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Homeless in Europe

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The state of emergency shelters



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The state of emergency shelters in Europe

By **Chloé Serme-Morin**, *FEANTSA*

According to FEANTSA & Foundation Abbé Pierre estimations in their 4th Overview of Housing Exclusion in Europe, at least 700,000 homeless people are sleeping rough or in emergency/temporary accommodation on one night in the European Union. It is an increase of 70% compared to ten years ago.

Over the last ten years, the number of homeless people has increased at an alarming rate in almost all European Union countries: broadly speaking, this increase has led to the explosion in the number of people needing emergency shelter. In Italy in 2016, 75% of homeless people were permitted access to emergency accommodation. In Ireland, between February 2015 and February 2018, the number of homeless people in emergency accommodation financed by the State increased by 151% and by 300% for children. 9,968 people (6,157 adults and 3,811 children) were in emergency accommodation in November 2018. In Spain, the number of people taken into emergency and temporary accommodation centres each day on average increased by 20.5% between 2014 and 2016, reaching 16,437 people in 2016. In Poland, according to a flash survey carried out in February 2017 by the Polish Ministry of Family, Labour and Social Policy, 26,900 people were counted in emergency or temporary accommodation (ETHOS 2.1 and 3.1). The number of beds in emergency accommodation increased slightly from 22,529 beds in 2010 to 23,589 beds in 2016. On the other hand, in the United Kingdom and in France, where the traditional emergency accommodation system is completely oversubscribed, local stakeholders and associations have increasingly had to resort to costly and highly insecure solutions to provide emergency shelter to homeless people: renting rooms in hotels, B&Bs and apartments on the private rental market on a very short-term basis. In France, 101,826 places were open and financed in emergency accommodation on 31 December 2017. Within these emergency places, hotel accommodation has seen the highest increase from about 13,900 places in 2010 to more than 45,000 places in 2017 i.e. an increase of 224% in seven years. In England, on 30 June 2018, 82,310 households were placed in temporary accommodation, i.e. an increase of 71% since December 2010.

The shortage of decent and truly affordable housing available for all, combined with the saturation of temporary and emergency accommodation services, are at the core of the housing exclusion scandal in Europe.

Our 4th Overview of Housing Exclusion in Europe shows that although the right to shelter is supposed to be a fundamental right, access to emergency

accommodation in Europe remains genuinely conditional. The conditionality of access to emergency accommodation is mainly demonstrated in the way the public response is structured to deal with homelessness: seasonal management that responds to weather conditions, which undermines the need to adopt continuous strategies in the fight against homelessness. Access to emergency accommodation is also determined by a difficult admission process, where multiple selection and prioritisation criteria limit access and exemplify the selectiveness of the right to accommodation.

Emergency accommodation services, in the sense of temporary accommodation infrastructures taking in people who need emergency shelter, covers a multitude of realities in Europe. This is the case not only in terms of status and funding, but also regarding the services offered, the conditions of access and the quality. The following articles help us understand those different realities. Francesca Albanese from Crisis presents the element of intentionality in the homelessness system across Great Britain, which adds unnecessary conditionality and judgement on individuals who are often seeking help as a last resort. Marjolijn van Zeeland from Stichting De Tussenvoorziening describes the ways in and out of shelters in the Netherlands, and how to guarantee dignified, meaningful and independent living conditions to users. Mauro Striano from FEANTSA compares several national legal frameworks in Europe to scope out the level of access to shelters for irregular migrants, highlighting the fact that emergency accommodation is a matter of life or death. He advocates for the European Union to urgently adopt a common framework providing a minimum set of rights, including access to shelter, for all, regardless of their administrative status. Jakub Wilczek, from the Polish National Federation for Solving the Problem of Homelessness, explains how the recent homeless services reform in Poland have had a significant impact on the entire homeless support in the country and on the unconditional right to emergency shelter. Preben Brandt, from the Project OUTSIDE Fund, takes us on a tour of the Danish shelter system. Finally, Javier Prieto from Saint John of God Social Services Barcelona argues why we must propose a future without shelters.

Emergency accommodation is indeed a short-term solution, therefore unsuited to long term needs. Emergency accommodation in its rightful place must become a short-term transition service, accessible to all, and a platform for redirecting people to appropriate solutions. The inability of emergency services to reduce homelessness is a global failure of public policies to prevent situations of extreme insecurity and the loss of one's home.

LETTERS TO THE EDITOR

We would like to give you the chance to comment on any of the articles which have appeared in this issue. If you would like to share your ideas, thoughts and feedback, please send an email to the editor, laura.rahman@feantsa.org

The articles in *Homeless in Europe* do not necessarily reflect the views of FEANTSA. Extracts from this publication can be quoted as long as the sources are acknowledged.



Intentionality in the homelessness system across Great Britain

By **Francesca Albanese**¹, *Head of Research and Evaluation, Crisis*

The concept of intentionality is unique to the UK homelessness system. In law it is defined as someone satisfying all three of the following conditions:

- i) deliberately doing or failing to do anything which leads to them ceasing to occupy their accommodation
- ii) the accommodation is available for their occupations and;
- iii) it would have been reasonable for them to continue to occupy the accommodation.

Whilst it is widely viewed that the UK has some of the most effective and forward-thinking homelessness legislation in the world, the intentionality test still remains in place. Some examples of its application include being evicted for antisocial behaviour, rent arrears or refusing an offer of accommodation given by the local authority. There is little evidence on the impact of intentionality, but the studies that do exist show it disproportionately affects people with high support needs who are often the most excluded.

How is intentionality applied across Great Britain?

Since it was introduced in the Housing (Homeless Persons) Act (1977) there have been some modifications of how the intentionality test is applied across Great Britain. In Scotland The Homelessness Etc. (Scotland) Act (2003) gave local authorities discretion to investigate whether a household had brought about their own homelessness. It also ensured that some form of accommodation and housing support was available to those found to be intentionally homeless. Although neither of these powers have been implemented, the removal of the intentionality test is currently under consultation by the Scottish Government.

In Wales the success of introducing a homelessness prevention and relief duty since 2014 means the intentionality test has become far less significant than was

previously the case. This is because it is only applied to an applicant who is in priority need - the very last stage of the homelessness process - and where relief efforts to help them find their own accommodation have been unsuccessful. Local authorities can also choose whether to apply the intentionality test, and, if so, to apply it to all priority need groups or only to some of those groups. However, analysis² of the implementation of the Housing (Wales) Act 2014 showed that most local authorities had chosen to make no change to the way they treat intentionality, even for specific groups of priority need, such as 16-17 years olds or care leavers, indicating that changing the duty to investigate intentionality may have little impact on the ground.

In England, similar to Wales, the new prevention and relief duties introduced under the Homelessness Reduction Act (HRA) in April 2018 also means the intentionality test has less importance. Again, there is now no consideration of intentionality until a full duty assessment is made. It is too early to fully understand if this is having any impact on the ground, but initial statistics indicate that around 9% of full duty cases³ are being assessed as intentionally homeless, although lower in absolute numbers, is a similar proportion prior to the HRA being introduced. This is still relatively high as we would expect more steps to be taken at the prevention and relief stage to resolve homelessness.

Levels and proportion of intentionality vary across the three statutory systems in Great Britain. In England, proportionally levels have remained around 8 to 9% for the past five years and last year 8,700 households were assessed as eligible for assistance, intentionally homeless and in priority need. In Scotland levels have also remained fairly static at around 4 to 5% for the past five years. In absolute numbers there was a slight increase last year in Scotland with 1,435 households found to be eligible for assistance but intentionally homeless.⁴ In Wales in 2017-18 only 159 households were found to be eligible, homeless but intentionally so, accounting for around 4% of households who were assessed under the full duty.⁵

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² Ahmed, A, Wilding, M, Gibbons, A, Jones, K, Rogers, M, Madoc Jones, I (2018) Post-implementation evaluation of Part 2 of the Housing Act (Wales) 2014: Final report. Cardiff: Welsh Government

³ Ministry for Communities and Local Government (MHCLG) Main duty tables: <https://www.gov.uk/government/statistical-data-sets/live-tables-on-homelessness>

⁴ Scottish Government, Homelessness in Scotland: 2017 to 2018: <https://www.gov.scot/publications/homelessness-scotland-2017-18/>

⁵ Welsh Government, statutory homelessness: prevention and relief statistics: <https://stats.wales.gov.wales/Catalogue/Housing/Homelessness/Statutory-Homelessness-Prevention-and-Relief/householdsforwhichassistancehasbeenprovided-by-outcome-householdtype>



What is the impact of intentionality on homeless people?

There are very few studies which have examined the impact of the intentionality test. The research which has been done in this area shows that intentionality decisions primarily affect people with high levels of support needs or chaotic lifestyles. Research from Shelter Cymru intentionality decisions “resulted ultimately in the continuation and, in many cases, exacerbation of a cycle of unmet support needs with the long-term resource burden that this implies”⁶. The Aye We Can consultation⁷ conducted with people with lived experience of homelessness in Scotland found that young people who identify as LGBT reported being classed as intentionally homeless because of lack of understanding of the realities of family breakdown when ‘coming out’. Others stated that intentionally homeless decisions were being given based on poor understanding of mental ill health and addictions.

