

²¹ The Act can be implemented in designated areas within the municipality for a period of four years.

Firstly, the evaluation of municipal applications relies on criteria from the "Leefbarometer," a set of indicators assessing neighborhood livability. Low scores on this scale make an area a candidate for the Act. Notably, the presence of people with a migrant background in an area is taken as an indicator.²² Remarkably, a higher proportion of residents with a migrant background results in a lower "Leefbarometer" score, making the municipality more eligible for the Act's implementation. Using this criterion implies that areas with a higher migrant population are seen as having lower security and quality of life, necessitating the Act's implementation. This approach effectively distinguishes between areas with migrants and those without, creating a perception of discrimination in its reasoning.

Furthermore, once a municipality gains the authority to implement the Act, it can selectively deny residence to certain groups in specific areas,²³ citing factors like socioeconomic status or criminal records for refusal. Those seeking housing in designated areas may need housing permits, which low-income residents with less than six years of local residency are denied.²⁴ The Act is enforced by various municipalities, particularly in Rotterdam neighborhoods.²⁵

In 2018, the European Court of Human Rights ruled that the Act did not violate freedom of movement (Article 2 Protocol No. 4 ECHR), although it did not assess its compatibility with discrimination prohibition due to the case's scope.²⁶ Nonetheless, numerous institutions have recognized the Act's inherent discrimination against impoverished individuals, many of whom have migrant backgrounds.²⁷ Consequently, the Special Measures for Metropolitan Problems Act indirectly discriminates against people with migrant backgrounds in its implementation.²⁸

²² FEANTSA 'Discrimination and housing in The Netherlands' 2021.

²³ Netherlands Institute for Human Rights Written, Report To the 104th Session of the Committee on the Elimination of Racial Discrimination (CERD) concerning the examination of the 22nd to 24th periodic reports of the Netherlands, July 2021.

²⁴ FEANTSA 'Discrimination and housing in The Netherlands' 2021.

²⁵ Netherlands Institute for Human Rights Written, Report To the 104th Session of the Committee on the Elimination of Racial Discrimination (CERD) concerning the examination of the 22nd to 24th periodic reports of the Netherlands, July 2021.

²⁶ ECtHR (GC) 6 November 2017, app. No. 43494/09, *Garib v. the Netherlands*, par. 102.

²⁷ FEANTSA; the NIHR or the UN 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.

²⁸ Netherlands Institute for Human Rights Written, Report To the 104th Session of the Committee on the Elimination of Racial Discrimination (CERD) concerning the examination of the 22nd to 24th periodic reports of the Netherlands, July 2021.

c) *Vulnerable families with a migrant background*

The government's current immigration policy in the Netherlands is grounded in the premise that irregular migrants should leave the country promptly, ideally through voluntary departure, and if necessary, through forced removal.²⁹ This policy aims to dissuade irregular immigrants from remaining in the country, which has raised concerns about the potential infringement on their human rights, including the right to shelter. Of particular concern are migrant families with children and single parents of migrant backgrounds, who are particularly vulnerable and at risk of human rights violations.

Family migration places individuals, especially children, in precarious situations, exposing them to serious human rights violations. Additionally, migrant single parents face challenges related to poverty risks that are exacerbated by their migrant status.³⁰ The Council of Europe's Commissioner for Human Rights has expressed alarm about unidentified numbers of irregular immigrants, including children, ending up homeless on the streets or in camps due to their inability to access existing emergency shelters.³¹

While the Dutch government introduced the Children's Pardon in 2013,³² a residence permit designed for rejected asylum-seeking children and their families who have lived in the Netherlands for a certain period without obtaining another residence permit, concerns persist. This program has faced criticism for its restrictive criteria, making it difficult for many children to qualify. The Commissioner urges Dutch authorities to adopt a more inclusive approach in implementing the Children's Pardon procedure.³³ This situation is particularly worrying and represents a grave violation of both the human right to housing and children's rights. Children are extremely vulnerable and require special attention from the Special rapporteur.

²⁹ Commissioner for Human Rights of the Council of Europe, Report by Nils Muiznieks Following his visit to the Netherlands, Council of Europe CommDH(2014)18, 14 October 2014.

³⁰ Shutes, I. (2022). Immigration Policies and the Risks of Single Parenthood for Migrant Women. *The ANNALS of the American Academy of Political and Social Science*, 702(1), 149-162.

³¹ Commissioner for Human Rights of the Council of Europe, Report by Nils Muiznieks Following his visit to the Netherlands, Council of Europe CommDH (2014)18, 14 October 2014.

³² Known as Kinderpardon.

³³ Commissioner for Human Rights of the Council of Europe, Report by Nils Muiznieks Following his visit to the Netherlands, Council of Europe CommDH (2014)18, 14 October 2014.

