



Kingdom of the Netherlands

Permanent Representation of
the Kingdom of the Netherlands
to the United Nations Office and
other International Organizations
in Geneva

Ref: GEV-PA-120/2021

The Permanent Mission of the Kingdom of the Netherlands to the Office of the United Nations and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and its Special Procedures Branch and would like to thank OHCHR for the joint urgent communication of 19 April 2021 (AL NLD 3/2021) in which the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context; the Special Rapporteur on the right to development; the Special Rapporteur on the human rights of migrants; the Special Rapporteur on minority issues and the Special Rapporteur on extreme poverty and human rights, express concerns about the housing policies of the municipality of Rotterdam, in particular the municipality's involvement together with Vestia housing association in the Tweebosbuurt neighbourhood.

With this Note Verbale, we submit our response to your joint urgent communication (AL NLD3/2021) including the government's, municipality's, Vestia's and other parties' relevant points of view and providing information on the laws, regulations and policy measures that are in place. The documents are currently submitted in Dutch and simultaneously translated into English to be sent to you for publication/upload as soon as possible.

The Kingdom of the Netherlands greatly appreciates the work of the UN Special Procedures Branch and will always seek to respond and actively engage with UN mandate holders in a spirit of self-reflection and with a view to improving the implementation of human rights.

The Permanent Representation of the Kingdom of the Netherlands to the United Nations Office and other International Organisations in Geneva avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights (OHCHR) and its Special Procedures Branch the assurances of its highest consideration.

Enclosures:

UN AL NLD 3/2021 Housing – NL response in Dutch
ANNEX 1 - NPRZ
ANNEX 2 – Rotterdam Housing Policy
ANNEX 3 – Tweebos infographic
ANNEX 4 – Vestia Housing Association
ANNEX 5 – Housing corporations

Geneva, 18 June 2021



Office of the United Nations High Commissioner for Human Rights (OHCHR)
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**Response to UN Joint Communication from the Special Procedures of 19 April 2021
[AL/NLD 3/2021]****General context**

The Netherlands is a decentralised unitary state. The central government trusts the abilities of local and regional governments. More and more, the three tiers of government are working together as partners. As required by the Municipalities Act, the Minister of the Interior affairs encourages decentralisation, especially with regard to local government. The central government guarantees the unity of the state.

Against this background, an important part of Dutch housing policy has been decentralised and assigned to local authorities and private housing associations because local and regional needs can be best assessed at non-central level. For many decades, urban renewal has been within the remit of municipal authorities. Central government trusts local government bodies to discharge this duty with care. The Minister of the Interior and Kingdom Relations has overall responsibility for housing policy and therefore decides the parameters within which local authorities and housing associations must operate. This means that the housing policy must have been adopted by the usual democratic procedures and must comply – like the relevant housing legislation – with the requirements set, for example, by the Constitution and human rights treaties. In other words, even if housing policy has been adopted democratically, it must not infringe the right to equal treatment (as guaranteed, for example, in article 1 of the Constitution and article 2 (2) of the International Covenant on Economic, Social and Cultural Rights (ICESCR)), the right to respect for one's home (as guaranteed in article 8 of the European Convention on Human Rights (ECHR)), the freedom to choose one's residence (as guaranteed, for example, in article 2 of Protocol No. 4 to the ECHR) and the right to an adequate standard of living, including housing (as guaranteed in article 11 (1) of the ICESCR and described in General Comment 4). This right to housing is also guaranteed in article 22 of the Dutch Constitution. Paragraph 2 of that articles provides that it is the concern of the authorities to provide sufficient living accommodation. Sufficient living accommodation has a broad meaning that relates not only to the volume of housing available in the Netherlands but also to its quality and safety and whether it is affordable. This best-efforts obligation is implemented in laws and policy at the level of both central and local government. In its National Action Plan on Human Rights 2020, the government emphasised the importance of the right to housing and described some specific actions to be taken in this field.

The main items of legislation in the housing field are the Housing Act (*Woningwet*), the Living Accommodation Act (*Huisvestingswet*) and the part of the Civil Code regulating tenancy law. Within the limits of the Housing Act, housing associations can contribute to neighbourhood restructuring, for example by increasing the diversity of housing types in a neighbourhood.

Specific context

The development project in the Tweebosbuurt neighbourhood is based on the National Programme for South Rotterdam, which has been translated into the strategy report Rotterdam Housing Vision 2030 (*Woonvisie Rotterdam 2030*). The National Programme for Rotterdam South was formulated as a consequence of a survey (Deetman/Mans 2011) commissioned by the then Minister for Housing, Communities and Integration. This survey showed that the process of selective migration was a major hindrance to the structural improvement of the quality of life in South Rotterdam. The trend is for many residents of this district whose circumstances improve to move to more attractive residential areas around Rotterdam. This is partly because the housing stock in South Rotterdam is one-sided and consists of many small homes that are in poor condition. As a result, the present residents have not benefited from the improvement in living standards and their neighbourhood has deteriorated, thereby reducing their chances of getting the most out of their own lives and the lives of their children. Whereas the circumstances of the residents of Rotterdam as a whole have clearly improved, those of people in South Rotterdam have worsened. The authors of the survey concluded that a long-term and intensive approach combining measures in the areas of education, employment and housing would be necessary to eliminate the disadvantages. On the subject of housing, they also concluded that the housing stock was part of the problem owing to the high

concentration of cheap housing, housing density, obsolescence and the lack of better housing in the vicinity, which compels the upwardly mobile to leave.