A study on hidden homelessness in England⁸ (including people staying in squats, sofa surfing or sleeping rough) in 2011 found that a 45% of people surveyed did meet the priority need criteria when they made a homeless application. However, nearly half of these (46%) were found to be intentionally homeless and so not entitled to accommodation. This again indicates that intentionality decisions leave people with very few or no accommodation options and perpetuates and prolongs their homelessness. Further evidence under the new prevention duties in Wales show that some members of staff were working in a process-driven way, placing too much emphasis on intentionality, priority need and not enough emphasis on support.⁹

Recorded outcomes for households with intentionality decisions in Scotland also show that contact is consistently lost or outcomes are unknown for a third of applicants. In 2017/18 a further 15% moved in with relatives or friends. Along with uncategorised known outcomes, these account for two thirds (65%) of outcomes for intentionally homeless households.

Some local authorities have used the threat of an intentionality decision as a tool to negotiate with people at risk of homelessness in order to prevent them acting in a way which will mean they lose

their home. This is not the purpose of the intentionality test, which removes people’s right to settled housing if they are found intentionally homeless. Such negotiations should be done as part of a wider system focused in the first place on problem solving to prevent people’s homelessness through a new statutory prevention duty, accompanied by personal housing plans and effective case management to ensure that service users are fully informed of how the system works and the implications of any decisions they take. This should be supported by a backstop of a homelessness application if it cannot be prevented.

Two cases which have been taken to the Supreme Court over the past few years also demonstrate harsh use of the intentionality test in local authority practice. In 2015 the case of *Haile v London Borough of Waltham Forest*¹⁰ ruled that housing officers should not base decisions on intentionality on the applicant’s circumstances at the time they became homeless. Instead the authority should consider the applicant’s circumstances at the time the decision is being made. In this case the applicant at the time surrendered a tenancy in hostel accommodation due to unpleasant smells. On leaving the hostel she then stayed temporarily for a month before asking the council for homelessness assistance. When eventually applying to the council, she was four months pregnant but was found intentionally homeless. The basis for the ruling was that she would not have been able to remain in the hostel accommodation now that she had a baby, regardless of her original reasons for leaving the accommodation, and so should not be regarded as being intentionally homeless.

A more recent case which has ruled against the applicant (*Samuels v Birmingham City Council*)¹¹ is one where the tenancy was terminated due to rent arrears as a result of her housing benefit not meeting her contractual rent. After trying to find another property for her family she approached the council for assistance but was refused help and treated as intentionally homeless. They considered that she could, in theory, have used some of her non-housing benefits to make up the shortfall between her housing benefit and her rent, an unsustainable solution for many households on low incomes at risk of homelessness who cannot access affordable housing.

6 Campbell, JA (2011) The impact of intentional homelessness decisions on Welsh households’ lives. Swansea: Shelter Cymru.

7 Glasgow Homelessness Network (2018) Can we fix homelessness in Scotland? Aye We Can http://www.ghn.org.uk/shien/wp-content/uploads/sites/5/2017/11/Aye_We_Can_Final_Report_2018-1.pdf

8 Reeve, K. (2011) *The hidden truth about homelessness: Experiences of single homelessness in England*. London: Crisis.

9 Shelter Cymru (2016) Reasonable steps: experiences of homelessness services under the Housing (Wales) Act 2014 <https://sheltercymru.org.uk/wp-content/uploads/2015/02/Reasonable-Steps.pdf>

10 <https://www.supremecourt.uk/cases/docs/uksc-2014-0185-judgment.pdf>

11 <https://www.supremecourt.uk/cases/uksc-2017-0172.html>



“Since it was introduced in the Housing (Homeless Persons) Act (1977) there have been some modifications of how the intentionality test is applied across Great Britain. In Scotland The Homelessness Etc. (Scotland) Act (2003) gave local authorities discretion to investigate whether a household had brought about their own homelessness.”

Is there a case for reforming intentionality?

Given the unintended consequences of the policy there is a case for reforming intentionality. This would protect people with support needs from being excluded from full homelessness assistance and prevent some local authorities from gatekeeping access to assistance and fit with a more psychologically informed approach to addressing homelessness.

Crisis has developed the concept of a test of deliberate manipulation of the homelessness system as part of our Plan to End Homelessness, in conjunction with Professor Suzanne Fitzpatrick and barrister Liz Davies. In our view, the use of intentionality goes far beyond what is necessary to prevent abuse of the homelessness system.

We instead propose a new test which focuses on deliberate manipulation of the homelessness system. For example, this could involve collusion between an applicant and parent or householder who has excluded them. It would ideally require local authori-

ties to demonstrate that the applicant had actually foreseen that their actions would lead to their becoming homeless. At present, all that must be shown is that the act that led to the loss of accommodation was deliberate, not that the link between this act and homelessness was foreseen or even foreseeable by the applicant.¹² The proposed consequence of this deliberate manipulation test would be restricted. Under this proposed scheme, households found to deliberately manipulate would receive no additional preference in social housing allocations because of their statutory homeless status. This test would have no bearing on any other homelessness-related entitlements.

The concept of intentionality is one which is outdated and does little to effectively prevent and resolve homelessness. Under a homelessness system which in many ways provides a strong safety net for individuals, it adds unnecessary conditionality and judgement on individuals who are often seeking help as a last resort. The evidence shows it can be applied inconsistently but above all has significant impacts on people who are the most marginalised. In Crisis' view it needs to be stopped.

This article draws on content from an unpublished paper by Liz Davies and Suzanne Fitzpatrick, *A 'Perfect' Statutory Homelessness System for an Imperfect World: Principles, Priorities, Proposals and Possibilities* and Downie, M., Gousy, H., Basran, J., Jacob, R., Rowe, S., Hancock, C., Albanese, F., Pritchard, R., Nightingale, K. and Davies, T. (2018) *Everybody In: How to end homelessness in Great Britain*. London: Crisis.

¹² The statutory test contains the reverse of this approach. Where a local housing authority is satisfied that an applicant was actually unaware of the consequences of his or her actions, and he or she had acted in good faith, then an act or omission will not be considered to be deliberate: Housing Act (1996), s 191(2). Our formulation would turn this approach on its head: so that for an act or omission to be considered deliberate, a local housing authority would have to be satisfied that the applicant had foreseen the consequences.



Shelters in the Netherlands: How to get in and how to get out.

By **Marjolijn van Zeeland**, *policy advisor, Stichting De Tussenvoorziening, Utrecht*

“43 center municipalities were visited by experienced *Mystery Guests* who had been homeless themselves. In registrations where the municipality was unable to provide a place to sleep, 58% said a lack of local connection was one of the reasons. In 35% cases this was the main reason.”

On paper

Since 1994, successive laws have stipulated that all municipalities in the Netherlands must offer initial shelter to homeless people. Shelter is for people who have been forced to leave their home and who cannot survive on their own in society. The current law that regulates this, the Social Support Law 2015, states that a person who needs care can turn to any municipality. As a result, this law gives the right to national access. Municipalities can organize this on their own or in collaboration with the so-called *center municipality* in their region. In the Dutch administrative system, a center municipality is a municipality that performs a certain function for surrounding or neighboring municipalities in an inter-municipal partnership under the Common Regulations Act. Since 1994, center municipalities have been receiving extra money from the government for this relief, giving the regional and local municipalities an incentive to collaborate. There are 43 center municipalities in the Netherlands and a total of 355 municipalities.

Help in the best place?

It is reassuring that you can always go to any municipality in case of need, isn't it? Unfortunately, there are several major bottlenecks. The first is the application of the concept of *local connection*. If someone requests a municipality for shelter, that municipality — the so-called applicant municipality — will ask where the person comes from or has stayed over the last period. This is how the municipality determines local connection. The applicant municipality wants to know this because that municipality has the duty to investigate where an individual counselling process has the best chance for success. This may well be the region where that person originally came from. For instance, this person might already be in a debt restructuring process or be receiving other assistance in that region, or it might be the place with the most family support. In such a case, the applicant municipality must ensure a smooth transfer to the municipality with the local connection. But, if it turns out that the region with the local connection is not supportive of the client due to a criminal network, for example, then the applicant municipality has to look for a better location. This investigation may take some time, during which the applicant municipality is obliged to offer initial care for the night.

Or exclusion?

In practice, local connection is far too often being used as an exclusion criterion. This happened over time. We can explain this by unwanted side effects of positive investments of center municipalities. This is how it works: The national funding for shelter that the center municipality receives is explicitly meant to not cover all the costs. As a result, the individual center municipalities also invest in shelter and aid themselves. Because each center municipality invests differently, the quality of shelter and aid differs per center municipality. For homeless people, this creates a preference to center municipalities where support

is relatively well-organized. And those municipalities have to care for more and more people from other regions. In response, these municipalities have started to exclude homeless people from other regions, arguing that these people had no regional connection with the center municipality. Consequently, some people in need continue to drift around and experience increasing issues.

