

National Action Plan against Substandard Housing

Host Country Report

Ministère du Logement et de la Ville

The Institutions of France: Administrative organisation; distribution of power

1. Political Organisation of France

General organisation:

France is a decentralised and non-federal State, composed of 4 levels of territorial authorities:

- the State (or national level)
- the Regions: 26 in number, including 4 overseas
- the Departments: 96 in mainland France and 4 overseas (Guadeloupe, Martinique, Guyana and Reunion)
- the Municipalities: around 36 700 in number.

These territorial divisions envelop one another and cover the entire territory. The overseas territories are accorded a special status (islands in the Pacific, Indian Ocean, southern hemisphere, St Pierre and Miquelon).

The regions and departments are also administrative zones that represent the State, they are thus also levels of organisation for the State services, under the authority of a prefect.

The role of each authority is defined by the laws relating to decentralisation of 1982 and 1983, supplemented in 2004, which organise the distribution of power between the State and the territorial authorities.

The State has a monopoly on the making of laws remaining within the bounds of the Constitution, on the fixing of taxes, on the organisation of order maintenance, national defence, and the definition of major policies (public health, employment law, social security, environment...).

The territorial authorities hold power as attributed by law. For example, taxes imposed by territorial authorities are defined by the law (even if the tax rates or the tax institution can be left to the discretion of the authority in question).

Organisation principles for each of the territorial authorities:

Political, legal and financial autonomy, guaranteed by the Constitution and assured by:

- a council elected by universal suffrage;
- a president, elected from the members of this council and exercising an executive power:
 - in a Municipality, this president is the mayor
 - in a Department, this president is the president of the departmental council

- in a Region, this president is the president of the regional council;
- its own budget, voted each year by the council and made up, in part, of its own revenue – including local taxes – and, for local districts and their groupings, made up also of yearly global endowments from the State. The main local taxes are: the tax on developed land, the tax on undeveloped land, local rates and the professional tax on economic activities.

The autonomy of different territorial authorities is assured and guaranteed by law: this means that no authority can have any hierarchical power over another, and cannot make changes to another's decisions, whether it be a region with respect to a department or a department with respect to a local district. Nor can the State make changes to a decision of one of these territorial authorities: if the prefect considers a decision to be illegal, he or she informs the territorial authority of his or her observations; if the latter does not modify its decision, the only recourse of the prefect is to refer the matter to a judge.

Recent evolutions: cooperation between local districts and the different structures for this cooperation.

The extreme degree to which communal territory has been divided in France has made it necessary to assemble the local districts into syndicates to collectively carry out certain missions.

The syndicates of local governments often form around a single purpose (household waste, transport...) but they are increasingly held together by multiple purposes (public works, town planning...).

Recent reforms (the laws of July 1999 and 2004) favour the grouping of local governments in structures provided for by law, and with obligatory minimal powers:

- Greater urban communities with agglomerations of at least 500 000 inhabitants;
- Urban communities (at least 50 000 inhabitants);
- Grouping of Municipalities.

The first two hold, among their obligatory powers, responsibility over town-planning projects, major land-planning operations, basic questions relating to housing, transport and the environment: each local district can define the extent of its power, except those which are obligatory, as well as their importance, which justifies the transfer of power from the local districts to the new groupings.

These groupings are not obligatory – they must be decided on by a majority of local districts representing at least half of the total population – but they are also strongly encouraged by financial and fiscal dispositions.

On 1 January 2007, the number of inter-community structures was the following:

- 14 greater urban communities, bringing together 358 Municipalities and 6 251 230 inhabitants, otherwise 2/3 of urban areas with over 50 000 inhabitants;
- 169 urban communities, bringing together 2 946 local districts and 21 173 675 inhabitants;
- 2400 Grouping of Municipalities;
- 5 agglomeration syndicates, bringing together 29 local districts and 318 959 inhabitants (an institutional form of "new towns").

The development of municipality regroupings has been spectacular since 2001.

2. Distribution of power in relation to towns, housing, environment, heritage and public health

Powers of the State:

- The issues of housing (financing of building and renovation, funding and tax incentives, individual housing grants, regulation of public social rental housing, regulation of rental relationships...). Since the law establishing the opposable right to proper housing was passed in March 2007, the State will be the guarantor of this right and will hold the responsibility for re-locating priority households in social rental quarters or in lodging institutions from December 2008 onwards;
- The status of ownership and its usages, the right to town planning and building;
- Expropriation;
- Protection of the environment, architectural and urban heritage, archaeological sites;
- Social protection and the protection of public health.

These powers are exercised by law, with the help of financing attributed to certain of these missions.

According to the cases and different terms, the local conditions for the application of legislation or financing are carried out by territorial authorities (town-planning projects, local programmes on housing, social action...), or by State services (housing, public health, cultural heritage and sites, protection of nature, inspections and examinations...).

In the area of housing, following the law of 13 August 2004 relating to local liberties and responsibilities, the State can delegate to local government groupings competent in housing issues, or to departments, the management of funding for the construction and renovation of social rental housing and the renovation of private housing.

Powers of regions

- Regions hold no judicial powers in the areas of planning of space or towns, but they can intervene in wide policies on territorial planning in the context of contracts of a financial nature negotiated with the State;
- The financing of major structural works (transport, schools, universities, cultural works...) is often under the responsibility of regions (entirely or in part).

Powers of departments:

- The financing of the social action sector and the organisation of this sector (social workers, social establishments, aid for the elderly...).

Regarding housing:

Since the 1990 law relating to the carrying out of the right to housing, supplemented by the 2006 law on national commitment to housing, departments have elaborated, in conjunction with the State, a department-level action plan in favour of housing for vulnerable households (Plan départemental d'action pour le logement des personnes défavorisées – PDALPD). The PDALPD sets out measures aimed at helping individuals and families in difficulties to have access to or remain in decent housing. In each department, a housing solidarity fund (Fonds de Solidarité Logement – FSL) finances (under the financial responsibility of the department) project actions in favour of households (direct financial aid, social accompaniment...).

Since the 2004 law, departments have been able to request from the State that they may act as a proxy for housing grants: to achieve this, they must sign with the State and the National Agency for Housing (Agence nationale de l'habitat – ANAH) a convention that specifies a programme taking place over several years for the building of social rental housing, the renovation of social housing and private housing, as well as detailing the commitments of each party.

In July 2007, there were 25 delegations of power being exercised by departments.

Powers of municipalities or their groupings:

- The elaboration and management of town-planning projects, land actions, planning operations, actions relating to urban rehabilitation or embellishment, the carrying out of local housing policies.
- The mayor furthermore exercises administrative police powers to secure public order in the local district (public safety and salubrity...).

Regarding housing:

Municipalities groupings, competent in the area of housing, can ask the State to act as a proxy for housing grants: to achieve this, they must sign with the State a covenant, founded on a local housing programme, which specifies the objectives over several years for the construction of social rental housing and the renovation of social housing and private housing, as well as the commitments of each party. They also must simultaneously sign a covenant with the ANAH which determines the conditions for the management of subsidies aimed at private owners.

In July 2007, there were 12 delegations of power exercised by greater urban communities (which number 14 in France), 55 delegations of power exercised by urban communities (which number 169) and 6 delegations exercised by grouping of municipalities. In addition, departments and municipalities can create and use public offices for moderate-rent housing (habitation à loyers modérés – HLM), with the power to realise and manage public social rental housing.

3. Organisation of the State

At the regional level

In each region, a regional prefect has the power to programme and distribute throughout the departments, credit from the State, as well as to coordinate State actions with a regional interest.

The prefect also organises relationships, namely financial, with the regions and negotiates priority action programmes, namely in the form of contracts lasting several years.

To carry out these missions, he or she disposes of regional agencies of various ministries, some of which function on a departmental level as well as regional level (regional agencies of public works, agriculture, health and social action...), while others function only as regional services (environment, culture excluding architecture).

At the departmental level

In each department, a prefect represents the State, with 3 essential missions:

- guaranteeing that consideration is taken of State missions in the exercise of local responsibilities (national solidarity, respect of the equality of citizens before the law, exercise of the State's own responsibilities);
- coordinating the action of the technical services of the principal ministries organised at the departmental level: department-level agencies of public work (Directions départementales de l'équipement – DDE), department-level health and social service agencies (Directions départementales des affaires sanitaires et sociales – DDASS), departmental services for architecture and heritage, for example;
- ensuring the legality of the acts of territorial authorities.

The prefect also exercises his own police administrative powers to secure public order, namely public safety. This power may compete with that of mayors, and the prefect has the right to replace a weak mayor.

The prefect alone disposes of police forces to enable the carrying out of public order missions.

The principal services of the State in the fields of urban and housing policies:

- for town planning and housing: the DDE;
- for the health and social sector: certain powers fall to the State, such as the monitoring of health risks in housing, sanitary checks on water, the control of health establishments, for example, the powers exercised by the DDASS;
- for the protection of nature, the urban environment, water: notably the regional agencies for the environment;
- for the protection and management of heritage protected in the name of Historical Monuments or Sites: the departmental services for architecture and heritage;

The regional agencies for cultural affairs (Directions régionales des affaires culturelles – DRAC) have the capacity to take stock of Historical Monuments, archaeology, museums, and living arts.

The structure of housing stock in France

Evaluation of the total stock in 2005 - mainland France - with a population of 61 million inhabitants in 2006:

- 30.6 million dwellings
- including 25.6 million main residences and about 10 % secondary residences and 6 % empty dwellings.
- close to 57 % of households are **owners** of their dwelling
 - including 36 % of these being first-time home owners
 - and **38 %** of households are **tenants** of unfurnished rental dwellings.
 - Amongst the tenants:
 - around 17 % live in dwellings from the social public rental stock (HLM), that is, about 4.5 million dwellings;
 - 21 % live in private rental housing.
 - Private rental stock is primarily the property of natural-person owners.
- 5 % are inhabitants with "**other**" statuses or residences.

Location, type of constructions and recent evolutions

- collective housing: 44 %;
- individual housing: 56 %;
- individual housing is essentially situated in rural zones (old housing), but also in peri-urban local districts (recent buildings);
- collective housing is urban, especially in large towns and in their peripheral areas developed in the 1960s to 1980s.