On the basis of these findings, the central government, together with the municipal authority, housing associations, schools, employers, care sector institutions and local residents, launched the National Programme for South Rotterdam (NPRZ) (see also Annexe 1). The NPRZ is a 20-year programme that has now been running for ten years. The partners in the programme actively contribute, both financially and otherwise, to its three pillars (education, employment and housing) and to the themes of safety and culture.

Answers to the questions

1) Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

On pages 2-8 of the Joint Communication, the rapporteurs set out and analyse the 'alleged facts and concerns'. The municipality of Rotterdam, Vestia and the NPRZ Programme Office have been asked to respond to them. They state that they dispute several of the points mentioned. This concerns, in particular, the following allegations:

1. That the need for homes in the middle and higher price brackets in Rotterdam is not as great as suggested in the Rotterdam Housing Vision report and that there is a much greater need for social housing.
2. That the Rotterdam housing policy has little public support.
3. That people on low incomes will be forced to relocate out of the city.
4. That the NPRZ is mainly aimed at reducing the stock of social housing in favour of the higher segments of the market.
5. That Vestia decided to carry out the restructuring of Tweebosbuurt purely on financial grounds.
6. That Vestia's tenants were insufficiently consulted and supported in the relocation process.
7. That there has been discrimination against people with an immigrant background.
8. That the demolitions are leading to more homelessness.

In the remainder of this letter, the parties explain why they dispute these allegations and provide additional information to substantiate this.

Re 1. Notes on the need for homes in the middle and higher price brackets in Rotterdam

In successive housing strategy reports, including the updated Housing Vision 2007-2011 (2007), Rotterdam Housing Vision 2030 (2016) and '*Thuis in Rotterdam*', Addendum to the Rotterdam Housing Vision 2030 (2019), the municipality of Rotterdam notes how the circumstances of the Rotterdam population have evolved in recent decades (see also Annexe 2). The city's inhabitants are increasingly well-educated and likely to have a well-paid job and a higher income and are willing and able to pay more for a larger home. This has been confirmed in a recent study by the Erasmus University Rotterdam.¹ The researchers observed an increase in the middle-income groups throughout Rotterdam, including South Rotterdam, in the period 2010-2019. At the same time, various studies² show that the upwardly mobile are largely leaving the city because the housing stock (many small homes, not easily accessible, without good outdoor space and not future-proof/sustainable) no longer meets their wishes

The municipality of Rotterdam therefore does not agree with the rapporteurs' conclusion on pages 1 and 4 that there is no demand for homes in the middle, higher and top price brackets. It would

¹ The New Divided City: *Class Transformation, Civic Participation and Neighbourhood Context* (2021, Gijs Custers) and *De herverdeelde stad – Verandering in de bevolkingssamenstelling van Rotterdam zuid* (The Redistributed City - Change in the Composition of the Population of South Rotterdam), (2021, Gijs Custers)
² *Komen en Gaan* (Coming and going) (OBI, 2016) and *Woonwensenonderzoek sociale stijgers Rotterdam Zuid* (Survey of housing wishes of the upwardly mobile in South Rotterdam) (USP and SpringCo, 2019).

refer here to the independent housing market statistical survey (ABF, 18 May 2018 and RIGO, 7 June 2018) that was conducted on a regional basis and on which *Thuis in Rotterdam – Addendum to the Rotterdam Housing Vision 2030 (2019)* was based. This survey shows that – in view of demographic and economic developments and the associated housing needs – the number of homes in the private (non-subsidised) sector (i.e. the middle segment and above) is likely to grow sharply until 2030 (from 33% in 2017 to 43% in 2030), whereas a surplus in the social housing sector means that it can be reduced (from 67% in 2017 to 57% in 2030). The same survey also shows that in other municipalities in the region there is a need to reverse the trend of the declining stock of social housing (as the special rapporteur mentions on page 4) and ensure that those municipalities take steps to increase their social housing stock. The Province of South Holland has also signed up to the regional agreement concluded by these municipalities and is in charge of ensuring the targets are met. That is to say, it actively intervenes to ensure that the social housing stock in municipalities where it is insufficient is actually increased.

The municipality of Rotterdam emphasises that it is only on balance that the social housing stock has decreased, i.e. in some areas of Rotterdam the social housing stock is actually increasing (20% of new urban homes are in the social housing sector) as there is a shortage or potential shortage at area level. The Housing Stock Development Area Atlas³ (see also Annexe 1) is the main tool for managing the housing stock and shows how the housing targets vary across the city. Finally, the municipality of Rotterdam wishes to stress that in areas where there is an excess of social housing stock, there are various ways in which housing in the middle and higher price brackets can be created in those areas. Examples are new build achieved through the use of transformation locations and through sale, merger and liberalisation. The least used method is demolition followed by new build. For example, in the period 2012-2019 the proportion of the total Rotterdam housing stock demolished each year was only between 0.07 and 0.34% (approximately 300,000 homes).