In figures

Over the past few years, the Trimbos Institute, which is a national knowledge institute for mental health care, addiction care, and social care, has completed 4 studies on how national access worked out in practice. The latest study was carried out in 2018. The 43 center municipalities were visited by experienced *Mystery Guests* who had been homeless themselves. In registrations where the municipality was unable to provide a place to sleep, 58% said a lack of local connection was one of the reasons. In 35% cases this was the main reason (Trimbos Institute, 2018).

Who can save themselves?

Another bottleneck in the accessibility of initial care is the assessment that determines if someone is self-sufficient. An increasing number of municipalities assess whether people are able to cope independently when they ask for shelter. If there is no clear case of mental illness, addiction, or mental disability, people often do not get access to the shelter. Some municipalities do have short-stay facilities, corporation hotels for example, where homeless people can live temporarily to continue their work and to solve their problems. In many other cases, so-called self-reliant people are referred to campsites or holiday parks. However, they cannot formally register at a campsite or holiday park as their living address. This often worsens their situation. After all, without such a registration and postal address, they have no access to other facilities, health insurance, etc. In our practice in Utrecht, we also see this happen, for example to people who become homeless after a divorce and lose their home address. People may be self-sufficient at first registration, but two years later (after being rejected) they may no longer be self-sufficient at all. In the Netherlands, the National Ombudsman defends people who get stuck in institutions. In its latest annual report, the National Ombudsman states that it is no longer only about the most vulnerable people who cannot keep up. It is unacceptable that their situation has to get worse before they qualify for government support (Annual report, 2018).

How to proceed?

The research report of the Trimbos Institute shows that connection with another region is too often used as a reason for exclusion from initial aid. In response, the Ministry of Health, Welfare and Sports (VWS) and the National Association of Local Authorities (VNG), have indicated that covenants, manuals and policies based on the Social Support Law 2015 contain inac-



curacies. Therefore, municipalities can still put too much emphasis on the 'local connection' criterion. Consequently, the VNG issued a new customized model of policies last February and the Ministry has asked all municipalities to implement this model. The new model is an important step towards a better implementation of national accessibility. The VNG has also published a list of contact persons for the national accessibility of social care and protected housing on their website. It is expected that this will benefit the contact between municipalities about first shelter for homeless people and the individual counselling process afterwards. Everyone involved has given permission to publish their data for this purpose and the State Secretary Paul Blokhuis has already announced a new study on the functioning of shelter access for the second half of this year!

Clarity about shelter accessibility and good cooperation between municipalities will become even more important in the coming years. From 2021 onwards, national funding for shelter and protective housing will no longer go to the 43 center municipalities, but to all 355 municipalities. This gives all of them a responsibility concerning the issue. The Federatie Opvang, which is the trade association for institutions for social relief, women's relief, protected and assisted living, is concerned about this development. It notes that there are not only problems with access, but also that the preconditions for proper shelter and support as the next step are still lacking in many municipalities. These include preconditions such as suitable and affordable housing, sufficient resources for municipalities to provide appropriate support, independent client support, appropriate debt restructuring assistance, and basic requirements such as postal addresses for homeless people. As long as these preconditions are still lacking, the Federatie Opvang considers it irresponsible to continue with decentralization at the pace previously envisioned. This pace is now also being discussed politically and governmentally.

Progress in Utrecht

There is still a lot of room for improvement nationwide. In Utrecht, we put a lot of energy into developing innovative ways of providing better care and assistance. For example, the first point of contact for homeless people has recently been improved with 'Herstart' a welcoming walk-in and a small shelter. Herstart is also the operating base of a team of specialized professionals and volunteers, the City Recovery Team. They try to arrange suitable shelter and counselling in the city, in the Utrecht region or in another region if this increases the chance for success. The doctors and nurses of Public Health offer medical care at Herstart if necessary.

A second great development in Utrecht is the transformation from night care to 24-hour care. In the recent past, homeless people in Utrecht could sleep in a night shelter, but were sent back to the streets after breakfast. Some of them then went to the day-care facility to return in the evening. Others just hung out on the street, or tried to find a quiet place in a library or café, places where they were often looked away. This is tiring and inhumane. As a result, we saw homeless people develop even more mental and physical problems. With the conversion from night shelter to 24-hour shelter, people no longer have to go out on the streets during the day. In the 24-hour shelter, they are offered a private room so that they have privacy and tranquility. Moreover, we organize separate shelters for very vulnerable people, families, and people

with a hard drug addiction. All locations are working together intensively with the City Recovery Team to arrange the best follow-up care.

Give and take, working together

One of the night shelter locations that we converted into a 24-hour shelter approaches the concept of self-management in a rather special way. This shelter, 'NoiZ', which means Self-managed night shelter in Dutch, was set up 25 years ago by people who were homeless themselves. Homeless people still bear the daily responsibility of the shelter's organization. People who need shelter connect with the caregivers because they know that the caregivers have lived on the street too. In a sense, the caregivers are a kind of a role model — they show that there is always a prospect and they motivate their guests by giving them a role in the housekeeping of the shelter. Over the past few years, we have experienced what form of support for volunteers and professionals fit best within this concept. Soon, we will introduce the NoiZ academy to offer homeless guests a specific training trajectory to grow into a paid position within the social care sector.

Recently, we started another innovative project, the pilot 'Springboard 030'. In this project, we use a working situation as a 'catalyst' for recovery in other areas of life. We ensure that homeless clients who are able to work immediately start working for an employer. We also provide a room. By focusing on work, clients recover faster and have the prospect of a permanent contract. At Springboard in Eindhoven, another Dutch City, 70% of the clients no longer need a social financial allowance after a year and live independently.

Preventing relapse

These developments focus on better first access to shelters, better living conditions in the shelters, the organization of follow-up care, and the principle that work is a catalyst for recovery. With this we try to support as many people as possible in recovering and living their lives more meaningfully with a sense of self-determination. This approach is successful, but research has also shown that a large group of former homeless people lose their homes sooner or later again. We asked this group why this issue occurs. Four reasons were the most common responses:

1. A lack of transfer of care during the transition to an independent residence.
2. Financial problems and limited skills to deal with money and money problems.
3. A lack of daytime activity and meaningfulness.
4. Lack of daytime activity was accompanied by limited social contact and the lack of a supportive network.

Becoming homeless is very traumatic, and becoming homeless again should be unthinkable. That's why we work on more appropriate support, with more attention for transfer moments, and debt support combined with help to increase financial skills. We have to focus more on day-activities and employment, and we must have the courage to discuss sensitive issues such as meaningful relationships and loneliness. After all, the organization's goal to provide access to shelter and follow-up care is first and foremost to enable our clients to build up a life that is as independent as possible, personally meaningful, and dignified.



Access to shelters for irregular migrants

By Mauro Striano, Policy Officer at FEANTSA

Immigrants make up a significant proportion of the homeless population in several European Union (EU) Member States. They are more likely to live in severely overcrowded housing or with no access to basic facilities than nationals. They might find accommodation in shelters but might also be obliged to sleep rough because of limited capacity in night shelters or because of limitations linked to their residence status. Access to emergency accommodation is conditional and based on regular residency, and as a consequence, research shows that in cities where data is available, irregularly residing migrants are significantly represented among people sleeping rough. There is no common EU legislation setting minimum standards regarding access to shelters and, as a result, the level of access substantially differs from country to country and, sometimes, from region to region. There are countries where access to shelters is provided regardless of the administrative status, others in which irregularly-residing migrants have no access to almost any basic service; there are countries in which national law regulates access to emergency accommodation, others where homelessness services is a regional competence; countries where access to emergency accommodation is an enforceable right, and still others where access to shelters is unconditional, at least in theory.

In our work at FEANTSA, we have been carrying out a comparison of national legal frameworks to scope out the level of access to shelters for irregular migrants. It is an ongoing process and at this stage we can only report some of the information collected for 9 EU Member States. The exercise is quite challenging because in many cases there is no clear national legal framework regulating access to basic services, including shelters, for individuals who do not have a right to reside. Out of the 9 Member States analysed so far, 3 do not have specific provisions in national law that clearly indicate whether an irregularly residing migrant has access to publicly-funded emergency accommodation. Of the 6 countries that have a national legal framework, 4 deny access - Denmark, Italy, Finland and the United Kingdom - while in France and Spain, irregular migrants are entitled to emergency support.

According to Danish law¹, to have access to services there are two conditions to be met: the first is to be a 'legal' resident²; the second is to be included in the target group of the service – the target group of shelters being defined as “people with special social problems, who do not have, or who cannot stay in,

their own home and who need shelter and offers of activating support, care and assistance³”. Access to publicly funded shelters is therefore forbidden to irregularly-residing migrants. Moreover, providing assistance to people who do not have a legal residence is considered an offence by Danish migration law⁴ and making accommodation available to irregularly-residing migrants can be punished with a fine or imprisonment up to 2 years⁵.