On 1 January 2005, 81 % of households were owners of the house they were living in, while this was the case of only one household out of four living in apartments.

In rural areas, since nine out of ten dwellings are houses, the proportion of owners is higher there (74 % in distant rural areas and 80 % in peri-urban rural areas). This proportion then decreases as the size of the urban unit increases, so that the figure is only 45 % in Paris.

Evolutions:

- increase in the proportion of owner-occupiers (from 54.5 % to 57 % in about 6 years);
- stability in the proportion of tenants (40 %) and a marked decrease in "other statuses" (from 6.5 % to 3 % in about 6 years);
- increase in individual houses, after an increase in collective buildings from 1990 to 2000;
- increase in principal residences, notably in rural local districts, peri-urban or not, and a lesser increase in urban agglomerations;
- the vacancy of dwellings regularly diminishes and today is weak. Vacant stock is primarily rural, ageing, uncomfortable and made up of small dwellings, as far as discernible. However, significant vacancy rates are also found in old areas, in the centre and peri-centre of towns, notably in economically-slow regions: from 15 % to 30 %. However, following tension in the housing market and the carrying out of public policies, vacancy has greatly regressed, including that in rural zones;
- global over-population has fallen greatly: 24 % in 1970 and 10.5% in 1996, but this over-population mainly affects tenants: 14.8 % for tenants in 2002;
- the average available surface area has significantly increased (from 22 m² in 1970 to

35 m² in 1996), but this covers very diverse situations: 27.4 m² for a household in the social rental sector, 31.9 m² in the unregulated rental sector, and 42.4 m² in ownership.

Age and comfort of housing stock

Evaluations made on the basis of the 1999 census and following evolutions.

Age

The term "old stock" refers to all dwellings built before 1949.

- in 1999, this old stock represented 10 million dwellings, including 32.8 % of the stock in principal residences at this date (the rest covers secondary residences and a higher rate of vacant dwellings);
- today, this old stock is estimated at about 27 % (given that demolitions are relatively uncommon today);
- this old stock is primarily made up of individual houses (62 to 63 %) and is essentially rural;
- however, in France, town centres are primarily made up of old buildings still under the status of private rental housing;
- 32 to 33 % of old stock is in collective buildings (4 % other – isolated rooms, hotel rooms...);
- the numbers of old stock have stabilised after great falls in the stock (demolitions, closures).

In 1999, old stock was spread out in the same proportion as all housing stock, between owner-occupiers and tenants, with a higher rate of "other" stock (furnished hotels, free accommodation...).

Characteristics of old stock: greater presence of discomfort, notably in the dwellings of owner-occupiers; small rooms; small dwellings; a higher rate of dissatisfaction...

Rural stock inhabited by poor populations, as well as poor (and expensive) rental stock in town centres.

Comfort

In France, there has been enormous improvement in comfort, evaluated from elements such as water, sanitation (toilets and showers), interiors and central heating: over 81 % of dwellings were rated entirely comfortable in 1999. In 1999, there remained 1 million highly uncomfortable dwellings and over 3 million without central heating.

This discomfort is especially present in the dwellings of owner-occupiers in rural areas, but it can also be found in private rental housing as well as "other" dwellings. Discomfort is much more significant in old stock than recent stock.

Dwellings without basic sanitary comfort are estimated to be at 2.6 to 3 % (survey based on a sample, 2002).

Dissatisfaction | satisfaction

In 2002 (survey based on a sample), 7.2 % of households, that is 1.8 million households, considered themselves to be "badly housed".

According to another study in 2002, 25 % of households indicate "humidity" as the most frequent flaw in dwellings, while 7 % cite water leakages and 5 % mediocre outlook... 12 % of dwellings display 3 accumulated difficulties according to their occupants. 7 % report having badly insulated electricity or an absence of sanitary installations...

50 % of dwellings built before 1949 manifest at least one flaw...

Owner-occupiers indicate far fewer flaws, just as the occupants of individual houses note fewer flaws than those in collective buildings. There are more flaws pointed out in private rental housing than elsewhere: 50 % denounce at least one flaw and 20 % several flaws – including humidity.

Only 50 % of tenants indicate no flaw.

The global proportion of tenants remains stable, but tenants are highly mobile, notably in the private (and not social) sector: two-thirds have occupied their dwelling for less than four years. The proportion of young people housed in the private sector is increasing, for initial entry into the housing market often occurs here (and at high rents).

Condominiums

The number of dwellings in condominiums regularly increases in all segments of the stock... including old stock (due to sales of old collective buildings). Many developments took place in collective buildings and condominiums between 1965 and 1975, notably at the periphery of towns.

These condominiums are largely situated in agglomerations with over 100 000 inhabitants (47 % of all condominiums) and for 60 % of dwellings, in the most urbanised regions and departments: Île-de-France (36 %), Rhône-Alpes and Provence-Alpes-Côte-d'Azur.

In 2005, there were 608 491 condominiums assembling 8 297 531 dwellings; compared to 2001, there has been an increase of 41 229 condominiums and 515 147 dwellings. 78 % of the total condominium housing stock is occupied as principal residences, namely 6 438 584 dwellings in 2005, representing 25 % of total principal residences. 48.4 % of these dwellings were occupied by owner-occupiers; this shows that the majority of housing in condominiums is rented out by their owners.

A major proportion (70 %) of condominiums is made up of less than 10 dwellings. However, large condominiums (with over 50 dwellings) which represent only 5.4 % in the number of condominiums, hold 41.3 % of dwellings.

Almost three-quarters of the dwellings in these condominiums were built after 1949, including 35 % after 1975. However, the creation of condominiums from old buildings has equally increased.

A certain number of technical problems related to the quality of construction has surfaced, as well as management problems, notably for large condominiums (over 50 dwellings).

Today, there is an estimated number of around 350 000 condominium dwellings where the state of degradation and management difficulties necessitate public intervention. Situations classified as "fragile" and requiring monitoring are estimated at 600 000 (otherwise, 10 % of dwellings used as principal residencies).

Rents, personal housing grants, recent evolutions

France has long established a system of personal housing grants, aimed at facilitating access to decent household dwellings, allowing recipients to pay rent or repay home loans, under normal market conditions.

On the administrative level, two types of personal grants exist, but their sums are identical and both take into account family composition and income, independently of the amount of rent and the housing status: recipients of these grants include first-time home buyers, tenants in the social institutional sector (HLM or public housing) and tenants in the private sector (regulated or unregulated rents).

Today, about 6 million households, that is 23 %, take advantage of these housing grants, with 92 % of the total number of recipients being tenants.

In 2006, over 3 million recipients of these grants were tenants in the private sector (2.2 million are tenants in the social sector and a little over 500 000 are first-time home buyers).

Financially, the effort represented by these personal housing grants is extremely significant (namely 14.1 billion euros in 2006).

However, the rise in rents, namely in the private and unregulated sector, is such that personal housing grants appear to provide less and less actual credit support. In 2007, a decision was made to correlate the grants with a rent-increase index.

Housing conditions of low-income households (2.8 million households, 2002 estimate¹)

Rent-income ratios

The net financial weight of rents, notably for low-income households has continually increased, despite personal housing grants.

Average rent-income ratios are markedly less elevated in the social sector (rents are regulated and personal grants provide a much greater actual credit support) than in the private sector.

¹ 2002 sample-based survey which underestimates figures in the private rental stock.

Low-income households

Members of these households are often young, residing in large cities/town centres, but there are also elderly and rural households within this category, as well as foreigners or those with foreign origins.

These households are primarily tenants, rarely owner-occupiers or first-time home buyers (the rates of the latter two are falling sharply). Moreover, they are primarily tenants in the social sector (32 % in social stock dwellings, 24 % in private stock, and 8 to 9 % in "other" sectors). However, first-time tenants rent most often from the private sector, at increasingly high rents (in the urban sector).

Among households in private stock, the level of income varies greatly, but 14 % were low-income earners in 2002.

Amongst low-income households that live primarily in private rental stock and in large agglomerations, 12 % have no basic sanitary comfort and include a high level of over-occupation.

Recent renters (those in their dwelling for less than 4 years) make up 42 % of social rental stock-dwellers, 39 % of private rental stock-dwellers.

Many low-income households experience high rent-income ratios (gross and net) in the private rental sector, with individuals living alone in furnished housing paying 35 % of income on rent.

For private-sector tenants in new rental or relocation dwellings, rent represents between 45 and 50 % of income in modest households² (compared to rent-income ratios of around 22 to 27 % in the social housing stock).

The evolution of rents

Notably since 2000, France has experienced an acceleration in the rise of rents in the private sector³; the increase is estimated at over 29 % between 2000 and 2006, that is, markedly higher than the increase of the consumer index as well as the increase in household disposable income. A certain slowing in this rise has appeared since 2006.

This rise is apparent in the rent of new rental dwellings and rental re-locations⁴, bearing in mind that the turnover rate in the private sector is high.

Rises in rent are particularly sharp in Paris and the Paris region, as well as large cities. For example, in Paris in 2006, the rise of rental re-locations was 6.6 %, compared with 4.5 % in the French provinces.

² Calculation based on one minimum salary for one person and one-and-a-half minimum salaries for a household with 2 children/ calculation taking into account housing grants.

³ The social sector is regulated by the State.

⁴ The price of old dwellings has increased by 86 % over the same period.

The average monthly rent per m² in 2006 was € 11.2, but significant disparities emerged between cities and regions. Thus, the prices of monthly rents per m² is twice higher in Paris (and the near suburbs) than in the French provinces. This figure is € 17.7 in Paris (but € 19.2 for a re-location), compared with € 7.9 in the provinces (and € 9 for a re-location).

The average rent in the social sector is € 4.8 per m² per month in urban agglomerations.

Definition and recognition of unfit housing

The combat against unfit housing constitutes a major issue in the protection of the health and security of occupiers, whether owners of tenants, and aims to find adapted solutions to improve housing conditions by taking action on constructions or working with concerned parties.

Different legal texts of various natures explicitly refer to the respect of human dignity, notably in housing conditions, and reinforce the conditions of treatment of unfit housing: French and European declarations of human rights, the Constitution, the penal and civil codes, the decisions of the Constitutional Council recognising the constitutional value of the right to decent housing, the 5 March 2007 law relating to the opposable right to proper housing.

