



# **Peer Review on “Access to social assistance and rights for homeless people”**

**Host Country Discussion Paper - Belgium**

**No one left out.**

**For an administrative system that includes the most excluded**

**Belgium, 3-4 October 2019**

**DG Employment, Social Affairs and Inclusion**

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## **1 Setting the scene: Instruments at national and federal level in Belgium to guarantee the social rights of homeless people –**

Homelessness and housing exclusion have been a social problem for a number of years; thus, homeless people have been a priority target group on the agenda of the various public authorities, in particular, the federal government.

During the last three federal legislatures (2007-2010; 2011-2014; 2014-2019), the Government identified the fight against homelessness as one of its political priorities, within the framework of a *Federaal Plan Armoedebestrijding / Plan Fédéral de lutte contre la Pauvreté* (Federal Plan against Poverty). Three types of measures can be highlighted: coping with situations of social emergency, strengthening of governance structures and support to social innovation.

In a country like Belgium, where competences are highly decentralised (federal state, regions, communities), tackling the absence of consensus concerning the causes of homelessness and the ways in which they can be addressed requires governance on multiple levels. It was with this aim that a *Samenwerkingsakkoord inzake dakloosheid en thuisloosheid afgesloten tussen de federale Staat en de Gemeenschappen en Gewesten / Accord de coopération sur le sans-abrisme entre l'État fédéral et les communautés et régions* (Cooperation Agreement on homelessness and housing exclusion) was concluded between the Federal State and the federated entities on 12 May 2014. Despite the lack of an action plan for this initiative, the agreement reached made it possible to make some progress, including, for example, a common definition of homelessness, housing-oriented actions, clarification of responsibilities and support for the implementation of innovative methodologies such as Housing First.

From an administrative perspective, the Belgian public authorities define homelessness and housing exclusion as "the situation in which a person does not have their own accommodation, is unable to obtain it by their own means and therefore has no place of residence, or resides temporarily in a shelter until accommodation is made available".

At the core of this definition is the idea that homelessness deprives homeless people of three elements associated with living at home: having exclusive enjoyment of a place (I have the key to my home), having a private space in accordance with needs and urban planning requirements (my home has all the amenities), having a place which is conducive to the privacy of social relationships (I invite whomever I want to my home).

In recent years, the methodology referred to as 'Housing First' has emerged with a strong impact in the area of support for homelessness. As with any evidence-based approach, it has been possible to demonstrate that this is the most effective response to long term homelessness (93% of people still in housing after 3 years).

The Housing First model provides adapted, intensive and multidisciplinary support - available, not imposed - for as long as necessary and based around the choices of the homeless person who has found their own home. Housing First support aims at the person's recovery: taking back control of their life, their choices, relying on their own resources by having a prospect for the future, the strength to act and social inclusion.

For homeless people, having the feeling that they are citizens again, fully accessing their rights and seeking assistance and social protection, therefore, becomes a central objective, including, for example, being able to manage their correspondence, contact their doctor when necessary, as well as turning to their own social network.

The Belgian social protection system extends its administrative organisation down to the local level. In every municipality, there is an offshoot of the municipal administrative power, the *Openbaar Centrum voor Maatschappelijk Welzijn / Centre Public d'Action Sociale* (Public Centre for Social Welfare, PCSW). The mission of the

PCSWs is to guarantee every inhabitant of the municipality a life in human dignity. They are therefore responsible for providing social assistance through specific psychological, social, financial, medical and administrative support and assistance measures, to enable people to return to an active social life.

The PCSWs, priority partners of the federal government responsible for the right to social integration and the fight against poverty, are essential actors in the fight against homelessness. Various measures encourage the PCSWs to implement support pathways which are oriented towards housing. The Equipment Grant for people who move into a permanent residence after a situation of homelessness is one example.

In 2017, for Belgium as a whole, 13 439 equipment grants were awarded, for children aged 0 to 17 (284), young people aged 18 to 24 (4 093), adults aged 25 to 44 (6 642), seniors aged 45 to 64 (2 207) and seniors aged 65 and over (217) who were homeless (Source: PPS Social Integration). These figures are undeniable indicators of social work that helps get people off the streets.

Another indicator that provides insight into the impact of the social work of the PCSWs is the number of Social Integration Income Grants, which are 100% reimbursed by the federal government if the user is supported in settling in a home. According to data from the PPS Social Integration, 6 175 Social Integration Income Grants were recorded in 2009, rising to 8 659 in 2017. That is an increase of 40%! Of course, not only does this reflect the effectiveness of the work of the PCSWs, but also an increase in the number of people experiencing homelessness.

In addition, thanks to the partnership with the National Lottery which provides the funds, to date, several calls for projects have made it possible to create around 534 emergency housing units: 212 in Wallonia, 285 in Flanders and 37 in Brussels, for an amount of nearly EUR 23 million. These housing units are essential in responding to situations of social emergency and preventing chronic homelessness.