The rapporteurs seem to suggest on page 2 that the social housing target group is eligible only for rental accommodation (owned by housing associations or private individuals). However, this does not correspond with Dutch practice as some of the target group also live in affordable owner-occupied homes (as a deliberate choice). It is precisely because Rotterdam has historically been an affordable city that so many of its inhabitants in the social housing target group have been able to buy their own home in recent years. This is why the municipality of Rotterdam does not consider it right to compare the number of households in the social housing target group only with the number of rental homes. It is more accurate to compare the target group with the total of rental and owner-occupied homes in the social housing stock.

The municipality does not agree with the suggestion on page 2 that the housing association waiting times have lengthened. The data from Woonnet Rijnmond (the housing allocation system within the Rotterdam region) shows that the period which successful applicants spent on the waiting lists in Rotterdam decreased from 34 months in 2018 to 33 months in 2019. When direct allocation is removed from the figures, the time spent on the waiting lists (39 months in 2019) remained the same as in 2018. However, the available supply is declining somewhat and the number of changes is falling. However, a recent additional survey of housing stock shortages⁴ shows that this is largely due to a lack of opportunities to move up into the middle and higher rental and owner-occupied segments. The reason why the decline in the supply of living accommodation has not led to longer waiting lists is that housing associations also use forms of allocation such as lottery and direct opportunity systems for those in urgent need of housing. We would also like to emphasise that the waiting lists in Rotterdam are many times smaller than those in other major cities.⁵

The statement on page 4 that there will be a shortage of 9,000 affordable homes by 2030 comes from the housing associations. Incidentally, what they said was not that there would be a shortage

³ See:

<https://rotterdam.raadsinformatie.nl/document/9112505/1#search=%22gebiedsatlas%20ontwikkeling%22>.

⁴ Rigo (2020), *Schaarste in de Rotterdamse woningvoorraad* (Shortages in Rotterdam's housing stock)

⁵ See: *Zo lang is de sociale huur-wachtrij in jouw gemeente* (Check out how long the waiting list for social housing rentals is in your municipality)| NOS

of social housing in general, but a shortage of social housing of housing associations in the lowest rental segments. The housing associations base their forecast on a table from the regional housing needs survey (RIGO, 7 June 2018) in which the agency carrying out the survey made an assumption about the ratio in 2030 between housing association rentals, private rentals and owner-occupied properties in the social housing sector. The municipality of Rotterdam does not accept this assumption because it believes that private rentals will account for a larger share in 2030 as, in practice, the size and technical condition of the dwellings owned by private landlords allow only a limited rent increase on the basis of the residential valuation system. The shortage mentioned above is, in fact, an interim figure in the regional debate about housing needs in Rotterdam and has not been included in the Regional Agreement signed by the parties and the Addendum to the Rotterdam Housing Vision 2030.

Re 2. Notes on public support for Rotterdam Housing Vision 2030

The municipality of Rotterdam wishes to emphasise that both the Rotterdam Housing Vision 2030 and its addendum entitled *Thuis in Rotterdam* (At home in Rotterdam) were adopted by the usual democratic procedure. Both resolutions were passed by a majority of the municipal council with complete transparency. The municipality involved Rotterdam residents and organisations in the adoption procedure on two occasions. First, it held preliminary consultations with area committees, housing associations, tenant organisations and commercial operators about the analysis of the issue and the strategy to be adopted. Subsequently, the draft housing strategy was published by Rotterdam's municipal executive three months before the start of a broad public consultation procedure. Responses were received from housing associations, commercial operators, residents, other municipal authorities in the Rotterdam region, the province and interest groups such as tenant organisations.

Because the Housing Vision sets out the municipality's general housing strategy and makes no mention of individual projects, people involved in future restructuring projects were not specifically involved in drafting it. The municipality considered that their involvement could be best be arranged in the context of the projects themselves, given the sensitive nature of the subject matter, the issues arising in specific situations and the possible need for a customised approach. It should also be noted that a referendum on the Housing Vision was held in 2016, partly as a result of public discontent. We would like to emphasise that voter turnout in the referendum was only 16.9% of the total electorate eligible to vote in Rotterdam (about 498,000 people). This fell far short of the turnout threshold set at 30%. For many of the city's inhabitants, the subject was evidently either too complicated and complex to be answered with a simple yes or no or otherwise not sufficiently important or something which they thought the municipal council, as a democratically elected body, really had to decide for itself.