Definition of unfit housing

The notion of "unfit housing" is a political, and not legal, one, so this term does not appear in legal texts allowing public intervention. Rather, legal texts use the words "inadequate" or "dangerous"⁵. The term "unfit housing" is moreover inaccurate, for it is not the housing that is unfit, but rather the housing conditions linked to the inadequate or dangerous (or precarious) character of the housing, that have consequences not only on the living conditions of its occupiers, but also on their dignity, that is, their self-respect.

First of all, such dwellings may present obvious risks for the security of occupiers (falls, electrocution, fire...), as well as for their health, such as carbon monoxide poisoning linked to the malfunctioning of heating, lead poisoning linked to the presence of lead in damaged paint, or allergies and respiratory problems linked to humidity or cold.

However, in a less "physical" sense, inadequate housing⁶ in premises that are by nature uninhabitable (cellars, cabins, garages, precarious installations) have consequences of a psycho-social type, notably on the psycho-motor development of children, their schooling, as well as the sociability not only of children, but also of adults, mainly women.

These psycho-social manifestations are more difficult to detect, for they depend heavily on the social background of individuals, their origins and residential history, their cultural environment, average housing standards of their economic, social and cultural environment... Discomfort, insufficient heating, rudimentary sanitary installations may be accepted or tolerated without any feeling of frustration or shame by elderly people in rural backgrounds... while for their children or grandchildren, they may not be tolerated and on the contrary, may be a factor of low self-esteem... The same can be said of over-crowding in dwellings: tolerated by newly-arrived immigrants or young people in transition stages, a significant lack of space can also make family life difficult and stifle the development of children; it is also known that over-crowding is a factor of inadequacy as it also causes an increase in humidity, painting deterioration, ventilation problems...

Finally, the way in which inhabitants perceive inadequate or dangerous housing varies according

⁵ For example, the 15/12/2005 ordinance is titled "relative to the fight against inadequate or dangerous housing".

⁶ Cf. research from May 2005 international colloquium on "inadequate housing and health" in the section "References".

to whether they are owners or tenants of the dwelling... and it is more difficult to intervene in the first case than in the second, simply for psychological reasons, even if the objective housing conditions of the first case may be more serious.

These considerations explicit the reasons why the "combat against unfit housing", notably against the most unacceptable forms in a rich and developed society, features in the programme of combat against social exclusion (and the National Action Plan for Social Inclusion (Plan national d'action pour l'inclusion sociale – PNAI).

Also concerned are the premises used for housing which are insecure according to the legislation relating to the security of constructions (buildings threatening collapse) or the legislation relating to inadequacy (buildings declared inadequate, quarters by nature improper for living, precarious housing).

This notion of adequate housing thus excludes dwellings that are merely old-fashioned or uncomfortable, whose state does not harm the health or security of inhabitants and does not justify recourse to coercive measures, but rather relates to rental relationships between lessors and tenants and, in certain cases, financial incentives to renovate.

Public intervention in these living situations today considered as contrary to human dignity, either by renovation or demolition, is carried out by the coercive powers of "administrative police" acting under mayors and prefects, in spite of owners or "landlords". Moreover, these coercive measures are not used in the same manner for an owner-occupier as for an owner-lessor (or "landlord"): while physical safety should be secured for all and is an aim of legislation, in matters of inadequacy, coercive measures are rarely taken against owner-occupiers⁷.

The necessity to recognise the importance of the phenomenon and to identify existing situations. Inadequate housing is common in run-down districts, sites of precariousness and devalorisation, and rural zones, but it can also be found in more recent housing complexes. For many years, this problem was visible in entire urban districts and zones. However, following renovations undertaken in private housing over the last 30 years, inadequacy has today become more diffused in urban as well rural areas. Nevertheless, pockets of inadequate housing remain, and precarious housing forms continue to develop in places where poor, fragile, immigrant populations inhabit – all the less visible as they are masked by widespread progress in housing improvements. Dramatic accidents and fires have however recalled the existence of this unfit housing to public authorities.

Given this situation, the question of the evaluation and identification of unfit housing has been raised, as a preliminary to the definition and carrying out of an action plan.

⁷ The financial tools are preferred: see the fiche "operational and financial tools".
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Since the year 2000, studies in the pre-identification of unfit housing have been launched with the aim of establishing, on a departmental scale, a cartography of potential sites of inadequacy, as data relating to discomfort provided by general population censuses do not allow such pre-identification. The objectives of these studies, undertaken on a national level, are to offer to State services an effective aid for identifying priority zones and the profiles of affected households and to allow them to exchange information with local authorities and local parties concerned in order to rapidly put in place operational plans for detailed identification of addresses and for the treatment of these inadequate situations.

The method used to pre-identify "Potentially Unfit Private Housing Stock" is founded on the cross-section of two approaches:

- a global approach founded on a centralised tax source (coming from local rates dossiers based on the categories of residential buildings and data concerning the income tax of individuals) based on the idea that an occupier with modest means is more likely to live in a unfit dwelling than a better-off occupier.
- a local approach, corresponding to knowledge held by local partners (number of complaints, local studies, alerts from social workers, requests for re-location...).

It is from the cross between the level of income of occupiers and the category in which the building is classified that a highly detailed map of data is composed and dispatched to all departments. It is then the responsibility of services to match this data with their knowledge of the area, either by comparisons with existing data or by on-spot inspections on territory identified as fragile.

This work is carried out using data updated every 2 years at the initiative of the Ministry of Housing and the Pole, with the support of the National Agency for Housing (Agence nationale de l'habitat – ANAH), which provides all departments with extremely detailed geographic information.

Data from 2005 is currently being exploited.

Identification of housing and observation plans

The evaluation of the actual number of unfit dwellings requires the use of fine diagnostics to locate addresses, once the zones have been identified. This exercise is undertaken locally.

Nevertheless, in order to refine the global approach based on national data and to bring extra support to local actors, the Ministry of Housing is to proceed to a new analysis, based on a comparison between data coming from tax bases in a given territory and data coming from on-spot inspections carried out in the same territory, allowing for more finely tuned figured evaluations on the reality of unfit housing, based on a typology of territories.

This analysis may well lead to accurate numbering in the national stock of effectively unfit dwellings. (Today, "according to experts", out of an estimated 1.7 million dwellings classified as potentially unfit in 2005, 400 000 to 600 000 could be considered as truly unfit.)

Follow-up of situations and observation plans:

Since the 13 July 2006 law on national commitment to housing, the identification of unfit housing has become an obligation in local housing programmes.

In particular, department-level action plans in favour of housing for vulnerable households (Plans départementaux d'action pour le logement des personnes défavorisées – PDALPD) must include an identified action for fighting against unfit housing, based on an identification of situations. To this end, a nominative observation point for unfit dwellings will be created in each department, gathering addresses and situations identified locally as “unfit” by all public and social actors, the foundation of common public action; the methods used for gathering data and managing these observation points are currently being validated.

Classification of a building or dwelling as inadequate

After this reconnaissance groundwork, the classification of “inadequate” that can justify a coercive procedure or an increased financial grant for the renovation of the building, requires an exhaustive inspection of the building and each dwelling. This inspection is carried out by agents of the health and social services agency (Direction départemental des affaires sanitaires et sociales – DDASS) or certain town services, according to a detailed analysis grid (model grid attached).

The evaluation of the reality of the inadequacy is partly based on the economic, social and cultural environment of the area, depending on what a given society – its elected leaders, its administrative and social authorities, associations, media, the public – deems as acceptable or not at a given moment. Subjectivity is not absent from this process, despite the rigorous procedure undertaken by the ministries concerned.

Action against unfit housing: some results and figures

1. Putting into perspective public action against “unfit housing”

To understand recent public action in the fight against “unfit housing”, it is first necessary to put this action into the context of action carried out since WWII in favour of housing in France.

2 periods can be distinguished:

- from the post-war until the 1970s: following the war scars, a serious lack in housing and the generally poor state of existing housing stock⁸, public action essentially focused on the industrial production of new dwellings with the idea of gradually demolishing existing housing in old town centres, then rebuilding according to modernist urban architectural principles.
- from the 1970s until the present day: public powers abandoned the policy of large urban post-war projects and created the necessary tools for action in favour of the renovation of existing quarters and housing. This reversal of urban policy seeks to ward off the abandoning and “ghettoisation” of old town centres whilst their demolition/reconstruction is no longer socially accepted nor economically viable.

In 1970, discomfort⁹ was still massive in existing housing stock, mainly in private stock (owned by landlords or owner-occupiers, many with inadequacy or danger issues).

Public authorities then created incentive tools for the renovation of these dwellings:

- in 1971, the creation of the National Agency for Housing (Agence nationale de l’habitat – ANAH) (see fiche on “operational and financial tools”) responsible for subsidising, on the whole territory, the renovation of private rental dwellings and maintaining them on the market (the ANAH would subsequently also take charge of subsidies for owner-occupiers).
- in 1977, the creation of the Programmed Housing Improvement Operations (Opérations programmées d’amélioration de l’habitat – OPAH) (see fiche on “OPAH”).

In 2000, 82 % of dwellings were henceforth comfortable: the efforts of landlords and public action have allowed the treatment of a large majority, if not the totality, of the stock deemed uncomfortable. For example, over a 10 year period, the ANAH has subsidised one million private rental dwellings.

HOWEVER, this action must clearly be supplemented; in particular, the most “problematic” uncomfortable dwellings – namely those beyond discomfort which are now inadequate or dangerous – must still be dealt with.

Their number is not known exactly: somewhere around 500 000 dwellings. The enormous progress made in housing in recent decades has masked the reality of this stock of poor dwellings, and the issue of inadequate, unfit housing did not resurface in public debate until 1998.

It is also clear that though dwellings in France are being improved through the logic of an active market, the action of public authorities remains indispensable for this market logic not to have a detrimental effect on populations with very modest means, excluded from the market or relegated

⁸ 1/3 of dwellings were constructed before 1949, 1/3 between 1949 and 1974, and 1/3 after 1974.

⁹ “Discomfort” should be understood as referring to housing lacking at least one of the 3 following elements of comfort: heating for the whole dwelling, toilets in the dwelling, a bathroom in the dwelling.

to “unfit” housing”.

The results described below were gleaned from the entire “chain of action” – from the refining of legal texts to the groundwork treatment of dwellings.