In the UK, irregularly residing migrants have no recourse to public funds. No recourse to public funds (NRPF) is a condition imposed on someone due to their immigration status. A person with no recourse to public funds is prohibited from accessing specified welfare benefits and public housing⁶ and homelessness assistance is included in the housing benefits that people with no recourse to public funds are not entitled to⁷. As a consequence, irregularly residing migrants, including mobile EU citizens who do not hold a right to reside, cannot access publicly-funded shelters.

Similarly, according to Italian migration law⁸, regular residence is required in order to access publicly funded shelters. This has not always been the case: before the change in migration law in 2002, the law bound mayors to provide access to shelters, regardless of administrative status, during emergency situations. In practice, since homelessness is a local competence, municipalities continue to adopt regulations occasionally during the winter programme that allow for access to shelters irrespective of residency status.

In the same way, a residence permit is required in Finland in order to fully benefit from public shelters, but municipalities can provide access to basic services through emergency shelters. Nevertheless, Finland has been massively investing in Housing First, which in practice means that outside of the winter programmes there is almost no emergency accommodation provided and, as a result, irregularly residing migrants – who have no right to Housing First services – tend to sleep rough in relatively hidden places, such as forests.

Spanish migration law provides for access to basic services and benefits⁹ for foreigners, regardless of their administrative status, which also includes homelessness services. However, as is the case in Italy, homelessness is a local competence in Spain, which implies that in practice the services provided and their level of accessibility can differ between municipalities.

1 Denmark, *Bekendtgørelse af lov om social service* <https://www.retsinformation.dk/forms/R0710.aspx?id=202239>

2 *Bekendtgørelse af lov om social service*, §2: “Enhver, der opholder sig lovligt her i landet, har ret til hjælp efter denne lov (...)”

3 *Bekendtgørelse af lov om social service*, § 110. “Kommunalbestyrelsen skal tilbyde midlertidigt ophold i boformer til personer med særlige sociale problemer, som ikke har eller ikke kan opholde sig i egen bolig, og som har behov for botilbud og for tilbud om aktiverende støtte, omsorg og efterfølgende hjælp (...)”

4 Denmark, *Bekendtgørelse af udlændingeloven* <https://www.retsinformation.dk/Forms/r0710.aspx?id=194003>

5 *Bekendtgørelse af udlændingeloven*, art. 59: « (...) ved at stille husrum eller transportmidler til rådighed for en udlænding forsætligt bistår den pågældende med at arbejde her i landet uden fornøden tilladelse (...) »

6 UK, *Immigration Rules* <https://www.gov.uk/guidance/immigration-rules>

7 UK, *Housing Act 1996* <https://www.legislation.gov.uk/ukpga/1996/52/contents>

8 *Testo unico delle disposizioni concernenti la disciplina dell'immigrazione e norme sulla condizione dello straniero* <https://www.altalex.com/documents/codici-altalex/2014/04/09/testo-unico-sull-immigrazione>

9 *Ley Orgánica 4/2000, de 11 de enero, sobre derechos y libertades de los extranjeros en España y su integración social* - Article 14, par. 3: “Los extranjeros, cualquiera que sea su situación administrativa, tienen derecho a los servicios y prestaciones sociales básicas”. <https://www.boe.es/buscar/pdf/2000/BOE-A-2000-544-consolidado.pdf>



For instance, the Madrid winter programme¹⁰ does not make any distinctions regarding administrative status. It may be noteworthy that local police are one of many partners of the Madrid winter programme, but as they do not have any competence in migration law enforcement – which is a national competence – in principle, they do not have to report irregularly-residing migrants who are using homeless services. In French law too, the principle of unconditionality applies, whereby all homeless people have access to emergency accommodation, regardless of their nationality or administrative status¹¹. On top of that, the principle of continuity applies to the accommodation provided, meaning that, in theory, emergency accommodation cannot be terminated if no alternative housing solution is provided¹². Moreover, people who do not receive an accommodation proposal can lodge an appeal, in fulfilment of their right to emergency accommodation. A specific law¹³ recognizes housing as an enforceable right and provides a mechanism whereby applicants who are not provided accommodation, despite their requests, may lodge an amicable appeal regardless of their nationality or administrative status. A decision should be taken within 6 weeks, after which the State has 6 weeks to provide a housing solution. If no solution is provided, the individuals may start a litigation process by making another appeal. On paper, the French legal framework seems to be the most progressive in terms of access to rights; however, it must be pointed out that in practice, existing mechanisms are not effective enough to prevent irregular migrants – and others – from sleeping rough.

In the 3 countries analysed so far where there is no national legal provision for regulating access to shelters for irregular migrants, access to services is regulated at regional level or through decisions of the Courts. In Belgium, access to shelters is regulated at regional level. At national level, the only relevant provision is that irregularly residing families in which there are minors have the right to material help, including access to accommodation. In the Brussels region, emergency services are unconditional and free for Belgian citizens, EU citizens and their family members who hold a right to reside for more than three months, regularly residing third-country nationals, stateless and beneficiaries of a refugee status or subsidiary protection. Those who do not belong to these categories – irregularly residing third-country nationals as well as EU citizens who do not hold a right to reside – have the right to emergency accommodation and to day centres, although it is not an enforceable right before the courts and the tribunals¹⁴. In practice, considering the insufficient number of beds in emergency accommodation, irregular migrants make up a significant proportion of people sleeping rough in the streets of Brussels. In the Netherlands, municipalities are responsible for the provi-

sion of emergency accommodation and most of them refuse people without residence permits. Following the decisions of the European Committee for Social Rights in 2014¹⁵ regarding two collective complaints filed by the Conference of European Churches¹⁶ and by FEANTSA¹⁷, some municipalities set up special night shelters for irregularly-residing migrants, the so-called *Bed-Bad-Brood Shelters*. Nonetheless, in November 2015, the Dutch High Court ruled that municipalities did not have the obligation of providing shelter to people with no right to reside. There is no national legislation in Sweden either, thus when it comes to the level of rights accorded to irregular migrants, answers can only be found in Swedish case law. Two recent cases provided two contrasting answers: in one, a rejected asylum seeker was not entitled to emergency support, while in another, an irregular migrant who had never applied for asylum was granted access to publicly funded shelters. The two contrasting decisions relate to two different legal regimes – one regulating access to support for asylum applicants, thus placing the matter under the competence of the migration agency; the other regulating public support for anyone lacking sufficient resources, hence the case falls under the competence of public social services.

Three initial conclusions may be drawn at this stage. The first is that access to shelters, and to other emergency services, substantially differs between Member States and, particularly where no national framework exists, within Member States. Even when access to emergency accommodation is regulated at national level, different levels of competence might apply – migration as a national competence and homelessness at local level – resulting in unequal levels of access to shelters within one territory of a same given country. The second conclusion is that in countries where holding a permit of residence is required to access services, irregular migrants are extremely vulnerable to sleeping rough. Homelessness services may face challenging situations where they are unable to use public funds to support people in distress or, even worse, risk breaching the law by opening their doors to individuals who have no right to reside. The third finding is that when access to shelter is provided regardless of the administrative status, in practice the right is not always enforceable and when it is, engaging in long and costly legal procedures is difficult for people who are in urgent need of quick solutions.

Despite the limited competence regarding irregular migration, EU must urgently adopt a common framework, providing a minimum set of rights, including access to shelter, to all, regardless of the administrative status. Emergency accommodation is a matter of life or death.

“Out of the 9 [EU] Member States analysed so far, 3 do not have specific provisions in national law that clearly indicate whether an irregularly residing migrant has access to publicly-funded emergency accommodation. Of the 6 countries that have a national legal framework, 4 deny access – Denmark, Italy, Finland and the United Kingdom – while in France and Spain, irregular migrants are entitled to emergency support.”