Re 3. Notes on where residents will be rehoused

On page 4 the rapporteurs state that it is feared that people on low incomes will be forced to relocate out of the city. The municipality of Rotterdam does not agree that this is an effect of its housing policy, nor is it the intention of that policy. Suitable replacement housing will always be provided within Rotterdam for all tenants obliged to move due to the restructuring, unless they themselves wish to relocate to another municipality (NB the urgent-need certificate is valid throughout the Rotterdam region). Vestia⁶ states that 490 of the 524 households have already moved away from Tweebosbuurt. Data from the Rijnmond housing allocation model show that some 90% of these households have moved to another home in Rotterdam and that some 90% of this group have found replacement accommodation in South Rotterdam. Some 55% of households that remain in South Rotterdam have found replacement housing in the immediate vicinity (see also Annexe 3).

Re 4. Notes on the National Programme for South Rotterdam (NPRZ) as a comprehensive programme covering more than just housing

⁶ [Project - Tweebosbuurt - Vestia](#)

The parties emphasise that the NPRZ is first and foremost a social programme, primarily for the support of local people. The efforts of all professional partners engaged in the programme are geared towards working with local people to ensure effective implementation of its three main pillars (education, employment and housing), thereby strengthening these people's position in society. A sound and completed education leads to better employment prospects and hence a more stable and higher income. This makes it easier for them not only to meet the monthly housing costs but also to pay for a more spacious home. If it is considered undesirable for all these people to leave the area, better housing must be provided.

The parties would like to emphasise that the three-pillar approach adopted by all the collaborating parties in South Rotterdam differs from the policy pursued in the recent past and from the approach taken in other cities and other countries where the main aim has been to improve the housing stock, as a result of which the residents have benefited insufficiently because changes in the socioeconomic field have lagged far behind. The main focus of the collaboration in the NPRZ is improving the daily lives of the residents. In South Rotterdam, the schools give 10 hours of extra tuition each week, employers give job guarantees to young people who opt for training in health care technology, and people receive counselling to move them off benefits and into work. However, the measures to tackle the housing issues are an essential element of the approach.

Re 5. Notes on the basis for the restructuring of the Tweebosbuurt neighbourhood

The rapporteurs talk about the background to the measures adopted for Tweebosbuurt at various places (for example, on pages 1, 3, 5 and 8). The parties stress that the approach that has been adopted to this neighbourhood is emphatically based on the National Programme for South Rotterdam (NPRZ), whose provisions on housing involve ensuring that the quality of the housing stock is improved and that a better balance is achieved.

Quality has many aspects: the technical quality of the property (e.g. not a 'home for life'), build quality and energy-use quality, as well as the quality of the district, urban planning quality and quality of the public space. From the perspective of this broader definition of quality, the municipality and Vestia believe that intervention is justified. At the same time, the quality of life in Afrikaanderwijk is not as good as the rapporteurs seem to suggest, as is apparent from the municipal profile for the district. See: [Wijkprofiel Rotterdam](#) Afrikaanderwijk also scores poorly on the national 'quality of life barometer'. See: [Leefbaarometer Home](#) Moreover, the demolition and new build plan provides an opportunity to greatly improve the balance of the housing stock in Afrikaanderwijk so that upwardly mobile residents of South Rotterdam have an interesting alternative in the district. The municipality of Rotterdam would like to emphasise that even after the restructuring of Tweebosbuurt, the majority (over 60%) of the housing stock in Afrikaanderwijk will still be social housing.

The municipality of Rotterdam knows from experience that demolition/new build involving the purchase and demolition of private properties and their replacement by fewer residential units is an unprofitable exercise. Such an investment is therefore made only if it is absolutely essential and the effect of the intervention not only produces good quality housing but also enhances the surrounding neighbourhood. In the case of Tweebosbuurt, the required outlay on refurbishment and new build exceeds the future rental income. The rebate received by Vestia as a housing association on the levy on landlords (Rental Income Levy Rebate Scheme) has been much needed to limit the shortfall.

Vestia also wishes to stress that the paragraph on page 5 about the tax rebate ('discount') contains a number of factual inaccuracies. At the end of 2011, Vestia encountered serious financial problems as a result of its sizeable derivatives portfolio and falling interest rates. Consequently, Vestia is still underperforming in terms of providing social housing. Since then, however, the organisation has been working steadily to ensure it has a healthy future. So it is all the more commendable that it is nonetheless undertaking neighbourhood improvement projects of this kind.

Re 6. Notes on support, communication and participation

Vestia, the municipality and the National Programme for South Rotterdam (NPRZ) indicate that in drawing up and implementing the plans for Afrikaanderwijk and Tweebosbuurt they have always worked together and/or consulted with one another, at different times and in different forms, to ensure proper public participation and communication.