It must be pointed out that before 2001/2002, inadequate housing was no longer being dealt with in France by other coercive measures or financial aid, and there was no public debate on this issue.

2. Principal results:

2.1 The establishment of principal legal tools:

- 31 May 1990 – passing of the law seeking to establish the right to housing, called the “Besson” law: the establishment of department-level action plans in favour of housing for vulnerable households (Plans départementaux d’action pour le logement des personnes défavorisées – PDALPD), the creation of the Housing Solidarity Fund (Fonds de Solidarité pour le Logement – FSL).
- 29 July 1998 – passing of the law on the combat against exclusion (a reinforcement of the right to housing of the least privileged, a reorganisation of the distribution of social rental dwellings).
- 13 December 2000 – passing of the law relating to solidarity and urban renewal, called the “SRU (solidarité et renouvellements urbains)” law: a radical modernisation of texts relating to inadequate housing; the creation of rights for occupiers of inadequate and dangerous quarters; the obligation for towns to offer 20 % of dwellings in the social rental sector.
- 18 January 2005 – passing for the law to programme social cohesion: a public effort to programme the construction of social rental dwellings and housing institutions.
- 15 December 2005 – passing of the ordinance relating to the combat against inadequate or dangerous housing; modifications and adjustments in procedures for inadequacy and buildings that risk collapse (public health code and building and habitation code).
- 13 July 2006 – passing of the law on national commitment to housing, called the “ENL (engagement national pour le logement)” law: a reinforcement of the role of PDALPDs; account taken of unfit housing in these plans and in local housing programmes; the creation of departmental observation points for unfit housing.
- 5 March 2007: voting of the law establishing an opposable right to proper housing.

2.2 Identification/localisation - Already accomplished:

- In the absence of exhaustive data with figures, a method for identifying "potentially unfit private stock" was established in 2001 (see fiche on "recognition of unfit housing"). The results, regularly updated, are treated at a national level and diffused to the 96 mainland departments to facilitate groundwork action.
- Identification (at various levels) was carried out, on the basis of usage "potentially unfit private stock", in 82 departments in 2005.
- Local observation points were identified in 2005 in 30 departments. These work on inadequate or dangerous dwellings, precarious housing (permanent housing in camping grounds, for example), localisation of dwellings in inappropriate quarters, etc.
- Currently, the systematisation of local observation points of unfit housing linked to PDALPDs is being carried out to allow the evaluation of unfit dwellings at a national level.
- A web site on "unfit housing" was created in 2002 to act as a resource centre for private individuals and public bodies dealing with the issue.

Still to accomplish:

- Information having been gathered for the most part, it is now necessary to develop serious projects to sensitise local government and administrative authorities, in particular elected officials, to the reality of this "poor housing", and to make known the tools at their disposal.
- In practice, groundwork action is very uneven in different territories.

2.3 Operational structures - Already accomplished:

- The National Mission against Unfit Housing (Pôle national de lutte contre l'habitat indigne), a central inter-ministerial mission, was created in 2001.
- In 2005, "unfit housing correspondents" were located in 75 departments.
- In 2005, "unfit housing" work structures organised between services and local partners were in place in 55 departments.
- In 2005, in 92 departments, the PDALPDs, currently valid or in renewal status, took on an unfit housing component.

Still to accomplish:

- The bulk of mobilisation of local State services; the organisation of professional networks.
- Organised support for town services so they can better utilise the tools at their disposal.
- The establishment of specific "unfit housing" work structures in all departments.

2.4 Field action actions: coercive and incentive measures - Already accomplished:

- Programmed housing improvement operations (Opérations programmées d'amélioration de l'habitat – OPAH) and similar perimeters of action: in 2005, 335 projects integrated inadequate housing into their programmes.
- Notices of inadequacy: in 2005, 800 notices of inadequacy were drawn up for about 1 900 dwellings.
- The number of notices of unfitness is unknown, except in Paris.
- Cases of penal action against "sleep merchants" are very few in number and judges are not sufficiently aware of these issues.

Still to accomplish:

- Field action is very uneven throughout the departments:
 - 1/3 of the departments did not draw up any notices of inadequacy in 2005; 20 departments alone produced more than half of the notices in 2005.
 - The production of dwellings that have been treated for unfitness and financed by the ANAH for this purpose is very uneven throughout the territory; certain departments are not very active (45 departments in 2005 financed less than 50 dwellings per department in 2005).
 - Too few towns have initiated voluntary and organised action to fight against unfit housing.
- The action to develop is clearly the mobilisation of all actors on the whole of the territory, using the model of exemplary cases in the most active departments.

Amongst the objectives:

- To treat inadequate and dangerous housing in all OPAHs and comparable projects.
- To urge towns to deal with unfit housing in their local housing programmes.
- To establish Urban and Social Work Management (Maîtrise d'œuvre urbaine et sociale – MOUS) teams as operational support for the "unfit housing" component of the PDALPDs.
- To reinforce the effective protection of occupiers of unfit dwellings, to publicise their rights, to mobilise social workers and legal professionals (lawyers, judges), to train local teams (associations, lawyers, social workers) in the law.
- To make penal judges aware of the issue and to encourage penal pursuits to set examples.

2.5 Treated dwellings - Already accomplished:

- Subsidised dwellings: in 2006, the ANAH subsidised 6 240 dwellings treated for inadequacy.
The total amount that ANAH put into subsidies for this purpose was 57 million euros in 2006. This means, for inadequate dwellings with work required throughout, an average

of € 14 600 per dwelling: the cost is very high for these operations, especially in rural settings.

- In 2006, the ANAH also subsidised the renovation of 19 300 rental dwellings deemed "indecent" either because of a lack of a basic element of comfort or because of health or security issues.
- Results of public operations for the gradual elimination of inadequate housing.
- In 2005: 25 operations corresponding to 850 treated dwellings and 2 project studies.
- In 2006: 17 operation dossiers corresponding to 520 treated dwellings and 4 project studies.
- In 2007: 6 operations planned including 1 project study.
- Urban and Social Work Management (Maîtrise d'œuvre urbaine et sociale – MOUS)
In 2005, 13 teams per objective: 450 dwellings to treat that year
In 2006, 9 teams per objective: 280 dwellings to treat that year
In 2007 12 teams per objective: 255 dwellings to treat to date

Still to accomplish:

- Weakness of MOUS, whose numbers and results are still far below what is necessary to achieve significant results.
- Owner-occupiers of extremely modest means in inadequate situations, especially in rural settings (large houses), face specific difficulties: no action undertaken in favour of such housing will have a large-scale effect without very significant public subsidies for these owners frequently "resigned" to their situations.

Through its groundwork action and subsidies, the ANAH plays a front-line role in the treatment of inadequacy and lead in deteriorated paint. The effort should be increased to attain more ambitious objectives despite the cost of this type of operation.

3. In summary...

Regulatory instruments are in place and identification and operational tools have been perfected. Financing has been set up for owner-landlords.

Groundwork actors have been mobilised and are being accompanied in their actions.

The issue of the treatment of inadequate housing nevertheless remains difficult: we are clearly at the heart of the problem of "poor housing". Several reasons for this difficulty:

- The "victims" of unfit housing, whether owner-occupiers or tenants, are a fragile public from whom spontaneous action cannot be expected to improve their living conditions. Without heavy support from operators, they will not act in favour of their housing conditions.
- The strong involvement of local political powers is indispensable: elected officials must be extremely pro-active and have well-armed services to deal with "sleep merchants", carry out works, look after re-locations, etc.
- The renovation of inadequate or dangerous housing is costly: it can only be carried out for owner-occupiers of modest means if very substantial subsidies are provided.
- "Poor housing", when the housing market is under stress, is economically very viable: it is difficult to break this economic logic.

Directions for progress:

- For owner-occupiers of unfit housing, only massive grants seem to be able to resolve the most difficult situations, for the amount that remains the responsibility of owners cannot be provided for unless it is very low (and in certain cases, if advances can be made to owners for the amount in their charge).
- Apart from this specific issue, the bulk of the work before us, other than regulatory adjustments or improvements of tools, remains the raising of awareness and mobilisation of groundwork decision-makers and actors.

The combat against unfit housing: a national programme of action objectives, methods and institutional plans

The national action programme was put into operation thanks to legal reference texts, operational and financial tools and institutional plans, on the local and national level.

Following serious fires in Paris in winter 1997/98 in highly deteriorated buildings leading to the deaths of occupiers, a general inspection report underlined the obsolescence of legal texts allowing public authorities to intervene in such cases which invariably correspond to complex ownership, management and occupation situations. Following the proposals in this report, the "SRU" law of December 2000 substantially updated the texts relating to housing inadequacy and security.

At the same time as this law was voted in, an action plan for the gradual elimination of "unfit" housing to be carried out over several years was launched, also inscribed as an element of the National Action Plan for Social Inclusion (Plan national d'action pour l'inclusion sociale – PNAI) adopted at the European summit in Nice in December 2000.

This plan initially set in action an experimental plan in 11 pilot departments in France, then was extended to the whole of the territory from 2003 onwards.

Since 2004, this action plan has been recognised as a priority by public powers and has been integrated into several inter-ministerial work programmes to take place over several years, such as:

- the National Action Plan for Social Inclusion (PNAI) updated for the period 2006-2008.
- the National Environment and Health Action Plan (NEHAPE) adopted in June 2004 and presented at the WHO conference meeting in Budapest. Focus was placed on the health risks linked to inadequate housing and a target was set for the treatment of 20 000 dwellings per year.
- the Social Cohesion Plan adopted by the government in June 2004, which was the object of a law on the programming of construction for social dwellings and which integrated the reinforcement of combat against unfit housing in its objectives, notably via the programming of financial grants from the National Agency for Housing (Agence national de l'habitat – ANAH).
- the fight against social exclusion, updated in 2006, and coherent with the PNAI: the combat against unfit housing has been integrated as a priority measure on the basis of access to fundamental rights. Focus was placed on the gradual elimination of the most unacceptable housing conditions, in the urban as well as the rural sector.

Today, the struggle against unfit housing is based on specific legal and financial tools, as well as priority national action plans and programmes, with consequences flowing onto the local level.