10 Programa municipal de atención a personas sin hogar. Presentación de la campaña contra el frío 2018/2019. <https://www.madrid.es/UnidadesDescentralizadas/IntegracionyEmergenciaSocial/SAMUR%20Social/ficheros/2018%202019%20DOCUMENTO%20INFORMATIVO%20INSTITUCIONAL.pdf>

11 France, Code de l'Action Sociale et des Familles, article L. 345-2-2 « Toute personne sans-abri et en situation de détresse médicale, psychique ou sociale a accès, à tout moment, à un dispositif d'hébergement d'urgence. »

12 Ibid., article L. 345-2-3 « Toute personne accueillie dans une structure d'hébergement d'urgence doit pouvoir y bénéficier d'un accompagnement personnalisé et y demeurer, dès lors qu'elle le souhaite, jusqu'à ce qu'une orientation lui soit proposée. Cette orientation est effectuée vers une structure d'hébergement stable ou de soins, ou vers un logement, adaptés à sa situation. »

13 Droit au logement opposable (DALO)

14 Region de Bruxelles Capitale, Ordonnance relative à l'aide d'urgence et à l'insertion des personnes sans abri, art. 3 http://www.ejustice.just.fgov.be/mopdf/2018/07/10_1.pdf#page=134

15 Decision on the merits of complaint no. 86/2012 [https://hudoc.esc.coe.int/eng/#/{%22ESCDclidentifier%22:\[%22cc-86-2012-dmerits-en%22\]}](https://hudoc.esc.coe.int/eng/#/{%22ESCDclidentifier%22:[%22cc-86-2012-dmerits-en%22]}) and decision on the merits of complaint no. 90/2013 [https://hudoc.esc.coe.int/eng/#/{%22ESCDclidentifier%22:\[%22cc-90-2013-dmerits-en%22\]}](https://hudoc.esc.coe.int/eng/#/{%22ESCDclidentifier%22:[%22cc-90-2013-dmerits-en%22]})

16 Collective complaint no. 90/2013 Conference of European Churches (CEC) v. The Netherlands <https://tinyurl.com/y5mqg5p6>

17 Collective complaint no. 86/2012 European Federation of National Organisations working with the Homeless (FEANTSA) v The Netherlands <https://tinyurl.com/yxrelpd5>



The Unconditional right to emergency shelter in the light of homeless services reform in Poland

By **Jakub Wilczek**, *Polish National Federation for Solving the Problem of Homelessness*

The 2015 amendment to the Social Assistance Act¹ (the key Polish legislation act regulating the role of public authorities and NGOs financed from public sources in the area of supporting the homeless) has introduced a new legal framework for sheltering homeless people in Poland that has a significant impact on the whole homeless support system in the country. The key introduced changes were²:

- shelter services standardisation (mandatory since 2021),
- introducing definitions of different kinds of shelter services following the principles of the staircase model,
- introducing an “open door” policy in emergency shelters,
- forcing closer cooperation in commissioning services by municipalities to NGOs, with a strict supervision of both sides by regional authorities (including steep administrative fines for non-compliance with the new regulations).

In this article, the “open door” policy in emergency shelters will be examined closely in order to answer the question of whether the new regulations truly introduce an unconditional right to shelter in Poland.

Poland has observed a steady decrease of the size of homelessness in the recent years according to the biannual headcounts commissioned by the Ministry of Family, Labour and Social Policy: 36,161 in 2015³, 33,408 in 2017⁴ and 30,330 in 2019⁵. However, reports from the headcounts show other alarming factors, like growing length of homelessness episodes (5+ years in homelessness: 2013⁶ – 43.0%, 2015 – n/a, 2017 – 49.0%, 2019 – 54.6%) and aging of the homeless population (60+ years: 2013 – 21.7%, 2015 – n/a, 2017 – 28.5%, 2019 – 33.0%). These factors, combined with positive macroeconomic indicators (in particular unemployment, which has decreased by nearly two thirds since a peak in 2013) and new social transfers implemented gradually since 2015, mean, in the opinion common among social assistance professionals, that homelessness in Poland is nowadays experienced mainly by people who are the most

difficult to reintegrate in the staircase, employment-led model – elderly, disabled, with severe addictions and mental health problems. Observations in shelters operated by non-governmental members of Polish National Federation for Solving the Problem of Homelessness seem to prove these opinions.

Therefore, it is reasonable to ask whether the direction of legislative changes is appropriate or whether they should not take better account of housing-led solutions which give the “most vulnerable” groups a more decent chance of permanent reintegration and independence. However, Poland remains a strongly “shelter-oriented” country, therefore, regardless of these vital questions, it should be recognised that the access facilitation to emergency shelters included in the legislative amendments is a necessary solution when it comes to the protection of the health and life of homeless people who do not use institutional support on a regular basis (especially taking into account the harsh winters in the country).

Before further analysis of the “open door” policy in emergency shelters, it is necessary to describe how the legislative changes define an emergency shelter and other types of shelters in Poland:

- hostels – 24-hour shelter facilities with intensive services focused on reintegration (in 2018 a sub-kind of hostel service was introduced – hostels with care services, designed for people who are not fully self-reliant due to their age, health or disability, with a considerably higher living and service standard);
- overnight shelters – emergency services available only during the night with very little focus on reintegration, designed for occasional users;
- warming-up stations – supplementary winter emergency services with seats only, focused mostly on preventing hypothermia among homeless people sleeping rough;
- other specialised services (for mothers with children, crisis intervention, domestic violence victims) – available also for people who do not fulfil the Polish definition of homelessness (which more or less covers ETHOS 1, 2, 3.1, 4 and 11).

1 Social Assistance Act of 12.04.2004 (Dz.U. 2004 Nr 64 poz. 593), <http://prawo.sejm.gov.pl/isap.nsf/download.xsp/WDU20040640593/U/D20040593Lj.pdf> (Polish only)

2 For a comprehensive information on the introduced changes, please refer to “Has the homelessness services standardisation in Poland facilitated the access to shelter?” in Homelessness in Europe Magazine, Spring 2018, p. 4-6

3 “The report on actions for homeless people in regions in 2014 and the results of the National survey of the quantity of homeless people performed on 21/22 January 2015”, Ministry of Family, Labour and Social Policy, <https://archiwum.mpips.gov.pl/download/gfx/mpips/pl/defaultopisy/9462/1/1/Sprawozdanie%20z%20realizacji%20dzialan%20na%20rzecz%20ludzi%20bezzdomnych%202014.pdf> (Polish only)

4 “The report on actions for homeless people in regions in 2016 and the results of the National survey of the quantity of homeless people performed on 8/9 February 2017”, Ministry of Family, Labour and Social Policy, <https://archiwum.mpips.gov.pl/download/gfx/mpips/pl/defaultopisy/9462/1/1/Sprawozdanie%20z%20realizacji%20dzialan%20na%20rzecz%20ludzi%20bezzdomnych%20za%202016.pdf> (Polish only)

5 “The results of National survey of the quantity of homeless people – 2019 edition” (preliminary information), Ministry of Family, Labour and Social Policy, <https://www.gov.pl/web/rodzina/wyniki-ogolnopolskiego-badania-liczby-osob-bezzdomnych-edycja-2019> (Polish only)

6 “The report on actions for homeless people in regions in 2012 and the results of the National survey of the quantity of homeless people performed 7/8 January 2013”, Ministry of Family, Labour and Social Policy, https://archiwum.mpips.gov.pl/download/gfx/mpips/pl/defaultopisy/9462/1/1/001%20Sprawozdanie%20z%20realizacji%20na%20rzecz%20bezzdomnych_2012_plus%20aneks_ok.pdf (Polish only)



The majority of these institutions are operated by NGOs (yet the majority of the NGO services are commissioned by municipalities). The detailed structure of shelter services is presented in a table below.

STRUCTURE OF SHELTER SERVICES IN POLAND IN 2016

PROVIDERS	WARMING-UP STATIONS		OVERNIGHT SHELTERS		HOSTELS		OTHER SPECIALISED SERVICES	
	FACILITIES	SEATS	FACILITIES	BEDS	FACILITIES	BEDS	FACILITIES	BEDS
MUNICIPALITIES	25	499	46	1,322	45	1,874	188	2,204
NGOS	28	713	70	1,999	270	13,352	86	1,626
TOTAL	53	1,212	116	3,321	315	15,226	274	3,830

Source: "The report on actions for homeless people in regions in 2016 and the results of the National survey of the quantity of homeless people performed on 8/9 February 2017", Ministry of Family, Labour and Social Policy, <https://archiwum.mpips.gov.pl/download/gfx/mpips/pl/defaultopisy/9462/1/1/Sprawozdanie%20z%20realizacji%20dzialan%20na%20rzecz%20ludzi%20bezzdomnych%20za%202016.pdf> (Polish only)

The concept of the unconditional right to emergency shelter is expressed in the article 48a section 8 of the amended Social Assistance Act with the following provisions: "Assistance granted in the form of a temporary shelter in a warming-up station or an overnight shelter requires neither a social interview procedure, nor an administrative decision, and expenses incurred for the assistance provided are not refundable". In the guidelines⁷ issued in 2017, the Ministry of Family, Labour and Social Policy stated explicitly that the resignation from the procedure of social interview and administrative decision is aimed at maximum facilitation of access to emergency shelter, while non-reimbursement of incurred costs (in combination with resignation from the administrative procedure) means that the requirement of local connection does not apply in emergency shelter anymore. It should therefore imply the introduction of an unconditional right to shelter in Poland. On the other hand, the access to hostels and specialised services now requires by law a complicated administrative procedure including a social interview, a local connection or an agreement with the municipality of the last registration, an administrative decision and signing a social contract – before the amendment was introduced most of these measures were used by municipalities optionally (but in both hostels and overnight shelters) with most focus on local connection.