- The background to the intervention in Tweebosbuurt is apparent, for example, from the Feijenoord Area Plan 2014–2018 of the Feijenoord area committee.⁷ This area plan was prepared jointly by the area organisation, the area committee and the residents and partner organisations in the district. Work was initially undertaken in the north of the Afrikaanderwijk district (of which Tweebosbuurt is part). The Feijenoord Area Plan 2014–2018 noted (on pages 41 and 45)⁸ that these developments had made the problems in Tweebosbuurt and Transvaalbuurt more visible and that intervention was therefore necessary.
- In February 2016, the area committee⁹ also stated as follows in its 2015 area report¹⁰: *'In view of the one-sided housing stock and the danger of the neighbourhood becoming run down, it is essential that the scope for developing Tweebosbuurt (including reduction in housing density) be studied without delay. This should result in concrete agreements between the municipality and Vestia housing association about the action to be taken.'* The document was drawn up for the benefit of Afrikaanderwijk residents. It is in the public domain and was sent to Rotterdam municipal council for its information in 2016.
- Partly in response to these findings, the municipality and Vestia subsequently continued to study the development options. This was mainly an internal process.
- The 2018 NPRZ progress report, which was drawn up in 2018 and also discussed in public by the municipal council, once again noted – by reference to various indicators – that the restructuring area in Tweebosbuurt had an unsatisfactory or poor score.
- This ultimately led to a proposal by the municipality and Vestia for the regeneration of Tweebosbuurt. According to the 2018 Performance Agreements concluded in 2017 after consultation between Vestia, the municipality of Rotterdam and Vestia's tenants' council, *'Vestia intends to start developing the Tweebos area of Afrikaanderwijk. Further arrangements will be made in 2018 in the form of a collaboration agreement about the approach to be adopted, the private housing stock and the programming, planning and funding. The municipality is contributing financially to this development.'*
- The process gained momentum in 2018 as the rebate received by Vestia as a housing association on the landlord levy was only temporary. This meant that there was not enough time to allow residents to participate extensively in the planning process.
- Immediately after submitting the application for the rebate (the scheme expired on 1 July 2018), the municipality and Vestia jointly informed residents about the proposed plan for Tweebosbuurt in small-scale meetings in the summer of 2018.
- Vestia asked its tenant organisation (Vestia Tenants' Council) for its opinion on the plan in accordance with the Landlord and Tenant Consultation Act (*Wet op het overleg huurders verhuurder*). In its opinion, the Tenants' Council stated that in its view Vestia had hitherto organised the entire process with due care.¹¹
- After the decision on Tweebosbuurt was taken by the municipal council in November 2018, Vestia, acting in consultation with the municipality, communicated mainly with individual tenants and with the residents' group.
- In mid-2020, Vestia initiated mediation with a few individual residents and process mediation with the residents' group in consultation with the municipality.
- The outcome was that agreement was reached in a number of individual mediation cases and, after process mediation, Vestia and the municipality decided that 11 of the 535 homes should not be demolished and that the remaining residents (who still lived in the area at the end of October 2020) would be given a return guarantee.
- Finally, municipal executive member [REDACTED] and mayor [REDACTED] regularly visited the district and talked with residents to ensure that those who had close connections with the district should feel sufficiently involved and to persuade them of the benefits of the plans and the housing opportunities once the area was redeveloped (right of return).

⁷ The area committees represent the inhabitants of the areas concerned. The members are the eyes and ears of an area for the municipal authority. The area committee can provide the municipal authority with advice, both solicited and unsolicited, on all subjects of importance to the area.

⁸ [Microsoft Word - GEBIEDSPPLAN FEIJENOORD laatste versie 15 juli 2014.docx \(rotterdam.nl\)](#)

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¹⁰ [3 \(raadsinformatie.nl\)](#)

¹¹ This was posted at <https://www.huurdersraadvestia.nl/2018/11/07/zienswijze-huurdersraad-proces-tweebos-en-reactie-vestia/>

The municipality and Vestia consider that the process of consulting and communicating with the residents was carried out with due care and the greatest possible transparency and that Vestia complied with the city's social charter. Naturally, there are always things to learn and improve in processes of this kind. In retrospect, it would have been good to have had more time at the start of the rehousing process to hold talks with the individual residents.

This also answers questions 7 and 9.

Re 7. Notes challenging the allegation of discrimination against residents of immigrant background

The municipality and Vestia strongly dispute the statements (on pages 1, 3 and 8) that the interventions disproportionately affect people of immigrant background. It is precisely in their respective capacities of local authority and social housing provider that they are committed to the provision of suitable housing for *all* residents of Rotterdam. They strive for an inclusive city in which everyone has a place to make their home. This is completely independent of a person's origin and background.

Moreover, Vestia complies with the statutory rules prohibiting the registration of data about background, age, educational attainment and so forth. As Vestia therefore had no knowledge of personal data of this kind, they could not possibly have played a role in the decision to restructure Tweebosbuurt and rehouse the residents or in decisions about how this should be done. The fact that residents of Tweebosbuurt of immigrant background are having to be rehoused is simply because the Afrikaanderwijk district – like other parts of Rotterdam, particularly South Rotterdam – has a diverse population drawn from all kinds of cultures and backgrounds.

The new homes are primarily intended for upwardly mobile households from the districts concerned. Here too, no distinction is made on the basis of background.

This also answers question 3.

Re 8. Notes on why no link exists between restructuring and homelessness

The municipality of Rotterdam wishes to emphasise that there is no link in Rotterdam between homelessness and restructuring, as the rapporteur fears (see, for example, pages 8 and 9). The municipality would also refer to a survey into the causes of homelessness and rough sleeping in Rotterdam (Breuer onderzoek & Intraval advies, 2019). This shows that life events are the main cause of homelessness in Rotterdam, for example a divorce or conflict at home, job loss, health problems or the death of someone important to the person concerned. Following such an event the problems tend to escalate, with mounting debts and a loss of control over paperwork and finances.