1 Methods for attaining these objectives

These methods were defined by the laws of 2004 (delegation of housing financing to local municipalities groupings and departments) and 2006, which specified that unfit housing constituted an obligatory element of departmental and local programming documents as far as the following are concerned:

- Local housing programmes (programmes locaux de l'habitat – PLH): these are housing programming documents that must be elaborated by local syndicates of municipalities competent in housing. Diagnostics based on the functioning of housing markets, which constitute the first part of the PLH and which underline the definition of objectives should include a localisation of unfit housing situations; on this basis, the PLH defines unfit housing objectives and treatment priorities and sets out the means to be undertaken.
- Delegations with power in housing financing: grouping of municipalities with a local housing programme that meets legal requirements can ask the State for the delegation of power for the distribution of public housing aids (for public and private building, when renovated) in the context of a convention signed for six years. The convention also defines the operations envisaged that concern private housing premises. Departments can also ask to draw up the same type of covenant for a six-year period, covering the territory of the department and bearing the same kind of commitments. This covenant specifies the objectives followed and the actions to carry out, notably in the fight against unfit housing in accordance with PDALPDs. The ANAH is co-signee of these covenant. In these contexts, and in accordance with the Social Cohesion Plan, the ANAH makes known the objectives in figures that the beneficiary of the delegation must carry out, notably in the treatment of unfit housing.
- Department-level action plans in favour of housing for vulnerable households (plans départementaux d'action pour le logement des personnes défavorisées – PDALPDs): The PDALPD was created by a 1900 law to aid the underprivileged with access to or maintenance of housing, thanks to a financial tool (today managed by departments), the Housing Solidarity Fund (Fond de solidarité logement – FSL). The PDALPD should identify the priority publics and actions in each department. The plan is established for a minimal period of three years. Elaborated and carried out by the State and by the department, it associates local districts and their syndicates, as well as numerous social actors. The 2006 law has foreseen that PDALPDs should include a specific component for "unfit housing" (identification and action plan); observation points for the addresses identified by all fieldwork actors¹⁰ are established in support of this plan.

¹⁰ Social organisms, social workers, local districts, associations, operators, financial organisms...

2 Working and action plans

The plans that have been established are skeletal and non-institutional, and evolve as they progress: these are working plans, not administrative ones.

Working plans are organised around inter-ministerial partnerships, established and coordinated, at the central level, by the National Pole for Combat against Unfit Housing (Pôle national de lutte contre l'habitat indigne), and, at the departmental level, by organisations associating multiple partners in different configurations, under the coordination of prefects. These prefects have initially been called to organise work between State services, the pilot services being the department-level agencies of public work (directions départementales de l'équipement – DDE) and the department-level health and social services agencies (directions départementales des affaires sanitaires et sociales – DDASS), before extending to other public and social actors.

2.1 The National Pole for Combat against Unfit Housing (Pôle national de lutte contre l'habitat indigne)

Is composed of representatives of the ministries responsible for housing, health, social action, migrants and foreigners, interior affairs, and large agencies such as the ANAH, the National Agency for Urban Renewal (Agence nationale de rénovation urbaine – ANRU) and the National Agency for Information on Housing (Agence nationale pour l'information sur le logement – ANIL). Also associated are organisms which fund personal housing grants (the Family allowance Fund (Caisse nationale d'allocations familiales), the Central Fund for Social Agricultural Mutuality (Caisse centrale de mutualité sociale agricole)).

The mission of the National Mission against Unfit Housing is to support the carrying out of the fight against unfit housing, notably on the technical and legal level, through training, campaigns to raise awareness, the creation of networks between State services, territorial authorities, operators and other actors, the distribution of all useful documentation, the exchange of experiences... For this purpose, the National Mission against Unfit Housing has set up a specific web site which is regularly updated¹¹.

Mission objectives are fixed by the inter-ministerial mission letter addressed to the president of the National Mission against Unfit Housing .

2.2 Department-level organisations fall under the responsibility of prefects and can take various forms.

"Departmental poles for combat against unfit housing" (pôles départementaux de lutte contre l'habitat indigne) have been set up in certain departments.

No intervention plan can be limited to the State services and territorial authorities directly affected: the efficiency of the action in this domain, being difficult to attain, makes indispensable the organisation of partnerships extended to a multitude of actors: prosecutors and tribunals; police services; public moderate-rent housing (HLM) organisms; Family allowance Funds; Central

¹¹ <http://www2.logement.gouv.fr/actu/habitatindigne/default.htm>

Funds for Social Agricultural Mutuality; public, semi-public or private financing organisms (ANAH, Deposit and Consignment Fund (Caisse des dépôts et consignations), real-estate creditors, savings funds...); department-level agencies for information on housing (agences départementales pour l'information sur le logement – ADIL); operators of all status; associations for social insertion via housing, etc.

The organisation of local partners, often thanks to the collaboration of the DDE, the local ANAH and the DDASS, is an essential element in the carrying out of action plans. The association of social workers within departments is an important step to take. Social security organisms have proven to be very active partners.

3 Work methods

The accomplishment of ambitious actions in the struggle against unfit housing, and the efficiency of public action in this complex domain, require the establishment of work methods and the structuring of specific partnerships around identified common projects, namely by:

- a preliminary localisation of fragile zones and the populations affected by unfit housing;
- a coordination of State services concerned under the authority of prefects and the elaboration of a programme and the establishment of local work tools (which take different forms according to the departments);
- an effective response to unfit housing in the PDALPDs and local housing programmes;
- the localisation and treatment of unfit housing in programmed housing improvement operations (opérations programmées d'amélioration de l'habitat – OPAH) and other work operations;
- the elaboration of work conventions between the State and the municipalities or their syndicates in areas where unfit housing is particularly widespread, partnerships with different actors¹² in housing, health, social insertion and action, justice and the police, to fight against "poor dwellings" and those who exploit poverty, the "sleep merchants".

¹² Especially active are the social security organisms (Family Allowance Funds) and associations specialised in housing law, associative operators...

The fight against “unfit housing”: inadequate or dangerous housing and premises unsuited for housing legislative aspects

Public intervention to treat dwellings whose state exposes occupiers to risks or dangers for their safety or security is supported by specific texts with a coercive character. "Public intervention" refers to the direct power used by public authorities, namely mayors and prefects, to impose on owners the renovation (or demolition) of buildings when their state is such that public health or security issues are raised.

Public health and security are components of public order and are maintained, according to a long-standing distribution of powers, by mayors in the territory of local governments and by prefects in the territory of the whole department. In these domains, only mayors and prefects are the competent authorities.

"Administrative police" powers are carried out by individual notices drawn up after formalised procedures and are issued to owners and occupiers.

These notices are used for all types of owners.

This public intervention is distinct from the obligations that engage owners, notably in their contractual relations (the case of the obligation to lease a decent dwelling, for example) and in which public authorities cannot directly intervene.

However, an injunction addressed to an owner is imposed on him or her independently of his or her current contracts and in this case, the tenant benefits from specific rights.

We will schematically distinguish between policies for public security and those for public health.

The mayor disposes of what is called a "general" police power to maintain public order in his/her municipality. This is a "neighbourhood" police. In this capacity, the mayor exercises a basic health policy on dwellings to put an end to minor disorders. S/he also can use wide powers in cases of emergency.

When disorders are serious, specific laws allow mayors and prefects to exercise strong coercive powers. All relevant texts (all drawn up long ago) have been substantially modified and updated by the December 2000 ("SRU") law, supplemented in December 2005 by an ordinance.

1 Regarding public security (solidity of buildings)

Police power in this area belongs to the mayor who can act on buildings threatening collapse by notifying the owner of a "notice of unfitness (danger of collapse)".

The mayor can order the repair or demolition of walls, buildings or edifices of any kind (used for purposes including housing, agricultural, commercial, industrial...) when they threaten to collapse and constitute a public danger either for passers-by on the public thoroughfare or for anyone else, namely occupiers. According to the state of the danger presented by the building and the estimated urgency, the mayor can launch a procedure for the danger of "ordinary" or "imminent"

unfitness.

In the case of imminent danger, the mayor, after addressing a warning to the owner, appoints a judge, who must make an urgent decision, to nominate an expert to examine the building within 24 hours and propose urgent measures to bring an end to immediate danger if any is detected. The mayor then draws up a notice of imminent danger of collapse specifying the provisional measures to take within a given time limit. In the case of the owner's failure to do so, the mayor can order the measures to be enforced *ex officio* (automatically) at the owner's expense. The mayor can then evacuate the building.

A notice of imminent unfitness is normally followed by a notice of ordinary unfitness, after action has been taken against the risk.

Aside from the imminent danger, once the mayor has noted the nature of problems affecting the building, s/he informs the owner and asks him/her to hand in any observations by a fixed date. In the case of a lack of response from the owner or in the case of inaction, the mayor notifies him/her of a notice of unfitness. This notice prescribes the necessary renovations that must be executed within a time limit, failing which the mayor can have the works executed automatically at the expense of the owner. Demolition can be ordered if necessary.

When a residential building is the object of a notice of unfitness, the notice has the power to temporarily or permanently ban housing in this building, starting from a given effective date.

Once notification has been made of the notice of unfitness, whether of imminent or non-imminent nature of danger, empty habitations cannot be leased nor used for any other purposes. This prohibition ceases to be applicable when prescribed works have been executed (at which point a notice pronounces the cessation of the unfitness).

In all cases where a residential building used for rental housing is the object of a notice of unfitness, imminent or ordinary, occupiers¹³ have specific rights:

- the suspension of the lease (which forbids the owner from giving notice to the tenant) which resumes once the notice pronouncing the end of unfitness has been issued;
- the suspension of payment of any rent by the tenant until the issue of the notice pronouncing the end of unfitness;
- in the case of a temporary housing ban or when renovations render the dwelling uninhabitable, the owner is obliged to provide for the lodging of the occupiers at his/her expense;
- in the case of a permanent housing ban, the owner is obliged to provide, at his/her expense, for the definitive re-location of the occupiers in the time limit specified by the mayor's notice. The owner cannot request the expulsion of the occupiers if s/he has not offered any re-location, even if the time limit for the housing ban has been exceeded;
- when the owner fails to do so, the mayor is obliged to provide for the lodging or defini-

¹³ Only tenants are concerned here; owner-occupiers do not benefit from any re-location support.

tive re-location of the occupiers, at the expense of the owner¹⁴;

- in the case of a temporary housing ban, and after the execution of prescribed works, the occupier can by law re-occupy the dwelling and the owner must allow this occupier to resume the lease¹⁵ (the lease is valid and resumes its course). The return takes place within the conditions of the current lease; notably, the rent cannot be re-evaluated.