These regulations bring a clear division between emergency services available to anyone in need and reintegration services, that are available to people already in emergency services who decide to start their reintegration process. The problem is however, that these regulations assume that each of ca. 2,500 municipalities in Poland has a functioning staircase model consisting of at least an overnight shelter and a hostel, which, as shown in the table above, is very far from reality. In reality, emergency shelters are a minority (only ca. 19% of the available capacity) and are present mostly in the largest cities, while smaller municipalities usually only provide a hostel service or no service at all. It means that in many municipalities, a hostel is also an emergency service, but with compulsory administrative access procedures

described in the Social Assistance Act which seriously obstruct interventional support. And even large cities (with an exceptionally visible example of Warsaw) struggle with limited emergency shelter services availability, which in the light of new regulations again means that emergency access is sought in the hostels and the administrative requirements become a major obstacle in prompt intervention.

On the other hand, while the unconditional access to the warming-up stations was always considered natural (due to their absolutely emergency nature and very low standards), most of the overnight shelters used to have some form of access criteria before the amendment to the Social Assistance Act was introduced. Therefore, for the purposes of this article, Polish National Federation for Solving the Problem of Homelessness has conducted an impromptu online survey asking about the functioning of overnight shelters and their access criteria. The survey conducted in May 2019 involved 49 overnight shelters (approx. 42% of the overnight shelters available in 2016). When asked about the access criteria, none of the surveyed overnight shelters indicated social interview or administrative decision (as this would be a direct violation of the provisions of the Social Assistance Act), however only 5 of them declared that there are absolutely no admission conditions. The majority (31) of the overnight shelters required a meeting with their staff at admission, which in most cases is probably just a technical step with no consequences on accessing the service. Yet, in many cases more worrying criteria were indicated – including a referral or other document issued by a local municipal social assistance centre (e.g. "acknowledgement of homelessness") which is clearly loopholing the prohibition of administrative decision (16 cases), meeting with a municipal social worker before admission (12) – loopholing the banned social interview procedure, and several other conditions that included: staying in another form of shelter before admission, health and disability requirements (one respondent required a written doctor's health diagnosis!), local connection requirements and sobriety. One respondent declared that they will not admit a client if they refuse a shower.

⁷ "The guidelines on assistance to homeless people", Ministry of Family, Labour and Social Policy, Warsaw 2017 (Polish only)



“In many municipalities, a hostel is also an emergency service, but with compulsory administrative access procedures [...] which seriously obstruct interventional support. And even large cities [...] struggle with limited emergency shelter services availability, which in the light of new regulations again means that emergency access is sought in the hostels and the administrative requirements become a major obstacle in prompt intervention.”

Another question considered groups excluded from admission to overnight shelters and these were:

- People with minors in their custody (26 answers)
- People with certain disabilities – mostly wheelchair users (19)
- People who do not look homeless or declare they have some place to dwell (18)
- People who were removed in the past due to their behaviour violating internal regulations of a given institution – i.e. “punitive” temporary ban (18)
- People with mental disorders (13)
- People without required paperwork (9)
- People with last address of registration in another municipality (6)
- People without ID (4)

The two most common answers can be explained by (respectively) Polish minor protection regulations that would put children living in the streets directly into foster care (so emergency procedures for people sleeping rough with children are almost never happening, and there are other pathways and specialised services for minors with or without guardians fleeing home from a domestic violence perpetrator or in other crisis situation) and by architectural limitations of the homeless institutions not allowing people on wheelchairs (which of course is a very serious problem, but, contrary to other answers, is not a deliberate access limitation in the policy of the service provider). The other exclusions however, stand in clear violation of the unconditional right to shelter idea. Only 7 respondents declared they provide service to anyone in need of shelter.

Another major issue is the alcohol ban imposed by the amendment to the Social Assistance Act. Article 48a sect. 6 stipulates that there are no intoxicated individuals allowed in hostels and overnight shelters. Therefore, only the warming-up stations (which are open usually only in winter and their total capacity is very limited) are available to this group. The ban may be lifted, even in hostels, in case of “exceptional cases” (widely interpreted as severe winter conditions) but firstly, there are no procedures described for lifting the ban which means taking such a decision is a sole risk of the operator of the institution (and such situations are dreaded because of the spectre of administrative fines) and secondly – some shelters declare, not completely without reason, they never lift the ban because it would have a negative impact on other residents who remain in abstinence. When asked about the procedures of admission for intoxicated homeless

people, the majority of the surveyed overnight shelters (25) answered that they never lift the ban. Other answers were: lifting the ban only in certain weather conditions (20), admitting only people with a low level of intoxication (9), an individual decision in every case (8), admission but without entrance to a dormitory until the client is sober – meaning spending the night on a chair, in conditions alike to a warming-up station (7). None of the surveyed overnight shelters allows unrestricted access to intoxicated individuals. Most of the respondents stated that there are other options for the intoxicated clients in their municipality (sobering-up station⁸ – 23 answers, other homeless facility open all year – 9 answers, other homeless facility open only in winter – 20 answers), however 5 respondents indicated that intoxicated individuals are transported to another municipality, and there were another 19 answers indicating hospitals (emergency rooms) or even police custody (some of them overlapping with answers indicating homeless institutions, which can be interpreted as insufficient capacity of homeless institutions services for intoxicated individuals). Since the survey was answered solely by overnight shelters and these are usually found in large cities, it may be also assumed that these numbers are biased and the actual percentage of municipalities (small towns and rural municipalities mostly) practicing transporting intoxicated individuals to other municipalities or putting them in emergency rooms or under police custody is considerably higher.

There also is an issue of homeless people who are not fully self-reliant and in need of emergency shelter. Article 48a sect. 5 of Social Assistance Act forbade admission into all homeless institutions of people who due to their age, health or disability were not fully self-reliant⁹. After considerable pressure from the NGO community and unprecedented media coverage, a new kind of institution was defined in 2018 for this kind of clients – a hostel with care services. Whereas allowing these clients to use homeless support system again was a success, it has to be indicated that the number of such institutions grows very slowly (it is estimated that there are currently not more than 20-25 of them in Poland). And, to make matters worse, access to these institutions is restricted similarly to usual homeless hostels. Therefore, there are no emergency institutions for this kind of clients. While the government claimed that in intervention cases such clients may be admitted to other kinds of institutions for a short period of time, again the risk is solely on the provider, which means that most of the previously existing services remain closed to the people who are not self-reliant.

8 Sobering-up station (or a drunk tank) is a facility designated for alcohol intoxicated individuals who pose a threat to themselves or others (interpreted also as staying outside in harsh weather conditions). Clients are usually brought there unwillingly by police force and held until sober with some basic medical supervision. Usually, a meeting with an addiction therapist is required on release. The cost of being held in a sobering-up station is considerably high and widely regarded a punitive measure. In some municipalities sobering-up stations were turned into social services specialising in intoxicated homeless people with access at will and low or no charge.

9 The problem was widely described in “Has the homelessness services standardisation in Poland facilitated the access to shelter?” in Homelessness in Europe Magazine, Spring 2018, p. 4-6



Finally, there are still issues related to pressure, coming from municipalities, concerning the constriction of unconditional access to emergency shelters. The new legislation forces the municipalities with overnight shelters to host homeless people from any municipality without receiving any refund. Since the case was opposite for the last 30 years, the largest municipalities, which are basically homeless hubs, are strongly opposed to it. An online survey conducted by the Federation in 2016 has shown that out of 28 surveyed overnight shelters, 11 were in a threat of closure or transformation into a 24hrs hostels with access restrictions. In the 2019 survey 1 respondent declared that their overnight shelter was closed due to the changes since 2015, 4 overnight shelters were turned into a hostel with access conditions, 1 declared their number of beds halved, 1 declared their opening hours shortened and 6 declared they feel threatened with closure or turning into a hostel. Additionally, even though the guidelines issued by the Ministry of Family, Labour and Social Policy explicitly state that the overnight shelters should be financed by municipalities by paying a fixed amount for readiness to admit a certain number of homeless people accordingly to the capacity of the institution, 15 respondents stated that they are still being paid for each client separately, which implies some kind of access control to their institutions. Therefore it may be assumed that at least part of the described access limitations and attempts to loophole the regulations are caused by pressures from municipalities commissioning the services.

In conclusion, it has to be said that Poland is a step closer to an unconditional right to emergency shelter.

Yet, for reasons presented in this article, the access to emergency shelters is still limited in some locations in varying degrees. Some of these limitations are probably a reflection of the transition process and unwillingness to adhere to the new regulations (arguably both on the municipal and non-governmental side) and lack of understanding of the idea of the unconditional right to shelter. On the other hand, there are some issues of a systemic nature that still need to be overcome, like the low supply of emergency services (particularly in smaller municipalities, but not only there) and access to shelter for the intoxicated clients and those who are not fully self-reliant. Especially the alcohol ban seems to be problematic, since there is no public acceptance for the idea of “wet-shelters” in Poland (and at the moment it seems impossible to launch such service because of the law in force). Also, the new provisions are clearly flawed with over-bureaucratisation and put a lot of risk on the service providers who for this reason may not be willing to offer services to certain groups of clients. As with many other aspects of the reform of homeless services in Poland, one may assume that the future of the unconditional right to shelter is uncertain and we have to wait some more time to see clear results in this area. In the meantime it is obvious that education on the idea and need of the unconditional right to shelter as a human right is vital. Finally, as with many other aspects of the reform of homeless services in Poland, it is clear that omitting housing-led (and housing first) solutions, which could answer some (if not most) of the described problems and obstacles, was a serious mistake and needs to be dealt with immediately.