It should also be noted that all Vestia tenants who are to be rehoused and have an income below the statutory limit – as specified in section 1, subsection 1 of the Housing Act (*Woningwet*) – are entitled to be rehoused as a matter of urgency; this means that they have priority in obtaining suitable replacement accommodation (they can either look for accommodation themselves or, if this is not possible or will not produce a result quickly enough, request direct allocation). For tenants with an income in excess of the statutory limit, Vestia provides support and a customised service. None of the residents will therefore be turned out onto the streets as a result of the restructuring of Tweebosbuurt. As regards the private homes affected by the plan, the owner-occupiers concerned are receiving financial compensation and are being assisted by the municipality in their search for alternative housing. For vulnerable tenants in the private rented sector or tenants for whom a search does not quickly produce suitable replacement accommodation, the municipality and housing associations have also agreed a 'safety net arrangement' in the Rehousing Framework (*Kader Herhuisvesting*). Moreover, none of the properties involved in the restructuring which are let by either the housing association or private landlords are sublet to undocumented migrants. So everyone is documented.

Vestia would point out that it has endeavoured in various ways to help tenants find suitable accommodation elsewhere. Examples of this can be found in Annexe 4.

2) Please provide an overview of measures taken by yours Excellency's government to guarantee the right to adequate housing, to prevent homelessness and to reduce the number of people living in homelessness, including by ceasing the evictions contemplated or planned.

I would refer you to the enclosed letter, which I sent you in February 2020. This describes the national framework and the extra measures taken to tackle homelessness in 2020.

In addition, tenancy law provides that tenants affected by restructuring projects are entitled to suitable replacement housing. It follows from the case law that the owner is expected to actively assist the residents in their search and, in cases of hardship, to make a concrete offer of suitable housing. In practice, housing associations always treat residents with an income below the statutory limit as entitled to be rehoused as a matter of urgency, which means that they have priority in obtaining suitable replacement accommodation (they can either look for accommodation themselves or, if this is not possible or will not produce a result quickly enough, request direct allocation).

3) Please provide information on the actual or potential discriminatory impact on racial minorities, migrants or other vulnerable groups, due to the evictions contemplated or planned, and an assessment of how any disparate impacts are justified under international legal obligations relating to racial equality and equal treatment, in relation to housing.

See answer at 1.

4) Please provide information on the state of implementation of the Special Measures for Metropolitan Problems Act ("Rotterdam Act") by municipalities across the Netherlands, in particular the number of persons, to whom housing has been denied per municipality and disaggregated per type of justification. In addition, please provide information on the outcome of any review, which may have been conducted on its compatibility with international human rights law, and in particular with the enjoyment of the right to adequate housing and non-discrimination in this context.

At present (May 2021), ten municipalities in the Netherlands are applying selective housing allocation under the Urban Areas (Special Measures) Act (WBMGP). This means that, when allocating rented housing, municipalities in designated areas may specify that eligibility is dependent on the income of prospective tenants meeting certain requirements (section 8 WBMGP), grant priority on the basis of socioeconomic criteria (section 9 WBMGP), and screen prospective tenants to determine whether they have caused nuisance or committed criminal behaviour in the past (section 10 WBMGP). A municipality wishing to apply one or more of these measures must submit a reasoned application to the Minister of the Interior and Kingdom Relations in which it makes a 'sufficiently credible' case that the statutory assessment criteria, namely necessity, suitability, subsidiarity and proportionality, have been met. When deciding on application, the Minister also takes into account the opinion of the province concerned. Experience has shown that municipalities weigh these decisions carefully and critically assess whether the use of selective housing allocation is still necessary. For example, based on area analyses and an integrated assessment, the municipality of Rotterdam has recently reduced the number of streets in which section 8 is applied by some 80%.

Selective housing allocation is a far-reaching measure for prospective tenants. Municipalities wish to limit its use to neighbourhoods, streets or residential complexes where quality of life and personal safety are at risk. Moreover, under this legislation selective housing allocation can be used only in addition to and conjunction with many other measures for the benefit of residents (e.g. training, employment, health and care and support services) to ensure the quality of life and personal safety in the designated area.

In the case of *Garib v. the Netherlands*,¹² the Grand Chamber of the European Court of Human Rights therefore held that application of section 8 of the WBMGP did not constitute a violation of article 2 of Protocol No. 4 of the European Convention on Human Rights (ECHR).¹³ This ruling was also upheld by the European Court of Human Rights in the case of *Haddaouchi v. the Netherlands*.¹⁴

The ten municipalities that apply selective housing allocation under the WBMGP are: Capelle aan den IJssel (sections 8 and 9), Den Bosch (sections 8 and 10), Dordrecht (section 10), Nijmegen (section 10), Nissewaard (sections 9 and 10), Rotterdam (sections 8, 9 and 10), Schiedam (sections 9 and 10), Tilburg (sections 8, 9 and 10), Vlaardingen (section 9) and Zaanstad (sections 9 and 10). It should be noted that a housing permit can be refused to prospective tenants only pursuant to sections 8 and 10.