The law has introduced into the unfitness regime some criminal sanctions which did not previously exist. These relate to either situations in residential buildings or lodging situations, aiming to protect occupiers.

Note: the monitoring of buildings threatening collapse therefore is not limited to residential buildings. In practice, this procedure can be applied to various cases involving buildings of any type, often empty, in ruins...

2 Regarding Inadequacy (unhealthy) in buildings

The policing of Inadequacy (unhealthy) is carried out by prefects and is a power of the State. The instruction and follow-up of notices of inadequacy are carried out by the Department-level health and social affairs agency (direction départementale des affaires sanitaires et sociales – DDASS).

The procedures for inadequacy apply to all premises used in reality for housing purposes, whatever legal qualifications may apply to the premises in question, as soon as the usage of the premises for housing can be detected. Taken into account are all dwellings or residential buildings, whether leased or occupied by owners, whether vacant or not. Procedures are carried out by a notice from the prefect, following a formalised procedure that is codified according to the Code of Public Health. Several procedures can apply depending on the situations and here, we will only present the two most common procedures.

2.1 Premises by nature unfit for housing

Article L.133I- 22 of the Code of Public Health recalls that garrets, cellars, basements and unlit rooms, as well as all other premises by nature unfit for housing, cannot be used (at cost or for free) for housing purposes, without incurring the risk of criminal sanctions.

When a prefect is informed of such situations, particularly unacceptable ones, s/he draws up a notice prescribing that the owner (or the person concerned) put an end to the usage of these premises for housing purposes, within a given time limit. No formalism is attached to this injunction that describes a given situation.

The occupiers are protected under the same conditions as those in buildings with a notice of unfitness. This notice being a reminder of the ban on residing in these premises, the person who has placed the premises at the disposal of occupiers for housing is then responsible for the per-

¹⁴ Either the real cost of the lodging in the case of a temporary ban, either an indemnity for one year's rent in the new housing in the case of permanent re-location.

¹⁵ Nothing prevents the tenant from changing dwellings, but s/he must have given notice to the landlord.

manent re-location of the latter. If this person fails to carry out this responsibility, the prefect must then look after the permanent re-location of the occupiers, at the expense of the former. In such cases, according to the gravity of the situation, criminal legal action is often undertaken.

2.2 Inadequate (unhealthy) dwellings or residential buildings

Inadequacy associates the degradation of a building with negative effects on health. It is analysed case by case and after an inspection of the premises, by referring notably to a list of criteria. These criteria include: fissures in walls; the absence of air-tightness; significant humidity; the absence of ventilation, electricity, drinkable water or drainage system; dangerous networks; the risk of lead poisoning linked to the presence of lead in damaged paint, building disorders... A series of inadequacy evaluation criteria has been drawn up by the State (Ministries of Health and Housing) in the form of a grid to assess disorders that may affect a dwelling or residential building, as well as a tool to aid evaluation¹⁶.

Procedure is engaged by the report of the DDASS¹⁷, which concludes the state of inadequacy of the building in question. The report is then submitted by the prefect to an specialised administrative commission, the CoDERST¹⁸, which gives an opinion on the reality and the causes of inadequacy, as well as remedial measures, on the basis of which the prefect draws up a notice.

Previously, owners and occupiers were advised of this meeting and could, on demand, be heard by the Coderst (and be present if an inspection was carried out by Coderst); they were also advised that they could consult the report on inadequacy before the meeting.

Inadequacy can be qualified as remediable or irremediable, and legal effects are different in the two cases.

It is Coderst that makes this qualification on the basis of the elements in the report and a possible inspection of the premises.

2.2.1 Irremediable inadequacy

Inadequacy can be qualified as irremediable either because of the technical impossibility to remedy the inadequacy of a building, or because the cost of necessary work would be greater than the reconstruction of the same building. In this case, the prefect must pronounce a permanent housing ban specifying an effective date that cannot be fixed beyond one year. The prefect can prescribe all appropriate measures to gradually make the premises inaccessible during the evacuation and re-location of occupiers, and can enforce these measures *ex officio* (automatically). The prefect can also order a demolition if the state of the building justifies it.

¹⁶ Grid attached to the fiche on "Recognition of Unfit Housing".

¹⁷ Or by the director of the District Service for Hygiene and Health (Service communal d'hygiène et de santé – SCHS) where it exists, that is in 208 towns in France (for historic reasons).

¹⁸ Conseil départemental de l'environnement et des risques sanitaires et technologiques (Departmental Council for the Environment and Health and Technological Risks).

Except in the case of the prescription of demolition, nothing prevents the owner from carrying out significant renovation work as required by the state of the building, but the prefect cannot impose these renovation works on the owner.

In the case of irremediable inadequacy, occupiers¹⁹ are protected by the following provisions:

- continuation of the lease until the departure of occupiers (which forbids the owner from giving notice to the tenant);
- suspension of the payment of all rent by the occupiers until their departure;
- obligation for the owner to meet the expenses of the permanent re-location of the occupiers, within a time limit set by the prefect's notice. The owner cannot request the expulsion of the occupiers if s/he does not offer any re-location solution, even if the time limit for the ban on housing has been exceeded.
- when the owner fails to find a solution, the prefect must arrange for the permanent re-location of the occupiers, at the expense of the owner²⁰.

In situations where Coderst concludes the remediable nature of inadequacy, it specifies the necessary works; in conformity with this warning, the prefect draws up a notice prescribing the appropriate measures to take and the time limit for their execution.

The notice can pronounce a temporary housing ban. This ban ends on the date when a notice from the prefect lifts the previous notice of inadequacy, after verification that the prescribed works have been carried out in conformity with requirements.

If the prescribed measures have not been executed by the owner within the given time limit, the prefect can proceed, one month after giving an ultimatum to the owner, to carrying out the works automatically, at the expense of the owner.

2.2.2 Remediable inadequacy

In the case of remediable inadequacy, occupiers²¹ are protected by the following provisions:

- suspension of the lease (which forbids the owner from giving notice to the tenant) which resumes its course following the notice stating the execution of works putting an end to inadequacy;
- suspension of the payment of all rent by the occupiers until the issue of the notice stating the end of inadequacy;

¹⁹ Specifically tenants, as no measures are foreseen for occupier-owners. In practice, the declaration of irremediable inadequacy is avoided for the dwellings of owner-occupiers, except when putting in place complex operations to secure normal re-location of these inhabitants.

²⁰ Or to contribute to the re-location by paying an indemnity of one year's rent for the new dwelling.

²¹ Specifically tenants, as no measures are foreseen for owner-occupiers.

- when the owner fails to find a solution, the prefect must arrange for the lodging of occupiers, at the expense of the owner²²;
- in the case of a temporary housing ban, after execution of the prescribed works, the occupier has the right to re-occupy the dwelling and the owner is obliged to allow this²³ (the lease is valid and resumes its course). The return takes place under the conditions of the current lease; in particular, the rent cannot be re-evaluated.

Once the notice of inadequacy has been issued to owners, vacant premises cannot be leased or used for any purposes whatsoever.

Any actions taken by owners in contravention with the rights of occupiers can be the object of criminal sanctions.

Notes: the treatment of inadequacy is a State power (DDASS). However, mayors also hold the responsibility of following up notices of inadequacy: thus, they can automatically execute works and benefit from specific State grants to carry out this mission (including guarantees that their debt will not remain the responsibility of the municipality if the owner/debtor lacks means). Similarly, mayors can arrange for the lodging or re-location of occupiers, often as a result of a convention with the State or in the context of overall operations which necessarily include the treatment of inadequate buildings.

3 Specific provisions relating to the security and functioning of common utilities in collective residential buildings: established by a recent 2003 law.

Utilities in collective buildings such as electrical, gas, heating, ventilation, smoke removal, water distribution and drainage installations, various pipes and networks, lifts, as well as security systems and fire protection installations, are the object of a specific procedure when, as a result of a failure of the owner or the condominium, they manifest defective functioning or maintenance faults of a nature that creates serious risks for the security of occupiers or seriously compromises their living conditions. The mayor can prescribe necessary measures for defective utilities to be repaired or replaced, according to a procedure identical to that for buildings that threaten collapse. If prescribed measures are not carried out, the mayor can instigate their automatic execution at the expense of the owner or condominium.

4 The expropriation of inadequate or unfit buildings, permanently banned from housing.

As a supplement to these police, a particular text (the 1970 "Vivien" law, modified in 2006) allows, in certain conditions dispensatory to common law, the expropriation of building estates declared irremediably inadequate or buildings under a notice of collapse and permanently banned from housing. The objective is to facilitate public decontamination of affected buildings or blocks. The expropriation is declared as being of public utility by the prefect through a single notice which declares targeted buildings, sections of buildings, installations and land to be assignable, and

²² Namely the real cost of the housing, in the case of a temporary housing ban.

²³ Nothing stops the tenant from changing dwellings, but s/he must give notice to the landlord.

which fixes the amount of the provisional indemnity allocated to owners and the date at which possession can be taken after payment or consignment of the provisional indemnity. Finally, this notice mentions the offers of re-location compulsorily made to occupiers including owners.

The value of the buildings is estimated at the value of the undeveloped land, taking into account the improper nature of the expropriated housing premises and installations, after deductions are made for expenses arising from their demolition. However, this mode of estimation does not apply to owners who themselves occupied the buildings declared inadequate or served with a notice of unfitness, for at least two years before the notice. The indemnity paid to owners is moreover reduced by the amount of the expenses for re-location of occupiers arranged for by public authorities when the owner has not done so.

Financial plans and operational procedures for the treatment of unfit housing

This note describes the principal financial grants and specific provisions put in place by the Ministry of Housing and the National Agency for Housing (Agence Nationale de l'Habitat – ANAH) to treat unfit housing.

Effectively, though unfit housing is taken into account locally in programming documents relating to housing policies as well as in diverse operations undertaken by local authorities, the policy for combat against unfit housing is carried out at a national level by the Ministry of Housing and the ANAH, a public institution whose operation mode is described below.