Put under pressure by the drivers of poverty, local public authorities are often the last public actors in a chain of political decisions. They can suffer from scattered competences, a lack of political focus, and diffuse administrative leadership. A concrete application of multi-level governance lies in the methodology implemented as part of the European Union's Urban Agenda. Cities, regions, Member States, and various European organisations came together to finally discuss their shared challenges and find solutions under the prism of the reality at the local level. The EU Urban Poverty Partnership has made homelessness one of its priorities. It has addressed the issue collectively, considering that the European Union has a clear role to play in setting a course and stimulating its Member States to achieve a clear and realistic objective: ending homelessness by 2030. To this end, social inclusion policies will need to be updated to include exit strategies from homelessness; housing policy needs to be adapted accordingly. This is nothing new - the Leipzig Charter of May 2007 had already advocated it - the public authorities need to cooperate, with a view to the vertical and horizontal integration of policies to combat homelessness.

The Belgian social protection system is therefore not lacking vision, levers, instruments and measures to help homeless people off the streets.

This paper goes into more detail on one of these instruments, the use of the reference address for a homeless person, outlining the basic principles, as well as the current problems related to this system.

## **2 Registration with a reference address for homeless people in the population registers and in the Belgian National Register**

### **2.1 Background to population management in Belgium**

Since 1856, Belgium has been a pioneering country in the area of rigorous and permanent population censuses. The collection of data on the identification and location of citizens has evolved significantly over more than two centuries.

The effective and permanent management of population registers not only makes it possible to monitor migratory and natural movements and the administrative evolution of natural persons, but also to accurately pinpoint where former inhabitants within the municipality's territory have passed through or stayed.

Population registers have become even more important since the creation of the National Register of natural persons, which makes it possible, via a computerised database, to rapidly and permanently update all public files.

Most public administrations have also made their intervention conditional on the determination of the main residence as defined by registration in the population registers.

Another opportunity offered by population registers is the possibility of extracting various statistics from them, primarily for administrative and demographic purposes.

Certificates and extracts from population registers intended for citizens can be printed from the file of the National Register or from the municipal computer system. Digital transactions can be done by the municipal services or can be ordered at the National Register.

Nowadays, every citizen can also directly access their personal file at the National Register from their personal computer, via their electronic identity card and the application <https://mondossier.rn.fgov.be>. Users simply insert their electronic ID card into a card reader and enter their PIN code. Users can also consult their file in the National Register at their municipal administration.

### **2.2 The purpose of population registers**

The keeping of population registers is legally governed by the law of 19 July 1991 on population registers, identity cards, foreigner nationals' cards and residence documents.

The registers must be kept up to date at all times. The municipal administration is responsible for taking all necessary organisational measures to ensure that residence situations are continually updated, that the necessary registrations and deletions are made ex-officio and that offences are recorded by the police.

Pursuant to Article 7 of the Royal Decree of 16 July 1992 on population registers and foreign national registers, any person who wishes to establish their main residence in a municipality of Belgium or to transfer it to another municipality, must make a declaration to the municipal administration of the place where they have settled.

The municipal administrations are responsible for checking whether the main residence of a person who establishes their main residence in a municipality or who changes their residence in Belgium, is genuine.

Checking whether a person, who has established their main residence in a municipality or changed their residence in Belgium or abroad, actually lives in their declared residence, is the subject of an investigation by the local authority within fifteen working days of the declaration of change of residence. Besides the general task of establishing the residence, the local police must notify the population service of persons likely to be subject to an ex-officio registration or deletion.



Population registers are an instrument that makes it possible to simply highlight the factual situation, and nothing else. If an individual resides in a particular place, this is indicated. The Belgian social security system is primarily based on registration in the population registers for the granting of certain social rights or benefits, but registration in the population registers has various other objectives, in particular in terms of security and assistance.

It should also be recalled that with the current legislation on keeping population registers, it is possible for any citizen – therefore any inhabitant of Belgium regardless of their nationality - to obtain their registration in the population registers. The general and common approach is the registration of the main residence, but there are also other possibilities, such as provisional registration, temporary absence and the reference address. Federal legislation has provided for these possibilities for nearly 30 years and allows every citizen, provided that they complete certain formalities with the municipality (or the PCSW), to be registered in the population registers. It is also possible to be registered as residing in a mobile accommodation, an institution, a caravan, etc.

Finally, it is essential to recall that the principle of registration in the population registers is based on the main residence, and that the granting of a reference address is an exception which is strictly limited to certain categories of persons and under certain conditions.

Registration (sometimes temporary) at the address of the main residence, or temporary absence (under certain conditions) from a person's main residence must always prevail over the granting of a reference address.

### **3 The reference address as a specific instrument to guarantee rights**

The European Pillar of Social Rights refers to the right of homeless people to access adequate services to promote their social inclusion, upholding and/or recovering their social, civil and political rights. This presupposes that the mechanisms for an administrative anchoring of the social protection of homeless people are implemented through registration in the population register.

In Belgium, this administrative anchoring is based on registration in the population registers via the granting of a reference address.

Since 1997, it has been possible for a homeless person to be registered at a reference address with the PCSW.