The table below shows the number of applications for permits and the number of applications refused per municipality (as at end-2020).

municipality	permit applications	permit refusals	refusal under section 8	refusal under section 10
Capelle aan den IJssel	129	0	0	-
Den Bosch	666	64	33	31
Dordrecht	327	9	-	9
Nijmegen	104	5	-	5
Nissewaard	126	0	-	0
Rotterdam	12,386	216	212	4
Schiedam	1,137	41	-	41
Tilburg	34	0	0	0
Vlaardingen	143	- (section 9)	-	-
Zaanstad	275	5	-	5

5). Please provide information on any review, which may have been conducted into Rotterdam's housing policy, particularly in the context of the National Housing Programme for Rotterdam South and the "Housing Vision Rotterdam 2030", for its compatibility with the obligation to fulfil the human right to adequate housing.

The Minister of the Interior and Kingdom Relations has overall responsibility for housing policy, which means that he sets the parameters within which local authorities and housing associations should perform their tasks. In practice, those responsible for implementing this policy are the provinces, municipalities and housing associations, because they are better placed to assess exactly what needs to be done and where.

Rotterdam's policy on the development of the housing stock has also been confirmed by other government bodies through various administrative agreements, including the above-mentioned

¹² *Garib v. the Netherlands*, ECtHR 6 November 2017, case number 4349409.

¹³ The ECtHR observed that the Urban Areas (Special Measures) Act aimed to address increasing social problems, in particular in inner city areas of Rotterdam. The Act required the competent Minister to report to parliament every five years on the effectiveness of the restriction concerned, which was subject to temporal and geographical limitation. Moreover, the Act included safeguard clauses: first, the local council is required to satisfy the Minister that sufficient alternative housing remains available locally (section 6(2)); second, the designation of an area under the Act must be revoked if insufficient alternative housing is available locally for those affected (section 7(1)(b)); and, third, section 8(2) contains an individual hardship clause. In the view of the Grand Chamber, neither the criticism of the Act which had been expressed during the legislative process nor the availability of alternative solutions to reach the result sought could justify a finding that the domestic authorities' policy decisions were manifestly without reasonable foundation.

¹⁴ *Haddaouchi v. the Netherlands*, ECtHR 16 January 2018, case number 496510.

regional agreement concluded between the municipalities and housing associations in the Rotterdam region and the province of South Holland, and the South Randstad Housing Deal concluded between central government, the province and a large number of municipalities, including Rotterdam.

The Rotterdam Audit Office is currently conducting an audit of the Housing Vision, which could be regarded as a review. This audit is expected to be communicated to the municipal administration and made public in the autumn.

6) Please provide information on the status, responsibilities, relevant regulatory framework and government authority overseeing the activities of the housing associations in the Netherlands, such as Vestia.

Housing associations are organisations that work exclusively in the field of housing. The activities that come within the definition of housing are listed in section 45 of the Housing Act. Core tasks of housing associations are building, letting and managing social housing for low-income households. Housing associations thus provide services of general economic interest (SGEI).¹⁵ By extension, some other activities of housing associations such as building and developing property of benefit to the community and investing in amenities to improve the quality of life have also been designated as SGEI.

Restructuring is also an activity that comes within the definition of housing, as do efforts to achieve a district having a more mixed income composition in a restructuring area. Section 45 of the Housing Act also lists what other activities not covered by the definition of SGEI can be performed by housing associations.

The relevant legislation on housing associations consists of the Housing Act (*Woningwet*) and its subordinate legislation, namely the Authorised Housing Institutions Decree (*Besluit toegelaten instellingen volkshuisvesting*) and the Authorised Housing Institutions Order (*Regeling toegelaten instellingen volkshuisvesting*). The Housing Act regulates the tasks of housing associations and the requirements they must meet. The following two matters are relevant to this question:

- (1) the supervision of housing associations by the Housing Associations Authority;
- (2) the conclusion of performance agreements by housing associations with their local partners, namely the municipality and the tenants' organisations.

See Annex 5 for further notes on this.

7) Please provide information on any investigation which may have been conducted following allegations of violations by Vestia housing association and the municipality of Rotterdam in the implementation of the transformation project in Tweebosbuurt neighbourhood and any subsequent action to ensure that all residents inadvertently affected by those actions, including vulnerable people, minorities and undocumented migrants, would be provided with adequate alternative housing and assistance to relocate.