The state of emergency shelters in Denmark

By **Preben Brandt**, *Chairman of the Board of the Project OUTSIDE Fund*

“Internationally, but also nationally, questions are asked as to why nearly 7,000 people are homeless in a small, but rich welfare state. [...] It must be concluded that general wealth and welfare policies are not the only protection against homelessness.”

Every second year, a national survey in Denmark collects data on the number and profile of homeless people. During the last census, in February 2017, 6,635 homeless people were identified over a period of a week, corresponding to around one person per thousand out of the total Danish population. Based on this number, we may estimate that over the period of a year, about 15,000 persons experience homelessness, whether over shorter or longer periods of time, with homelessness being defined as not having a home. In addition, homeless people often have significant social and mental problems, including misuse of alcohol and/or drugs. Out of the 6,635 homeless persons about 1,200 are of foreign origin with permanent residence permit.

While these figures are quite well-documented, there is more uncertainty about the number of homeless migrants who do not have a permanent residence in Denmark. During the same week in the winter period, about 450 migrants without permanent residence permit were registered as homeless in Denmark.

Internationally, but also nationally, questions are asked as to why nearly 7,000 people are homeless in a small, but rich welfare state. Denmark is amongst the top six European countries (and amongst the top three in the EU) when it comes to GDP per capita, and the social policy has over the past several decades been based on a welfare policy, regardless of which political parties have been in power. It must be concluded that general wealth and welfare policies are not the only protection against homelessness.

Similarly, the fact that ‘Housing First’ has been the official social policy on homelessness for the past 10 years has not helped decrease the number of homeless people. On the contrary, the number of people who are experiencing homelessness in Denmark has steadily increased from 4,998 in 2009, when the first survey took place, to 6,635 in 2017.

From the first half of the 19th century onwards, the traditional and basic social work of helping people who are homeless, was based on the idea of institutionalisation of homeless and poor people, which has taken various forms over time; from poorhouses, labour houses, forced labour houses to shelters and similar kinds of institutions.

One can claim that the DNA of the Danish social work with homeless people, is that people who are homeless must be taken in and offered space in a shelter for homeless people. This fundamental tradition seems to present a serious challenge in making a real shift to a ‘Housing First’ strategy. Additional challenges have influenced the approach, such as high rental prices on the housing market, gentrification of the cities, a high demand for professionalism in the labour market and the complexity of the needs of socially excluded people.

Looking at the current legal basis of offering emergency shelters for homeless people in Denmark, let’s highlight ‘The Act on Social Services § 110’, which states: “The municipal council shall provide temporary accommodation in facilities for persons with special problems who have no home or who cannot stay in their own home. Admission to accommodation facilities may be anonymous subject to the applicant’s own application or by referral from public authorities. The principal shall decide on admissions”.

Take note of that it is a law based on a ‘must’ and not a ‘can’. The law obliges the municipalities to ensure that there is always room in a shelter and access to a shelter for homeless people. However, stated earlier in the Act on Social Service, § 3 provides a limit to who benefits from the right to these services; “Any person who is lawfully staying in Denmark is entitled to assistance under this Act”. This is interpreted by lawyers of the Social Ministry as meaning that homeless people with no legal permanent residence cannot be legally offered a bed in the shelters, which operate and are financed under the Act on Social Service. This is the case with the majority of shelters in Denmark.

Such are the legal requirements for the approximately 2,200 shelter beds that are distributed amongst approx. 70 emergency shelters spread across the country. The occupancy rate over the year, is almost 100%, and in the course of a year the 2,200 beds are used by a total of over 6,000 different people, whose occupancy of these beds vary from one night to a whole year. For approximately 1,000 homeless people the length of their stay ranges between 4 months and up to the entire year. It seems that homeless people are circulating between shelters, the street, living with friends and families, and in some cases, prisons or hospitals for determined periods of time.

The Social Act also defines the purpose of a stay in an emergency shelter. It is of course primarily the need of accommodation, but the Act also mentions other services such as activating support, and subsequent assistance. The stay in a shelter is expected to be as short as possible. Nothing is mentioned about care and treatment, which are nevertheless offered in most shelters, which in turn is possibly part of the reason why people end up staying for longer periods of time.

The staff in the shelters function as caretakers, project managers and mediators, and ideally work in cooperation with the municipal case officers. The municipality is responsible for initiating an overall effort, including medical treatment, labor training and search for housing, in collaboration with the homeless person, the shelter and if needed, hospitals and the Department of Prison and Probation.



Thus, each of the 98 Danish municipalities is responsible for ensuring the broad range of services needed and for covering the costs. In this article, focus is on the cost of a citizen's stay in a shelter. The price for a 24-hour stay at a shelter varies in price from shelter to shelter but is normally between 150 to 200 EURO. Quite a few shelters have significantly higher prices because of the special tasks they perform. The user will be charged a modest fee by the shelter as well. This must be seen within a context where people who are homeless and without an address have the right, under the same condition as everybody else, to receive social benefits, as long as they have permanent residency status in Denmark.

A calculation of the total expenses of all the shelters in Denmark result in an approximate cost of around 411,000 EURO per day or 150,000,000 EURO per year. But it is not the municipalities alone that are responsible for the expenses. Half of the expenses are refunded to the municipality by the state. Although there are many good reasons to this, perhaps the foremost is a procedure that stems from a tradition dating back in time. But usually the reasons used for justifying the reimbursement is that it enables a person experiencing homelessness to register at a shelter anywhere in the country without having to go through a lengthy admission process for the stay.

It could be argued that if the municipality were obliged to pay the entire price for the stay, there would be greater commitment to ensuring as short a stay as possible at the emergency shelters, instead using the saved funds to fund better, more stable and more homely places where recovery would become an integral part of the social service, e.g. funding new types of housing, like tiny houses, and putting more effort in ensuring that more affordable flats were available.

Such a strategy could, compared to what is done now, provide more backing and support to the "Housing First" model and thereby help people out of homelessness.

Let's get back to the basics and describe what the Danish shelters look like. Nearly all offer single rooms, where the resident, similarly to a hotel, can stay 24 hours a day and keep the same room during the entire period he/she is living in the shelter. In the newer shelters there is a private toilet and a bathroom attached to each room. In the bigger cities, the shelters are often larger, more worn out and miserable with a larger number of residents, up to 50 - 90 people, who have increased complex social and health problems, compared to the shelters in smaller towns.

At some shelters, there are workplace units where the residents can earn small amounts of money, and where they can test their work capacity and receive different forms of training. Some shelters offer dental services provided by voluntary dentists and some have a small health unit staffed with nurses. There

is no overall plan or strategy as to which services are offered. It depends on each individual shelter, the municipality in which it is located and the traditions of the institution.

You may get the impression that shelters are owned and operated by the municipality as a public institution. This is not the case. About half of the country's shelters are run by private, predominantly faith-based organisations. However, apart from a few small shelters, the majorities of the shelters are fully funded by public, municipal funds and are subject to specific public directives and guidelines and regular supervision. There is no visible difference between a public shelter and one run by faith-based organisations. Both types of shelters employ professional staff and none use volunteers.

The last homeless census shows that 310 people experiencing homelessness are young, aged between 18 and 24, and have stayed in a shelter (the total number of young homeless persons is 1278). A small part of this group used shelters specifically for young people. The number of young homeless people has grown over the past decades. However, most of them find accommodation with friends and relatives without having a fixed address. Other kinds of services should be offered to these young individuals like a place to live including specific support, instead of defining them as homeless and offering them a bed in a shelter for homeless people.

Finally, let's end this tour of the Danish shelter system by looking at the night-shelters which have been established in the last 10-15 years. Some are permanent, others only operate temporarily during the winter-time. The total number of accommodations offered varies from around 100 to 300 beds. Night shelters were set up at a time when some shelter-administrators found some homeless people to be too difficult and disturbing to accept them as residents in the ordinary shelters. Today, most users of these shelters are homeless migrants who have no access to ordinary shelters. These night-shelters are funded by extraordinary state or municipal grants and are not subject to the Social Services Act, or they are funded by private foundations. The funds may be enough to have one paid employee per night shelter, whereas the rest of the staff often are volunteers.

A person wishing to stay in a night shelter must arrive to the shelter each evening and hope for a place for the night, which is often a mattress on the floor in dormitories. In the morning a cup of tea and bread is served with cheese, but the guests must leave early and spend another hard day in the streets. There is no guarantee for shelter and migrants often end up sleeping on the streets.

Is it not time that we found the will to secure all people, including migrants, experiencing homelessness, a safe place to sleep?