#### **3.1 Regulatory framework**

Registering a homeless person at a reference address has the following legal basis:

- Article 1, §2 of the law of 19 July 1991 on population registers, identity cards, foreign nationals' cards and residence documents and amending the law of 8 August 1983 organising a national register of natural persons;
- Article 20, §3 of the Royal Decree of 16 July 1992 on population registers and the register of foreign nationals.

Given the role of the PCSW, reference can also be made to the Organic Law of 8 July 1976 on Public Centres for Social Welfare and the Law of 2 April 1965 on the provision of assistance by Public Centres for Social Welfare.

Three circulars clarified the reference address for homeless people, namely:

- Circular of 21 March 1997: Introduction of the possibility for homeless people to obtain a reference address from the PCSW;
- Circular of 27 July 1998: Reference address for homeless people: further information in addition to the circular of 21 March 1997;
- Circular of 4 October 2006: Homeless person - competent PCSW - reference address - registration and deletion of a registration.

#### **3.2 Purpose of the reference address**

A reference address is an administrative address that offers the possibility for a homeless person to have an administrative anchorage and to receive postal mail. Creating this address is therefore not only in the interest of the homeless person, but also in the interest of third parties, such as public services, creditors, etc.

Thanks to the reference address, the person in question can also claim all the administrative and social benefits that require registration in the population registers.

For example: valid identity card, the right to vote, registration of a vehicle, right to unemployment benefits, right to family allowances, affiliation with a mutual insurance company, etc.

#### **3.3 Choice between a reference address with the PCSW or with a natural person**

For the registration of a reference address, the homeless person has - at least in theory - the freedom to choose between a reference address with the PCSW and a reference address with a natural person.

### **3.3.1 Reference address with the PCSW**

The reference address with the PCSW cannot be regarded solely as an administrative address. Due to the role of the PCSW, it is seen as the start of a support pathway, with a view to finding stable housing for the homeless person in question.

#### **3.3.1.1 Conditions to obtain a reference address with the PCSW**

##### *1) Having the right to social assistance*

The support provided by the PCSW when registering a homeless person at a reference address is a form of social assistance.

The homeless person must, therefore, fulfil the general conditions for the granting of social assistance. As such, people who are only entitled to urgent medical assistance (people without legal status) cannot obtain a reference address.

##### *2) Being homeless*

Whether a person can be categorised as homeless is assessed by the PCSW on the basis of the following definition:

"Homeless refers to a person who does not have their own accommodation, is unable to obtain it by their own means and therefore has no place of residence, or resides temporarily in a shelter (or with a private individual) until accommodation is made available".

The PCSW assesses whether a person is homeless on the basis of the information provided by the applicant and on the basis of its social inquiry. The de facto situation is decisive in this respect.

The PCSW definition of homelessness includes two elements:

##### 1. An absence of housing: no place of residence or temporary residence

The target group includes people in need who do not have a house, i.e. a private house or a house for personal, but not necessarily exclusive, use, without the applicant necessarily being the owner or tenant.

This includes, firstly, people who do not have a place of residence, i.e. people who sleep rough or in public buildings such as railway stations.

It also covers people with a temporary place of residence. This is referred to as 'hidden' homelessness. Persons who are temporarily housed by a private individual, to provide them with temporary and short-term assistance until they have their own accommodation, are therefore also considered homeless.

The PCSW regulations do not set any time limit for the temporary nature of this type of accommodation. In order to assess the temporary nature of the accommodation, the PCSW must, on the basis of its social investigation and in the follow-up to its file, determine a reasonable period of time during which the person in question can find personal accommodation, taking into account their specific personal situation and the supply and economic accessibility of housing in the specific region.

##### 2. Lack of financial means

To be considered homeless, the person in question must not have the financial means to have their own home.

The PCSW must once again assess the lack of means on a case-by-case basis, based on the social inquiry.

##### *3) Not being registered in the population registers (ex-officio deletion)*

A person can only be registered at a reference address with the PCSW if they are no longer registered in the population registers of a municipality, neither their main

residence nor with a reference address. They must have their registration deleted ex-officio.

If the PCSW observes that a person still has a registration and that this registration no longer corresponds to the actual situation, the PCSW must take the necessary steps to delete the person's previous registration.

### **3.3.1.2 Procedure**

#### *1) Request for assistance*

Given that the intervention of the PCSW regarding the reference address is a form of social assistance, the homeless person who wishes to obtain a reference address must submit a request for assistance with the PCSW.

In addition, given the precarious situation in which a homeless person finds him or herself, the PCSW must not limit itself to the assistance requested by the person in question, but must also examine what other assistance can be provided. The PCSW can, therefore, support the person in question in terms of housing, financial, psychological, medical, social support, etc., with a view to their reintegration into society.

#### *2) Competent PCSW*

In principle, the competent PCSW is that of the municipality in which the homeless person has their actual place of stay on the date of the request for assistance.

If the PCSW that received the request for assistance believes that it is not the competent PCSW to handle the request for assistance, it must forward this request in writing within five calendar days to the PCSW which it believes to be competent. Within the same period, it will notify the applicant for assistance that the request has been forwarded.