III. Roma, Sinti and Travelers

Roma, Sinti, and Travelers hold a unique position in society due to their distinctive lifestyles, necessitating governments' vigilance in safeguarding their housing rights on par with sedentary individuals. In 2006, the Dutch government initiated a "phasing out" policy to reduce caravan sites. Recent reports indicate a positive shift in this scenario as authorities are currently in the process of discontinuing this "phasing-out policy."³⁴

In 2017, the National Ombudsman raised concerns about the insufficient recognition and support for caravan residents' rights to live in accordance with their cultural identity, both by the state and municipalities. Furthermore, authorities, as per ECRI, are actively assessing the housing needs of Roma communities and have introduced a new policy framework for municipal caravan and parking policies.³⁵ This framework explicitly prohibits a general reduction in caravan sites and mandates timely provision to Roma individuals.³⁶

Significantly, in 2018, the government introduced a policy framework exclusively for municipal traveler sites, aiming to protect the housing rights of Roma, Sinti, and Travelers.³⁷ This framework aims to ensure an ample number of sites are available, marking a substantial stride in enhancing human rights protection for these communities and preventing future violations.³⁸ Additionally, the Association of Municipalities (VNG) has issued a guide for municipalities, emphasizing the human rights aspects of travel site policies.³⁹ Moreover, the Minister of Interior has established a dedicated platform for educational programs on these matters.⁴⁰

Nonetheless, concerns persist among various institutions, including the CERD committee and the NIHR, regarding the limited implementation of these measures at the municipal level. The NIHR particularly highlights municipalities' reluctance to expand traveler sites, emphasizing

³⁴ ECRI, ECRI Report on the Netherlands (fifth monitoring cycle), CRI(2019)19, 4 June 2019.

³⁵ ECRI, ECRI Report on the Netherlands (fifth monitoring cycle), CRI(2019)19, 4 June 2019.

³⁶ International Commission of Jurists (NJCM) 2018

³⁷ Ministerie van Binnenlandse Zaken en Koninkrijksrelaties, Beleidskader gemeentelijk woonwagen- en standplaatsenbeleid, juli [Policy framework for municipal traveller sites], July 2018.

³⁸ Netherlands Institute for Human Rights Written, Report To the 104th Session of the Committee on the Elimination of Racial Discrimination (CERD) concerning the examination of the 22nd to 24th periodic reports of the Netherlands, July 2021.

³⁹ A. Durmus et al., Wegwijzer gemeentelijk woonwagen- en standplaatsenbeleid, [Guide on local policies on travel sites], Den Haag: VNG, 2021.

⁴⁰ Platform 31, Omdenken doen doen: gemeenten gaan voor mensenrechten-proof woonwagenbeleid, 2020 [Municipalities aiming for a fundamental rights proof campsites policy].

the human rights obligation to address shortages.⁴¹ The CERD committee underscores that the social inclusion of Roma, Sinti, and Travelers in municipalities, especially concerning housing, lags behind that of other residents.⁴² Finally, the NIHR stresses that the shortage of caravan sites results from past government policies, highlighting the government's responsibility to seek both permanent and temporary solutions.⁴³

IV. The LGBTQ+ community

Studies have also exposed housing market discrimination against the LGBTQ+ community. In The Hague, the RIGO study, previously described, scrutinized bias based on sexual orientation in private rental housing.⁴⁴

The methodology mirrored that used earlier for discrimination against individuals with migration backgrounds with undercover testers posed as prospective tenants and others posing as prospective home-seekers. To ensure comprehensive findings, two types of emails were sent—one from a heterosexual couple and another from a homosexual couple. The study aimed to answer two key questions: To what extent do rental agents discriminate based on sexual orientation during housing mediation? And, to what degree does discrimination occur against LGBTQ+ housing seekers during private property rentals?

Results revealed that 44% of rental agents are willing to discriminate against the LGBTQ+ community. Furthermore, in 8.5% of cases, the homosexual couple faced disadvantages compared to heterosexual counterparts. Notably, while no significant differences emerged between female homosexual and heterosexual couples, a substantial disparity was observed between male homosexual couples and heterosexual ones. This suggests male gay couples, particularly in The Hague, experience discrimination when seeking private rental housing.

⁴¹ Netherlands Institute for Human Rights Written, Report To the 104th Session of the Committee on the Elimination of Racial Discrimination (CERD) concerning the examination of the 22nd to 24th periodic reports of the Netherlands, July 2021.

⁴² CERD Committee, Concluding observations on the combined twenty-second to twenty-fourth periodic reports of the Kingdom of the Netherlands, CERD/C/NLD/CO/22-24, 16 November 2021 para 31.

⁴³ Netherlands Institute for Human Rights Written, Report To the 104th Session of the Committee on the Elimination of Racial Discrimination (CERD) concerning the examination of the 22nd to 24th periodic reports of the Netherlands, July 2021.

⁴⁴ RIGO Research and Advice, Report 'Discriminatie op de Haagse woningmarkt' [Discrimination in the housing market in The Hague: Practical tests in the private rental sector] February 2021.

ASSEDEL is deeply concerned about housing policies in the Netherlands, notably the National Programme for Rotterdam South (NPRZ), which undermines housing rights for low-income individuals. The association stresses that non-discrimination, as per Article 2 of the International Covenant on Economic and Social Rights (ICESCR), must not be subject to progressive realization, emphasizing the urgent need for equal housing access for all residents.

ASSEDEL advocates for anti-indirect-discrimination efforts for individuals with non-Western migration backgrounds in the housing market. The NGO also shares concerns about the indirectly discriminatory Special Measures for Metropolitan Problems Act, especially for those with migrant backgrounds. More specifically, the association is concerned with the vulnerability of children with a migration background and the violation of their right to housing.

ASSEDEL expresses worry about housing access for Roma, Sinti, and Travelers, urging targeted support and the enforcement of the 2018 policy framework for municipal Traveler sites.

Additionally, ASSEDEL strongly opposes discrimination against the LGBTQ+ community in housing, viewing it as a severe violation of non-discrimination principles governing housing rights.

Finally, ASSEDEL would like to highlight the unstable nature of social and housing policies in the Netherlands. This instability further compounds the vulnerability of specific groups, including those discussed in this submission, making it even more challenging for them to secure housing.