The local carrying out of this national policy largely depends on the financial and operational means put in place at the central level, namely financing for the combat against unfit housing in the budget of the Ministry of Housing and in the budget of the ANAH.

1 The sources of financing dedicated to the treatment of unfit housing

1.1 Ministry of Housing

The missions of the general department for town planning, housing and building (Direction générale de l'urbanisme, de l'habitat et de la construction – DGUHC) include public intervention in private housing in an urban and social context, especially the treatment of unfit housing, in conjunction with other ministry departments (for example, the general department for health (direction générale de la santé – DGS)...). The DGUHC defines general objectives and financing available, carried out locally by local authorities, in liaison with State services (departmental public work agency (direction départementale de l'équipement – DDE); departmental health and social services agency (direction départementale des affaires sanitaires et sociales – DDASS)... and social organisms.

Schematically, financing corresponds:

- partially to direct benefits managed by local State services (the DDE in collaboration with the DDASS) and allowing:
 - the financing of certain actions and works relating to inadequacy;
 - the financing of certain actions and works relating to the risk of lead poisoning in the paint of old housing.

In these two cases, the direct benefits financed include: technical diagnostics, automatically works enforced ex officio, inspection of works, emergency temporary housing, accompaniment of families, occasional legal support...

- partially to grants to local authorities to allow them to carry out necessary actions in the fight against unfit housing, either in the context of operations on highly damaged isolated blocks, or in the treatment of diffuse situations, according to the procedure presented below.

1.2 ANAH – National Agency for Housing

What is the ANAH?

The ANAH is a national public institution created in 1971 to help private owners to finance rehabilitation works of their dwellings when these works fall within the priorities defined by the Agency.

The ANAH is administered by an administration council that includes State representatives (Ministry of Housing, Ministry of Finances), local authorities and representatives of owners, tenants, real-estate professionals, and qualified personalities.

The Agency's intervention budget is attributed annually by the State and the administrative council fixes objectives and means for local action.

This annual allocation allows the subsidising of an average of 150 000 private dwellings per year.

Firstly, the ANAH acts by attributing subsidies to private owners (see criteria below) for the carrying out of improvement works on their dwellings, on the condition that the dwellings be completed more than 15 years previously.

The ANAH also acts by concluding with all owner-landlords who desire a covenant²⁴ according to which the latter commit to respecting conditions relating to the upper limits of resources of tenants, the upper limits of rents and, as the case may be, the methods of selecting tenants in exchange for marked-up grants for a duration of either 6 or 9 years.

In each department, an ANAH delegation (at the headquarters of the DDE) is active in managing and instructing subsidy request dossiers.

Who is the public of the ANAH?

The ANAH has two principal types of "clients":

- private owner-landlords;
- owner-occupiers of modest means (who meet income conditions).

To decide on how subsidies are to be attributed, the priorities of the ANAH are the following:

- to treat unfit dwellings;
- to obtain rents with fixed upper limits ("regulated rents") from subsidised owner-landlords in exchange for marked-up subsidies;
- to put vacant dwellings back on the market;
- to transversally improve the quality of dwellings, notably in relation to energy economy, adaptations for the elderly or handicapped, safety and health of occupiers...

Subsidies for owner-landlords:

- subsidy rates (accorded in correlation with fixed upper-limit amounts on works) that vary, notably, in accordance with commitments undertaken by the landlords with re-

²⁴ See the fiche on "rental relationships".

- gard to rent; subsidy mark-ups are foreseen for works as a result of unfitnes;
- the landlord commits to producing a decent dwelling after the completion of works;
- apart from these subsidies, the ANAH has the capacity to contract with owner-landlords, that is, to offer them a financial advantage and/or tax benefit in exchange for a covenant providing they respect the upper-limit rent levels²⁵;

Subsidies for owner-occupiers:

- these owners must justify limited resources;
- limited subsidy rates apply to upper-limit amounts for works;
- subsidy rates are marked up for works carried out on "unfit" buildings;
- subsidy rates and the amount of subsidisable works are marked up within the perimeters of priority action.

The ANAH also subsidises condominiums according to priority programmes.

Finally, the ANAH subsidises local authorities to help them to set up overall operations (support for technical and social engineering) (see below).

The "virtues" of the ANAH

In short, the underlying philosophy of the ANAH is to offer subsidies to private owners and so encourage and maintain a certain quality of renovated dwellings.

An ANAH subsidy is not a given right: it is an option offered to an owner when his/her dossier meets at least one of the priorities of the Agency.

The support of the ANAH must therefore have a triggering effect for the carrying out of quality works.

Given the multiple tools that it offers to private owners as well as local authorities, the ANAH is therefore clearly an essential partner for local authorities who wish to carry out action in favour of the rehabilitation of private housing, in the context of local policies, especially in the programmed housing improvement projects described below.

2 Operational processes allowing the treatment of unfit housing²⁶

Here, we will schematically present the principal tools corresponding to the treatment of unfit housing:

- in isolated operational perimeters;
- "diffuse" unfit housing situations in rural or urban settings.

²⁵ See the fiche on "rental relationships".

²⁶ Relying on, according to the case, credit from the Ministry of Housing and the ANAH.

2.1. Private housing rehabilitation operations and elimination of inadequate housing in isolated operational perimeters

We will schematically present:

- programmed housing improvement operations (opérations programmées d'amélioration de l'habitat – OPAH);
- public operations for the elimination of inadequate housing (résorption de l'habitat insalubre – RHI).

2.1.1 Programmed housing improvement operations (*Opérations programmées d'amélioration de l'habitat – OPAH*)

The OPAH is a perimeter of priority action relating to the rehabilitation of private housing and the improvement of the context and living conditions of inhabitants (public facilities, services...). It is defined and conducted through a local initiative (municipality or grouping of municipalities).

The OPAH is an incentive and not a coercive operation: it does not impose any obligation on owners, but by the objectives and means in place, it encourages them to carry out works. In parallel, local authorities establish programmes for urban renovation works, services...

OPAHs can affect urban or rural zones. They are carried out at the initiative of municipality or grouping of municipalities. The ANAH is an essential financial actor.

The ANAH also intervenes in other "programmed" operations for housing rehabilitation, responding to technical, real-estate (eg. condominium) or social (eg. elderly) priorities, or to specifically treat unfit housing.

The OPAH is a work process that includes the following elements:

- a pre-operational study of the envisaged territory, allowing an analysis of housing and occupier problems in the affected district: physical state of dwellings, difficulties encountered by occupiers, measures to envisage to help improve their living conditions.
- Today, it is requested that localisation and the fixing of objectives for the treatment of unfit housing feature in the OPAHs. This study is subsidised by the ANAH and rates are marked up to take into account unfit housing. The quality of this study is an essential factor in the success of the operation.
- a covenant signed between the municipality (or grouping of municipalities), the ANAH, other financial partners (department, region...) and the State (although the latter no longer intervenes on a financial level). This convention defines the priorities and objectives of the 3 to 5 year duration of the OPAH, the perimeter of action, as well as the financial means that each partner brings. The priorities and objectives deal in particular with the number and quality of dwellings to treat, rental or non-rental, as well as unfit dwellings, rent levels, financial commitments of the ANAH and municipality.
- the establishment, for the duration of the OPAH, of an organisational or operational

team²⁷ in order to facilitate the carrying out of the defined programme. The financing of this team is the object of an ANAH grant whose rate is marked for the treatment of unfit housing.

OPAHs do not deal exclusively with inadequate dwellings, but today, these are a systematic priority in this procedure.

2.1.2 Public operations for the elimination of inadequate housing

These are operations carried out by local initiative (municipalities or their groupings) whose objective is to treat buildings that are the object of a notice of irremediable inadequacy or a notice of unfitness, along with a permanent housing ban and a declared acquisition for public interests, often accompanied by expropriation, with the aim of producing social rental dwellings through demolition and reconstruction or treatment of buildings.

The expropriation of such buildings is carried out in conditions dispensatory to the common law, related to the fact that the state of these buildings renders them improper for housing. For the same reason, the value of these buildings is estimated according to the value of their land alone (without constructions).

Occupiers including owner-occupiers, when the state of these dwellings is such that expropriation is compulsory, are re-located by local authorities (either in the district or in the reconstructed dwellings following works).

These operations concern blocks where all buildings are in such a state of degradation that an operation of demolition or heavy restructuring must be carried out on the total block or else on buildings identified as extremely damaged, declared as inadequate or uninhabitable, that must be expropriated and treated individually. Such buildings are inhabited in unfit conditions; they are often rental buildings leased at high rents.

The State accords a subsidy on average 80 % applicable:

- on the one hand, to a pre-operational study of the whole of the operation;
- on the other hand, to the property deficit of the global operation (acquisitions, demolitions, re-location, social accompaniment, diverse expenses... excluding the costs of construction of social rental housing which are also financed).

These operations are as much social in character, as technical and urban, and the quality of the re-location plan is an essential element.

Given their complexity, these operations are generally carried out by an operational team, financed for each operation.

²⁷ See annex fiche on the OPAH.
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2.2 The treatment of unfit housing in "diffuse" sectors (other than specific perimeters of action such as OPAH)/ inadequacy MOUS

Public action for the rehabilitation of private buildings is not limited to the OPAH and "programmed" operations. The ANAH also distributes subsidies to owners in diffuse sectors, and has foreseen in its action priorities the treatment of unfit dwellings which are often dispersed in the rural sector as well as the urban one.

Intervening on this unfit housing thus assumes the completion of a preliminary localisation of addresses and a precise diagnostic of identified situations, before undertaking the necessary technical, social, financial and administrative measures. Populations living in these unfit conditions, whether tenants or above all owner-occupiers, very modest in means, complain rarely – almost never in rural settings. If we desire to see action, it is necessary to inspect premises and not to wait for dossiers to come in spontaneously. Social work is thus a preliminary and continuing step in the whole process.

For these reasons, teams dedicated to this particular action, called "urban and social work management" (maîtrise d'œuvre urbaine et sociale – MOUS) have been set up locally, notably at the request of local district or departmental authorities.

The "inadequacy MOUS" is a technical and social engineering structure that aims to treat, through a specialised team, this diffuse inadequacy. It is carried out by a team that brings together technical, social and financial capacities, recruited on the public market; these professional teams are either private research units or specialised associations.