If this second PCSW also declares that it is not competent to handle the request, this PCSW must submit a request to the PPS Social Integration for a decision regarding this conflict of competence. The PPS SI will take a decision within five working days as to which PCSW has to handle this request for assistance.

#### *3) Social inquiry*

After receiving the application for assistance, the competent PCSW must check, based on a social inquiry, whether the applicant fulfils all the conditions for claiming registration.

#### *4) Decision to grant or refuse*

If the applicant for assistance fulfils all the conditions, the PCSW will take a positive decision regarding the reference address. At the same time as the positive decision, a certificate intended for the municipality is given to the person in question. Based on this certificate, the municipality will be able to register the person concerned at the address of the PCSW.

If the PCSW, following its social investigation, has found that the person in question is not homeless and/or is not eligible for social assistance, the PCSW will refuse the reference address. If the person in question disagrees with the decision of the PCSW, they may lodge an appeal with the Labour Court. The procedure to be followed is explained in the written notification of the decision.

It is also possible to appeal the municipality's decision with the Council of State within 60 days following notification of the decision.

#### *5) Follow-up*

The homeless person registered at a reference address with the PCSW must report to the PCSW at least once per quarter year. The PCSW therefore follows up the case at least every three months.

As part of this follow-up, the PCSW will check whether the person in question still meets the conditions for registration at the reference address.

#### *6) Termination*

If the person in question no longer meets the conditions, the PCSW will inform the municipality, which will then suspend registration at the reference address via ex-officio deletion.

The reference address will also be suspended following the registration of the person in question at the address of their actual main place of residence, at their request or ex-officio.

### **3.3.2 The reference address of a natural person**

Besides the possibility of registration at a reference address with the PCSW, a homeless person can also be registered at a reference address with a natural person.

#### **3.3.2.1. Conditions**

To be able to register at a reference address with a natural person, the following conditions apply:

- Being homeless
- Not being registered in the population registers (ex-officio deletion);
- Being able to present the written consent of the natural person.
- The natural person must expressly commit themselves to ensure that all mail and administrative documents intended for the homeless person are sent to their address. In this way, the natural person must not try to take advantage of the situation.

Regardless of any problems in terms of the procedure, it should be pointed out that it is not easy, in practice, to find a person willing to lend their address to a homeless person. There are often fears about the impact on the own rights and properties. In addition, a homeless person often does not have a network on which they can rely.

## **4 Current issues in the context of applying the regulation**

In reality, it appears that the above-mentioned provisions and circulars are sometimes interpreted differently by municipalities and PCSWs. As such, clarifications to the existing rules and a simplification of the administrative procedures could be made in a new circular replacing the three aforementioned ones.

### **4.1 Current problems relating to the reference address with the PCSW**

In practice, using the reference address with a PCSW results in the following uncertainties and difficulties.

#### **4.1.1 Competence shared between PCSW and municipality**

Firstly, procedural responsibility linked to a reference address with the PCSW is shared: the Ministry of Home Affairs and the municipalities are competent for registering people in the population registers; the PPS Social Integration and the PCSW are competent in the area of social assistance. The two administrations approach this responsibility from different perspectives: the fight against fraud versus the fight against poverty.

This results in different instructions and interpretations, among other things regarding the status of the homeless person.

#### **4.1.2 The definition of homelessness**

The definition of homelessness is vague. The advantage of this is that various situations can be covered by the same definition. However, the consequence is that there are various ways to interpret it. It is conceivable that a person may be considered homeless in a given municipality or PCSW, but not in another municipality or PCSW.

#### **4.1.3 Competent PCSW**

The competent PCSW depends on the actual place of stay of the homeless person. However, it is not always straightforward to ascertain this actual place of stay.

In addition, some homeless people move very frequently, with the result that the competent PCSW frequently changes, from a strictly legal point of view. This makes long-term assistance difficult.

#### **4.1.4 Cumbersome procedure**

Given that both the PCSW and the municipality need to intervene to register the reference address with the PCSW, the procedure is cumbersome.

This is even more the case if the PCSW finds that a person has an out-of-date entry in the population registers. In such cases, the PCSW needs to wait for the ex-officio deletion requested from the municipality before being able to take a positive decision regarding the granting of the reference address. This all takes a long time.

### **4.2 Current issues relating to the reference address with a natural person**

The law of 19 July 1991 on population registers, and the Royal Decree of 16 July 1992 on population registers and the register of foreign nationals, do not provide for the possibility for the "homeless" person to benefit from a reference address with a natural person on account of a lack of sufficient means. Only circulars have entertained this possibility on the basis of the preparatory work for the law of 24 January 1997 amending the law of 19 July 1991 on population registers and identity cards.

Since 2010, the general instructions from the Ministry of Home Affairs included the possibility of registration with a natural person for the "homeless" person, on account

of a lack of sufficient means. This is a simple tolerance without a legal basis. The municipalities are requested to exercise the utmost caution to avoid any misuse of reference addresses.