- Landlord and Tenant Consultation Act (*Wet op het overleg huurders verhuurder*): On 30 September 2019, the Rent Tribunal made a final ruling on the position of the Tweebosbuurt residents' group. The ruling, which has been published at huurcommissie.nl under case number WOHV 081, reads as follows: 'As the decision to demolish approximately 600 homes was taken before the residents' committee was formed and recognised, it was not possible for the landlord to submit the relevant plan to the committee. There was therefore no breach of the obligations arising from sections 3, 4 and 5 of the Landlord and Tenant Consultation Act.' As neither party applied to the subdistrict court for review of this ruling, the content of this ruling is deemed to apply between the parties (i.e. Tweebos residents' group and Vestia) pursuant to section 8a, subsection 1 of the Landlord and Tenant Consultation Act.
- Termination of tenancy agreements: In addition, Rotterdam District Court gave judgments on 6 September 2019 and 10 January 2020 on applications by Vestia to terminate tenancy agreements. These two judgments are mutually contradictory. Vestia was successful in the first case and the residents in the second case. Two of the tenants have appealed in the first case (the case of 6 September 2019). And Vestia has appealed in the second case (the case of 10 January 2020) (<https://www.vestia.nl/News/1412/>). The Dutch Government cannot comment on a matter that is still *sub judice*.

¹⁵ What is meant by services of general economic interest in the case of housing associations is regulated in section 47 of the Housing Act.

- **Housing cooperative:** In November 2019, a few residents of Tweebosbuurt gave notice that they wished to form a housing cooperative within the meaning of section 18a of the Housing Act. Subsequently, Vestia explained why it refused to agree to this. In March 2021, some of the same residents made the same request again to Vestia. Once again Vestia informed them why it would not comply with the request and that it would not suspend the demolition of all four blocks in Tweebosbuurt for this reason. The primary reason it gave for this was that a housing cooperative must be formed by the tenants of at least five residential units that are located close together and form a unit in financial, administrative, structural or planning terms or in some other way. The proposed cooperative currently consists of eight homes spread over four residential blocks and five streets. Vestia therefore argues that the unity required by law is lacking. The second reason given by Vestia is that the request mainly concerns homes that are not occupied by the members of the proposed cooperative. On 30 March 2021, the Housing Authority confirmed to the applicants that the plan for the housing cooperative did not meet the requirements for a cooperative within the meaning of the Housing Act.
- **Other matters:** The tree felling licences and the Nature Conservation Act (*Wet Natuurbescherming*) exemption have been granted. Applications for review of the decisions granting two of the licences have been lodged with Rotterdam District Court. The District Court has upheld the third tree felling licence in interim injunction proceedings. On 19 April 2021, Rotterdam District Court rejected applications from the tenants for an injunction prohibiting demolition (ECLI:NL:RBROT:2021:3439). As far as we know, none of the tenants has appealed against this judgment.

8) "Please provide information on measures undertaken by or under the consideration of your Excellency's government to address the broader systemic issues of financialisation and commodification of housing?"

The issues of financialisation and commodification of housing to which reference is made are not clear from the context. However, it should be emphasised that the plan to tackle the issues affecting Tweebosbuurt is not driven by financial gain for Vestia or any other party. In financial terms, there is no gain for Vestia. As the houses in Tweebosbuurt were bringing in rental income, the plan actually involves a disinvestment. The additional work of renovating and rebuilding the area will require more investment than is expected to be recouped from future rental income. We therefore see no connection with further systemic issues. An unrelated point is that the Dutch housing market is presently facing challenges. For example, there is a housing shortage and house prices have risen sharply. Among the many factors influencing this are population growth, perpetually low interest rates and the high costs of building materials. That is why many plans have been made in the past four years to increase the number of new builds and their affordability. One example is the National Housing Agenda (*ationale woonagenda*)¹⁶ formulated by the Ministry and its partner organisations. This too refers to the necessity of restructuring. To tackle the housing shortage, the Ministry has increased the amount of government intervention designed to boost the supply of new build homes. This has resulted in specific goals, benchmarks and subsidies.¹⁷ Various measures have been taken specifically to help low-income groups by introducing new rules to supplement the existing system of rent regulation. One of these initiatives

¹⁶ National Housing Agenda: Parliamentary Paper 32 847 no. 365 [Nationale woonagenda 2018-2021 | Tweede Kamer der Staten-Generaal](#)

¹⁷ Progress of measures to tackle the housing market, Parliamentary Paper 32 847 no. 428 [Voortgang aanpak woningmarkt | Tweede Kamer der Staten-Generaal](#)

Greater priority for housing: Parliamentary Paper 32 847 no. 332 [Meer prioriteit voor woningbouw | Tweede Kamer der Staten-Generaal](#)

concerns best practices for landlords.¹⁸ Furthermore, extensive studies have been carried out to assess how housing associations can make best use of the funds available.¹⁹

9) Please provide information on the consultations carried out with concerned tenants and on the measures taken to ensure that affected tenants were involved in the planning and decision making for renewal plans and demolitions in their neighbourhoods in the context of the "Housing Vision Rotterdam 2030".

See answers to questions 1 and 7 above.

¹⁸ Results of measures to promote best practices for landlords, 2020–2021 session, 27 926, no. 337 House of Representatives of the Dutch Parliament.

¹⁹ Housing Association Sector in Balance (Statement and Resources) Report: [Rapport Opgaven en middelen corporatiesector in balans | Tweede Kamer der Staten-Generaal](#) with letter presenting report [aanbieding-rapport-opgaven-en-middelen-corporatiesector-in-balans.pdf](#)