The shelter of the future

By **Javier Prieto**, *Care director Saint John of God Socials Services-Barcelona*

To write “shelter” and “future” in the same phrase is to express a contradiction of ideas. Shelters have been the strategy of cities to offer support to people who are homeless since the mid-twentieth century¹. Traditionally, shelters were an emergency equipment, which causes an assistance treatment of homelessness that does not pay attention to recovery in the long- or medium term.

Homelessness is not an emergency

These centers are characterized mainly by having unconditional access, that is, without any criteria or assessment of the situation of the person, only taking into account available space. The centers were also intended for temporary stays, at times only for a few days. They were also utilized as shared spaces, with common areas of relationship and assistance services for the coverage of basic needs. Finally, shelters are normative places with rules to ensure efficiency that do not take into account the situation of the people, nor their actual chances of being able to comply with these standards.

“M. has been on the street for 5 years. He does not want to go to a shelter because it will only be for 3 months. He does not believe that in 3 months he can access a house or room in a flat when he does not have income and has health problems. If he goes to a shelter, he will have to share the same room with other people he doesn't know and he will lose the ATM where he sleeps every day with other people who, even if they are not friends, will protect each other”

The temporary stay and shared spaces are what give a sense of emergency to the care of homeless people. In a shelter where the stay is for days or weeks, where the person must share a room with several people, it is difficult to imagine this person being able to recover and rebuild their life. People only access a place where they can sleep at night, but their situation, their social status, and their chances of recovering are the same as if they were living on the street. Therefore, they see a shelter as a refuge to go when there is some circumstance that puts their health at extreme risk.

This way of caring for homeless people has fed the collective imagination according to which all of them are people with mental health problems and drug or toxic substance consumers, turning the shelters into centers that in themselves stigmatize those people.

Avoiding a reflection on why a person is homeless, what their responsibility is (i.e. not their fault), and what resources we offer for their recovery is a way to clean the social conscience. Blaming those who are in this situation is the simplest way of distancing oneself from a reality that is getting ever closer. Being homeless is a combination of several factors: personal (those situations proper to the person that hinder their own vital development), relational (lack of networks), structural (rent prices, precarious employment, etc.) and institutional (lack of benefits, lack of

social politics, etc.).

“C. and P. are siblings. They are 67 and 57 years old respectively. She receives 600 € of pension and he does not have any income. An investor fund has bought the building they have lived in for the past 40 years and is forcing them to leave. They never needed social attention before. With the money available, they cannot rent another apartment either in the neighborhood or in the city where they live. They must request access to a shelter where they are separated because they are male and female.”

The structural factors, although invisible, are what must change the collective imagination of those who are homeless. A broader view of the issue is also necessary, one which would incorporate all the different types of residential exclusion, defined under ETHOS by FEANTSA: roofless, homeless, unsafe housing, and inadequate housing.

Both the factors and the reality suffered by homeless people indicate the path that care should take and where the centers of attention should be, since homelessness is not considered an emergency.

From assistance to active participation

In recent years, the housing care methodology called Housing First has been incorporated with great force, offering homeless people immediate assistance in housing, together with social support. With a focus on empowerment and recovery of the person, the results are excellent, showing percentages above 80% when it comes to no-return to living in streets. These results have strengthened the voices of organizations specialized in the care of homeless people, claiming that the Housing First practice is the only valid and worthy model for the recovery of homeless people, asking for the extinction of shelters and the traditional model of care. However, without questioning this argument, what happens with the 20% who cannot keep housing in Housing First projects? How do we guarantee access to Housing First when there are countries with an alarming lack of public housing and access to housing bases on the market with the fluctuations and insecurities that it generates? What can we do for people facing housing exclusion and lacking employment, the solution to stabilizing their residential situation?

“M. is 29 years old and lived in a juvenile center until she was 18 years old. Between the age of 18 to 29, she lived on the street, alternating stays with friends. She has issues with addiction and schizophrenia but is not currently benefiting from treatment. M. then accessed a Housing First project. After 1 month of living in a house, there were complaints from the community of neighbors about shouting and destruction in the building that make coexistence difficult. The organization offers another house and in a wee, the neighbors of the new building report her to the police for having threatened them. The program then

¹ The first shelter in Barcelona opened in 1945 and the name was “Albergue Valldonzelles”.
Fourth Overview of Housing Exclusion in Europe. Feantsa and Fondation Abbé Pierre



offered her another home. She did not accept visits by the team, nor did she pay her rental fees to which she had committed to do. She sublet to some of the people in the house and lost her housing accommodation, having been removed from the project.”

Having been alerted of these situations, Sant Joan de Déu Serveis Socials reconverted some of the shelters into residential centers for the first time in 2012, generating significant changes. First, a professional service was created that generated teams of social care professionals to offer comprehensive care with community support, and volunteering, following a person-centered model of attention in a humanist sense, and with values such as hospitality, respect, responsibility, and spirituality present in daily practice. Second, Sant Joan de Déu reconverted common dormitories to individual ones and avoided separating couples, which allowed access to a private, intimate, and dignified space that enables a focus on the recovery process. Third, the temporality of the stay was adapted to the vital processes, avoiding fixed parameters. Finally, they encouraged community action: being present in the neighborhoods where the centers are, informing the neighbors of what activity is being carried out, creating spaces of shared participation, and breaking away from stigmas towards the population forced to sleep in the street or in the equipment for the homeless.

New social housing petitioners

These changes offer us hopeful results. During 2018, 72% of the people housed in collective residential centers, the former shelters, obtained a source of income of which 45% was through employment. 18% agreed to housing programs with social support and 45% managed to rent a room or apartment by themselves.

However, offering comprehensive care, where the social support addresses all factors, has not prevented the extension of the stays to 250 days. The impact of structural factors, the distance between income received and rental prices, forces many people to live in these facilities longer than desired. Due to these factors, combined with the lack of a social network, there are new petitioners of accommodation in shelters, as the elderly whose pensions are insufficient, people who work precariously², or newcomers unable to access a job and with an irregular situation that force them to request a place in a shelter or to live on the street.

From residential centers to homes

For the sake of humanity and responsibility, we are forced to continue with this evolution. Transforming residential centers into homes that allow those who do not find a space of acceptance and recovery to access resources, helps them in finding the motivation to leave the homeless care system and to want to live another life full of rights.

These centers must continue progressing and improving the support offered, focusing on their own spaces, attention, professional team, community action, and sustainability. In the development of resi-

dential centers, the first step was to move from shared to individual rooms. Now we must think of spaces that allow the people served to develop their lives normally, adapted to the heterogeneity of homeless people and that allow them to be autonomous in their daily life activities. Could we imagine our life doing our daily tasks supervised by a professional?

On the other hand, people must be the focus of the support and owners of their own decisions. This means that the stay in these accommodations should not be conditioned by a pre-fixed temporality, but by the vital moments of them. In addition, the team should include professionals from social action, health, and peers. The social and health care team must give guidance in the achievement of the recovery goals. They must be a resource that empowers, improving the self-esteem and motivation of the users in the decision-making process. Professionals should be able to see and evaluate the result of their work in people's recovery, and not in the resources they manage. Accompanying a person in an integral way with the aim of improving their quality of life will remain the vocational sense of their work. The personal and social growth of some is the personal and professional growth of others.

In the shelters of the future, community action must also be present, and centers must be an active part of the community. We need to create participatory spaces in two directions: participation of residents in the community and participation of the community in the support offered in centers. In addition, the centers should be open to the neighborhood offering services managed by the residents to generate social value. They must motivate the participation of the community in the social action to offer the residents valuable relationships and acceptance.

The shelters of the future must generate knowledge. The developed action must be evaluated and allow improvement that eases the adaptation of the center and the attention given to socio-political changes. Centers must also be sustainable. The action must contemplate the productive activity that forms and employs residents that cannot access the labor market. It must generate a circular economy that reduces the high cost of managing collective accommodation with the aim of generating socially, environmentally, and economically sustainable equipment.

A future with future

The challenge is ambitious. For an increasingly complex situation, such as homelessness, there seems to be no political will to influence the structural factors that expel people from their homes onto the street. On this reality, we must propose a future without shelters and a future with residential centers that offer a future to the people forced to live in them. Only in this way, offering dignity, rights and respect, will come the day when nobody has to spend a night on the street and be judged for it.

Shelters of the future must be accompanied by a more courageous and consistent public and social housing policy to give opportunities to all those who pass through a residential center, ensuring that they never have to return again and ensuring that they can have a life far from shelters, residential centers, and equipment designed for homeless people.

“We need to create participatory spaces in two directions: participation of residents in the community and participation of the community in the support offered in centers”

2 During 2018, 35 % of those who accessed to a residential center belonging to Sant Joan de Déu in Barcelona had a job.

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For more information see: <http://ec.europa.eu/social/easi>

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Cover image by Mary Vallely

Mary Vallely suffers from depression and homelessness, and her love for art helps her to cope with her day-to-day life. Her paintings reflect on colour, mood and landscape. She attends 240 Project and Cafe Art in London to express her artistic talent.

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