In particular, the municipality needs to give priority to checking the main residence if a person requests their registration with a reference address at the address of a natural person for the above-mentioned reason. If it appears that the person in question has already established their actual main residence somewhere else, they cannot be considered as a person without a residence on account of a lack of sufficient means. As such, they cannot be registered at the requested reference address either. Nor is the reference address intended for persons who have actually established their main residence at the address of the requested reference address.

There are legal uncertainties regarding the procedure for obtaining a reference address with a natural person, in particular regarding the possible role to be played by the PCSW.

The intervention of the PCSW is not explicitly stipulated anywhere in the legislation if a homeless person requests a reference address with a natural person.

The Ministry of Home Affairs considers that since the law specified conditions for registration with the PCSW, it is normal to apply the same conditions for registration with a natural person (principle of equal treatment).

This is why the municipalities, in accordance with the instructions of the Ministry of Home Affairs, generally always redirect homeless people to the PCSW to carry out the investigation on their status. The Ministry of Home Affairs, as well as most municipalities, believe that the PCSWs are best placed to carry out this investigation. However, in the absence of a legislative framework, not all PCSWs are willing to take on this responsibility. As a result, the reference address with a natural person is rarely used in practice.

## 5 Reference address and case law

The *Service de lutte contre la pauvreté, la précarité et l'exclusion sociale / Steunpunt tot bestrijding van armoede, bestaansonzekerheid en sociale uitsluiting* (Combat Poverty, Insecurity and Social Exclusion Service, hereinafter: the Combat Poverty Service) is an independent public institution, created by a cooperation agreement between the Federal State, the Communities and the Regions. It has been given the mandate to protect human rights. To this end, it assesses how effectively the human rights of people in poverty are respected and makes recommendations to policy makers at various levels of government. In this context, the Combat Poverty Service organises an in-depth consultation between anti-poverty associations, PCSWs, social partners, professionals, etc. In addition, it records the decisions and judgements relating to poverty as part of its case law project. The reference address with a PCSW has existed for more than 20 years and has been regularly highlighted during the consultations of the Combat Poverty Service. Various recurring shortcomings were criticised by the participants in the consultation and as a result, this issue is addressed in several biannual reports of the Combat Poverty Service.

### 5.1 Study of the case law of labour courts and tribunals

One of the ways to legally objectify these complaints and obstacles is to analyse the case law on reference addresses. The Combat Poverty Service therefore decided to conduct a study and develop a thematic guide entitled '*L'adresse de référence auprès d'un CPAS*' (The reference address with a PCSW).<sup>1</sup>

The research was limited in time to the years 2016-2017, which made it possible to take a comprehensive approach and collect the decisions of (almost) all Belgian labour courts and tribunals over this period. As the Belgian justice system does not yet have a digital database, the Combat Poverty Service generally had to go on-site and carry out the research work manually. A total of 100 decisions have been collected.

It should also be borne in mind that the cases brought before the Labour Court are only the tip of the iceberg. For vulnerable groups, access to justice is not always straightforward. The problem of a lack of access and exercising of rights is a phenomenon that should not be underestimated.

### 5.2 Reasons for legal disputes

There were often very different and overlapping reasons behind every legal dispute. A thorough analysis of the case law collected made it possible to identify 10 categories. These categories are briefly explained below, with a mention of how many times this category occurred in the collected cases.

The greatest number of disputes identified by the Combat Poverty Service were related to the interpretation of the concept of 'homelessness' (34 cases). The question arises each time as to whether the person concerned has a fixed residence and sufficient means to obtain housing. These two conditions are not always easy to ascertain.

For example, a temporary stay with friends or family members cannot be considered a fixed residence. Sometimes, the court accepted the PCSW's finding that a stay was no longer temporary. However, in other cases, the court found that a PCSW had decided too quickly that the residence was fixed. On the other hand, the courts have been more restrictive in assessing what constitutes sufficient means. An income equal to or greater than the social integration income was generally considered sufficient. However, there were also exceptions to this restrictive interpretation. For example, in

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<sup>1</sup> The complete study can be consulted on the following website (in French, but also in Dutch): <https://www.luttepauvrete.be/publications/adressrefPCSW.pdf> or <https://www.armoedebestrijding.be/publications/refadresOCMW.pdf> (+ annex with the 100 anonymised decisions: [https://www.luttepauvrete.be/volante/ladresse-de-reference\\_annexe/](https://www.luttepauvrete.be/volante/ladresse-de-reference_annexe/)).



some cases, the reference address was given to prevent the person in question from losing certain rights, even if they had an income at the time.

Another category relates to the absence of a right of residence or residence permit for the applicant (34 cases). Persons who do not have a right of residence cannot obtain a reference address. Foreign nationals, who have a right of residence but do not have a residence permit to establish this right, are entitled to a reference address (if they meet the conditions). In this situation, a reference address is often crucial for certain administrative operations to be carried out to obtain a residence permit. That is why, in most cases, the court decided that the PCSW had to provide a reference address.

Another problem relates to the contestation of territorial competence by the PCSW (15 cases). Sometimes, the PCSW refused the reference address because it doubted the residence of the person requesting assistance within the territory of the municipality. The legislative framework is not always clear enough, which partly explains the number of problems. But the distribution of competences between the PCSWs has also been overlooked too often. This distribution is designed to make sure that no one falls through the cracks.

In 13 cases, the PCSW refused to provide a reference address due to a lack of cooperation on the part of the applicant. Sometimes, the lack of cooperation was very obvious, and the court agreed with the PCSW's decision. But once again, the court sometimes considered that a PCSW had been too strict or had ignored other relevant information.

Benefit fraud and evading creditors: In 7 cases, the reference address was refused because the applicant was suspected of fraud, trying to evade creditors or abusing the system.

It was also observed that the PCSW had tried to impose conditions not provided for by law (5 cases). The Combat Poverty Service considers that, in principle, this is not possible, because the reference address is a related competence. This was also upheld in certain decisions. But in other decisions, the court did not consider the imposition of additional conditions to be a problem.

In theory, having a reference address should not have any impact on the amount of benefits, such as receiving a lower rate as a cohabitant. Five decisions show that, in practice, this can still happen (wrongly).

If the PCSW does not take a decision within one month following the request for a reference address, an appeal may be lodged. This was the case three occasions.

The penultimate category relates to the interpretation of a legal condition (2 cases). In principle, a request for a reference address constitutes a request for social assistance. That is how it is explained in the circular of 27 July 1998 (*Bijkomende toelichtingen in verband met het referentieadres in aanvulling op de omzendbrief van 21 maart 1997 / Adresse de référence pour les sans-abri: informations complémentaires à la circulaire du 21 mars 1997*) on the introduction of the possibility for homeless people to obtain a reference address from the PCSW from the Ministry of Social Affairs. Exceptionally, however, a PCSW demanded that an additional request (e.g. social integration income) be made as a condition for obtaining a reference address. In this case, the court accepted the reasoning.

Finally, in certain cases, the PCSW's justification may be incomplete. For example, in one case, the PCSW's grounds for refusal were too vague.

### **5.3 Confirmation of problems on the ground**

Research shows that, in 39 cases examined, the request for a reference address is considered not to be founded. In 30 cases, the judge considers that such an address must be granted or maintained and 19 decisions note that the case has become without object, in most cases either because the applicant has found a home or the

PCSW has given him a reference address in the meantime. Finally, 12 decisions discussed here do not concern the granting of a reference address as such: the question was an element of the dispute, such as, for example, the application of cohabitant status for the granting of living wage. However, regarding the relatively small representativity of this research, one should not draw hasty conclusions from these (in)success rates.

The important message of this research is that it confirms the many signals the Combat Poverty Service received from field actors. In many cases, the reference address remains an unknown mechanism and there is still a great deal of uncertainty surrounding it, both for the various administrations and for applicants. This is regrettable, because the reference address remains a necessary tool in guaranteeing access to certain rights.

During the research, which lasted around a year, a new circular was also announced. This could have been the solution to some of the problems discussed here, however the circular was not finalised before the elections in May 2019.

## **6 Perspective of the umbrella organisation of the PCSWs**

As mentioned above, municipalities play an essential role in providing a reference address for homeless persons. In Belgium, cities and municipalities have grouped together at regional level into umbrella organisations. The viewpoints of the Walloon and Flemish federations regarding the reference address are outlined below.

### **6.1 Viewpoint of the Association of Flemish cities and municipalities**

Homelessness and housing exclusion is a broad concept. There is a huge range of living conditions on the ground which may qualify as homelessness, while others will not. It is true, however, that homelessness and housing exclusion entail a manifest form of poverty and social exclusion and constitute a violation of a range of fundamental rights. In Belgium, the route to obtaining social assistance and social rights, in order to assert these fundamental rights, is registration in the population register. For homeless people, this can be done via the reference address, a tool that can be used in the policy to combat homelessness and housing exclusion. This tool is at the crossroads of various policy areas, namely administration (registration in the population register) and housing and well-being. In practice, this sometimes leads to disagreements and problems. The main problems are the assessment of whether a person meets the criteria for obtaining a reference address (definition of homelessness, assessment of person's means).

The VVSG (Association of Flemish Cities and Municipalities) considers the reference address for homeless people as a tool for assistance that can be used as a lever towards a more dignified life. It must ensure that access to the fundamental rights of the homeless person is not compromised. Guidance and support are essential in this regard. Requesting a reference address indicates that the person in question is confronted with a social problem, whereby the public authorities (in this case the PCSW) must redouble their efforts to remedy it. In this sense, the reference address can be regarded as a temporary instrument. A homeless person with a reference address is still homeless. Resigning themselves to that fact cannot be the purpose of the assistance. It is therefore logical that continuing the support is linked to the request for a reference address.

The reference address cannot be a purely administrative concept. While this is a legal fiction that lays the foundations for an administrative basis, it is also a form of social assistance. This is a positive development, as this legal fiction can, therefore, lead to actual support and assistance. In order to preserve access to social assistance and fundamental rights, it is necessary to work with a broad definition of beneficiaries with a reference address. The situations in reality and the conditions and manifestations of homelessness are indeed highly diverse. This aspect reinforces the idea not to consider the reference address as a purely administrative concept. For the VVSG, the reference address for a homeless person is the start of an (assistance) journey to preserve a person's rights.

Access to social rights and social assistance must be as widespread as possible, but at the same time, this assistance and the interpretation of the rights must also be as similar as possible for everyone. Misuse of the reference address, with the aim of obtaining more rights or assistance, must, therefore, be avoided.

### **6.2 Viewpoint of the Federation of Public Centres for Social Welfare (PCSW) of Wallonia**

The Federation of PCSW of Wallonia is committed to the definition of homelessness and housing exclusion as proposed in the European Typology on Homelessness and housing exclusion (ETHOS). It is specifically included in the *Samenwerkingsakkoord inzake dakloosheid en thuisloosheid afgesloten tussen de federale Staat en de Gemeenschappen en Gewesten / Accord de coopération sur le sans-abrisme entre*

*l'État fédéral et les communautés et régions* (Cooperation Agreement on homelessness and housing exclusion) adopted on 14 May 2014.

It makes reference to various situations:

- Being homeless (sleeping rough);
- Being excluded from housing (with a place to sleep but temporary, in institutions or shelters);
- Living in insecure housing (threatened with severe exclusion due to precarious tenancies, eviction, domestic violence);
- Living in inadequate housing (in caravans on illegal campsites, unfit housing, extreme overcrowding).

This typology reflects a wide range of situations that require specific social interventions.

Access to fundamental social rights and social assistance provided by the PCSWs is based on registration in the population registers. As soon as a person loses this registration, it becomes very difficult to assert their rights, including in highly practical aspects such as receiving mail, and in particular correspondence from the social security administrations. In addition, this loss complicates or even prevents full participation in social life.

Moreover, without registration using a reference address, it is complicated or even impossible - given the rule of geographical (municipal) competence - that a PCSW can intervene on behalf of a homeless person. However, it is essential that psychosocial support is offered to the persons in question. This support, which can also be provided in collaboration with associations, is necessary to envisage a pathway towards dignified living conditions. Although the reference address makes it possible to regain entitlement to social benefits or easier access to health services, this cannot be considered an end in itself, even if a theoretical time limit should not be set for its application.

With a view to finding better solutions within a reasonable time, the Federation of PCSW supports initiatives such as the 'Housing First' approach. Finding proper housing makes it possible to *settle down* and tackle life's other challenges with a calmer mind.

By ensuring the link with the PCSWs and other institutions, the reference address also offers an additional opportunity for homeless people to be involved in decisions that concern them, through participation mechanisms. We base ourselves on the principle that people have a right to have a say in how the services they use are implemented and operated, and the fact that socially or economically disadvantaged people often face barriers when it comes to decision-making.

We have asserted that, given the wide range of situations, the intervention must be on an individual level. Taking into account the specific and unique contexts is an important factor to consider. However, this does not exclude support for collective initiatives that have the advantage of making a link with the people concerned.

## **7 Viewpoint of the Belgian Anti-Poverty Network**

### **7.1 What does it mean to live without an address?**

Homelessness has many guises, but the common denominator is the lack of stable and quality housing. Being homeless has far-reaching consequences on an individual's personal well-being, social relationships, health (...) and, in most cases, also leads to a complex web of administrative difficulties and problems. Homeless people often do not have a place of residence that they can use to register with the population services of a municipality.

Without registration in the population register, access to social assistance and social rights become problematic. Numerous benefits are at risk if someone is deleted from the population register. Certain allowances, such as the allowance for disabled persons, are immediately ruled out. Unemployment benefits are also suspended in general. In principle, a person would still be entitled to a social integration income, but in this case, having it paid out is a problem because not all PCSWs want to pay in cash. Some rights are capped because, for example, it is not possible to ascertain whether or not a person is living alone, and the courts then grant the least advantageous status.

However, accessibility problems are not only limited to social assistance and social rights. Homeless people are also confronted with problems to access civil and other rights. Without registration in the population register you can no longer apply for an identity card. Various administrative procedures, such as taking out a mobile phone subscription or a contract with an energy supplier, are therefore impossible. Nor is it possible to open a bank account, prove that you are in compliance with your health insurance, to vote, to marry or to accept an inheritance. These are only a few examples of the many rights that homeless people are excluded from. The various and far-reaching consequences of not having an address exacerbate the disconnection with society. Allocating an address to a person is the (first) necessary step in restoring their rights and facilitating their reintegration into society. To meet this need, the Belgian government has (among other things) created the reference address.

Besides the reference address, there are other legal possibilities for homeless people to obtain an address: provisional registration, a reference address for travellers and temporary absence during a stay in an institution. Since we have been asked to only make a brief analysis, we will not go into the details here.

### **7.2 The reference address with a natural person and with the PCSW**

A reference address is the (administrative) address where a homeless person does not live, but which they can still use to get registered in the population register. This may be the address of a natural person or a competent PCSW.

To obtain a reference address with a natural person, they simply need to agree. A reference address with a natural person is not the same thing as a person's main residence. Given that the homeless person does not live there, this reference address cannot, in theory, have negative consequences for the persons concerned in terms of their benefits, debts or, for example, an increase in the rent for social housing.

To obtain a reference address with a PCSW, the applicant must meet the federal definition of homelessness, must no longer be registered somewhere else, and must use the services of the PCSW (for us, the request for a reference address is effectively a request for assistance).

### **7.3 Some examples of issues on the ground**

We do not have recent figures on the exact number of homeless people in Belgium, nor on the number of reference addresses which have been allocated. However, based on the various testimonies we have collected and past figures at our disposal, we can conclude that there are major problems of accessibility regarding reference addresses.

Below, we highlight the main difficulties encountered by homeless people in obtaining a reference address.

At present, four different circulars are applicable, to try to determine the practical application of the original law. In practice, this has led to very different interpretations by the competent authorities. There are also various loopholes and ambiguities in the different legal texts. The territorial competence of a PCSW is one example. Because it is open to interpretation to which PCSW a homeless person should turn for their reference address, we see in practice that many homeless people are referred from one municipality to another.

Some PCSWs apply a very narrow definition of homelessness. For example, some centres refuse to grant a reference address to a homeless person who has an income that is 'too high'. Homeless people who are temporarily housed by friends or family members are also often not considered homeless, and therefore do not receive a reference address. However, recent research has shown that 'hidden homeless people', i.e. people living with friends/family members and people living in non-conventional housing (car, tent, garage, squad, ...), represent the largest group of the homeless population. To ensure that no homeless person is forgotten, we ask for the use of the framework definition ETHOS light. This typology has as advantage that it uses a broad definition of homelessness and pays specific attention to hidden forms of homelessness.

Another condition for obtaining a reference address is that the homeless person must first have been deleted from the population register. Many homeless people still have an old address, or an address which has been obsolete for some time. Some PCSWs then refuse or postpone the start of the procedure for the reference address. Some PCSWs ask the homeless person themselves to take care of their ex-officio deletion from the register. In this respect, we advocate a preventive approach that ensures a smooth transition from one address to another.

Although for us, requesting a reference address is effectively a request for help, some PCSWs only provide a reference address if the person also requests other help or support. Some PCSWs attach conditions to obtaining a reference address, such as seeking addiction treatment, accepting help with debts or providing proof that they are looking for accommodation. Others only grant a reference address if the applicant is also entitled to social integration income. Homeless people who (in first instance) have no other request for help than a reference address should also be able to claim this. All (homeless) people need to have access to their fundamental rights.

The reference address with a natural person only appears to be used by a limited number of homeless people. They are not always aware of the existence of reference addresses, or fear that the public authorities will always consider this type of reference address as a form of cohabitation. A reference address with a natural person is not the same thing as a person's main residence. Given that the homeless person does not live there, this type of reference address cannot have negative consequences for the natural person concerned in terms of their benefits, debts or, for example, an increase in the rent for social housing. In practice, we see that this type of reference address is often misinterpreted, with all the negative consequences that this entails.

Many municipalities also refuse a reference address with a natural person and immediately forward the applicant to the PCSW. However, for many people, taking the step towards the PCSW remains difficult.

#### **7.4 Are there alternatives?**

First of all, we would like policy to focus more on the preventive and structural approach to homelessness. In particular, we would like to have affordable housing for everyone, working more preventively in the event of a pending eviction, and ensuring a smoother transition out of institutions.

We think it is important that in the short term, the reference address is made more accessible to homeless people. To do this, it is necessary to clarify the conditions for obtaining a reference address. Although we are in favour of a circular that replaces all previous circulars, this also has its limitations. A circular is not legally binding and can only be a practical translation of the basic legal text. In order to achieve a truly accessible reference address, we believe that a number of important changes are also necessary for the law itself.

Cohabitation currently has a significant impact on a person's income and social rights. In effect, cohabitation results in further cuts to benefits, which are already below the poverty threshold. What the people in question lose is disproportionate to what they save by cohabiting. Due to the web of rules, the impact of cohabitation is often difficult to assess. People do not dare to act in solidarity, because they fear serious personal consequences. We are convinced that a review of the current status of cohabitation could also be one of the solutions to the problem of homelessness.

The consequences of not having an address are not the same for all social rights and benefits in Belgium. We have heard the testimonies of people who, even without an address, continued to receive certain benefits when they turned up regularly and complied with the legal obligations. As such, we advocate that social rights should depend as little as possible on a person's registration in the population register (or their identity card or a bank account). We know that in other countries, social and civil rights are less dependent on an address. We hope that this peer review will make it possible to identify some of these good practices abroad so that they can serve as an inspiration for Belgium in tackling homeless people's large-scale non-take-up of their rights.

## **8 Proposals for discussion points**

- Should access to social rights and social assistance actually be based on registration in the population register? Are other systems that automatically give a homeless person access to social rights feasible?
- In peer countries, is it possible to intervene in favour of homeless people outside a formal system of registration in population registers?
- What are the means and mechanisms of social intervention to ensure the re-housing of homeless people?
- Are there any national plans that have been effective in eradicating homelessness?



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