The missions include (according to local needs and the types of dossiers to treat):

- a phase for the identification of dwellings to treat, or precarious housing situations;
- a phase for social, technical and legal diagnostics, revealing the social and economic situations of the owners and occupiers of the dwellings to treat, the hygienic and technical state of the building, constituting the basis of a study of technical-financial feasibility, the analysis of the ownership situation, the status of the occupiers and owners...;
- a phase for mediation and consultation with the owners or occupiers;
- a phase for administrative and financial setting up;
- eventually social accompaniment for the owners and/ or occupiers;
- everything related to the legal protection of the occupiers (rights...);
- eventually the search for temporary re-location during the works, sometimes for permanent re-location (overcrowding, permanent housing ban...);
- follow-up of works;
- preparation, if necessary, of a notice of inadequacy, if the negotiation phase is unsuccessful.

Programmed housing improvement operations (operations programmées d'amélioration de L'habitat – OPAH) A tool at the disposal of local authorities

Note: This note supplements Note n° 7 that exposes the grand principles of the OPAH.

The great majority of owner-occupiers in France is made up of small owners who possess 1 or 2 dwellings, widely dispersed on the territory and unfamiliar with the technical, administrative and financial issues of rehabilitation. One of the great difficulties is thus to mobilise these owners to carry out sufficient works as well as quality works. To resolve this difficulty, operational plans have been put in place since 1977: the following develops the presentation of the most typical plan amongst the existing operational tools: the programmed housing improvement operations (Opérations programmées d'amélioration de l'habitat – OPAH). Only the OPAH are presented here. However, there exist other types of comparable operations where the ANAH also intervenes, dealing with the rehabilitation of housing and responding to specific social objectives on a territory (the elderly), technical objectives, or real-estate ones (condominiums), or specifically to treat unfit housing.

An OPAH is a perimeter of priority action for the rehabilitation of private housing and the improvement of the living environment and conditions of inhabitants (public facilities, services...).

OPAHs can operate in urban or rural zones. They are instigated by local districts or their groups, and carried out by them, with the support of the ANAH.

1 Who can set up an OPAH? How?

A local district or grouping of districts that notes apparent degradation in the quality of housing in certain areas can decide to launch an OPAH.

Strictly speaking, the OPAH is preceded by what is termed a "pre-operational study", carried out by a private research unit commissioned by the local district (or grouping). This study lasting one year allows for the analysis of housing and environmental problems in the area in question: the physical state of dwellings, difficulties encountered by occupiers, measures to envisage to help them to improve their living conditions.

From this study, a convention is signed between the district (or grouping of districts), the ANAH and other financial partners (department, region...).

This convention defines priorities and objectives for the 3 to 5 year duration of the OPAH, the perimeter of action, as well as the financial means that each partner brings. The priorities and objectives deal in particular with the number and quality of dwellings to treat, rental or non-rental, as well as unfit dwellings and rent levels in exchange for marked-up grants (to maintain offers that are social in nature). A working or operational team²⁸ is established for the duration of the OPAH to facilitate the carrying out of the defined programme.

²⁸ See annex fiche on the OPAH.
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2 "Virtues" of an OPAH

The OPAH is an INCENTIVE and not COERCIVE operation. Its object is not to modify the ownership of buildings which remains largely private. It thus allows the treatment of situations of degradation of "ordinary" buildings. However, in difficult cases (large presence of unfit housing and "sleep merchants" for example), coercive operational tools can be put in place to supplement the OPAH.

Today, it is requested that the localisation and establishment of objectives for the treatment of unfit housing feature in the OPAHs.

OPAHs allow the establishment of conditions tending to favour the action of owners in the following ways:

- by the accumulation of grants from different partners;
- by the establishment of an "organisational team" whose role is fundamental.

What are the "organisational teams"? They are teams made up of rehabilitation professionals: architects, engineers, economists, possibly reinforced by social workers, whose essential role is to introduce themselves to owners likely to undertake works, in order to encourage and help them to programme and carry out these works.

The "organisational team" is therefore permanently present throughout the duration of the OPAH in the perimeter in question and is at the disposal of private owners.

In a country like France which has a high rate of small owners, the action of contact, and the technical, administrative and financial help provided by the "working groups", are excellent means for convincing these owners to improve their dwellings in positive conditions, by making "good choices" and by benefiting from grants.

Campaigning is carried out at the start of an OPAH so that all know that they can consult this team free of charge and where to find it. The work of the organisational team is paid by the local government authority at the initiative of the OPAH. The ANAH subsidises this local authority to pay for this engineering mission.

Example: an owner-occupier of modest means makes contact with the working team: he will receive help, at no personal expense, to define a renovation programme, technical priorities, technical "good choices" – for example, a highly fuel-efficient water heater. The team will also help him to find labourers and provide him with information on grants/subsidies, tax benefits, loans for which he is eligible. Aid will also be provided for his compilation of a dossier to request subsidies, and if necessary, for his request for town planning permission corresponding to the works.

Example: when a pre-operational study reveals a high percentage of vacant dwellings, once the OPAH is undertaken, the organisational team will make contact with the owners of these dwellings to encourage them to place their dwellings back on the rental market after completing corresponding works, by informing them of grants to which they have a right, tax benefits that correspond with the rents they will accept to fix, etc.

Example: when a pre-operational study reveals a high percentage of unfit housing, namely rental,

the organisational team will make contact with the owners in question and with the occupiers, reminding each of his/her rights, and attempt to urge landlords to undertake necessary inadequacy and security works to bring the dwellings up to the norms. The team will help the landlords to define the works to be carried out, to compile their dossiers, to urge them to regulate the rent so that occupiers of modest means can stay in the dwellings after the works. It can provide social accompaniment of the occupiers if necessary. If the owner does not want to carry out the works, the team will prepare a dossier so that the public authorities can issue a notice imposing the works on the owner with legal consequences²⁹.

3 Results of the OPAHs

OPAHs constitutes the sector of intervention where public action is the most readable and efficient, through acquired knowledge thanks to the "pre-operational studies", through the concentration of means, and through essential actions of "organisational teams" working with owners.

On average, 700 "programmed operations", mainly OPAHs, are permanently "alive" on national territory, with a regular renewal of cases as the length of OPAHs is limited to 5 years. OPAHs do not exclusively treat inadequate dwellings, but these are evidently a priority of this procedure.

²⁹ See fiche on "Legal aspects".

Rental relationships in private³⁰ dwellings in French law

Principal technical norms applicable to leased dwellings

The leasing of unfurnished dwellings used as principal residences to natural persons is regulated by the 6 July 1989 law modified several times, notably in 2000 and 2006. This law sets out public order provisions that parties cannot dispense with: the common law on rental relationships supplements the civil code provisions.

1. Objectives:

- to maintain homogeneity in rental contracts by establishing rights and obligations for the most vulnerable subjects: length of the lease, renewal, end of the lease and recovery of the dwelling by the landlord, fixing of rents and rent increases, state of the rented dwelling;
- to guarantee the protection of the tenant, often the weaker party due to the shortage of dwellings in certain large agglomerations;
- to prevent the lease of "hovels" under non-usual conditions;
- to hold the stability and minimal profitability of premises leased by owners, thanks to the freedom of rent-fixing.

1.1 Length of the lease

The rental contract is concluded for a minimum period of 3 years if the landlord is a natural person and 6 years if he is a legal entity.

1.2 State of the dwelling

The landlord is under an obligation to lease a dwelling in a good state of use and repair, with facilities in a good functioning state, to maintain the premises so that they can be used for the purposes as foreseen by the contract. This obligation has been reinforced by the 2000 "SRU" law that specifies that the dwelling must be "decent" and manifest technical characteristics specified by a 2002 decree.

The law foresees the means of recourse that tenant can take against the owner-landlord to contest the decency of the dwelling (recourse before a conciliation commission and before a judge). If the judge recognises the non-decency of the dwelling, s/he can prescribe necessary works, suspend rental payments or reduce the amount of rent.

A vacant dwelling declared inadequate or under a notice of unfitness cannot be leased.

Finally, gradually applicable in stages, technical reports relating to the presence of certain materials or relating to energy consumption of the dwelling must be provided by landlords for new rentals.

³⁰ The social institutional sector (HLM) has a specific rental regime which will not be presented here.

a. Renewal of a lease

- The tenant has a right to renew the lease explicitly or tacitly.
- The tenant must give notice to vacate the dwelling (normally 3 months).
- The landlord can, in certain well-defined cases, give notice to the tenant at the end of a lease: recovery of premises for personal residential purposes (for him/herself or for his/her family), notice of sale of the premises, notice for other legitimate and serious reasons.
- If the owner wishes to sell the dwelling, the tenant is the priority beneficiary of the sales offer and the notice is equivalent to a sales offer to the tenant.
- The law expressly foresees as a legitimate and serious motive for notice, the lack of execution by the tenant of one of his/her obligations. Other cases of legitimate and serious motives: demolition, important renovation works requiring the vacation of the premises.
- Under special protection are elderly persons with modest annual incomes who have the right to re-location. The absence, in the notice, of motive or of the name or address of the beneficiary of the recovery is sanctioned by the nullity of the notice.
- The notification of notice should be made by the landlord 6 months before the end of the lease by recorded mail.

2. Fixing rental sums

The principle is for freedom at the initial rental. During the length of the lease, the amount of rent cannot be modified: if it is indexed according to a public index (calculated for this purpose), it can only evolve in conformity with this index.

When the lease is renewed, if the rent is "significantly under-valued", the landlord can re-evaluate this rent by referring to the rents habitually fixed in the neighbourhood for comparable dwellings, under the conditions strictly defined by law. In case of disagreement, the matter can be brought before the conciliation commission by one or other of the parties; failing the recording of an agreement by the commission, the matter will be referred to a judge.

2.1 Regulated private housing³¹²

Private landlords can commit to respect fixed upper limits in rental sums, analogous to rental sums in social housing, open to tenants submitted to fixed upper limits in resources; the landlords then sign a convention with the ANAH for a maximal period of 9 years.

This mechanism is open to landlords who benefit from ANAH grants to carry out improvement works on dwellings which they lease, and the rate of the grant is regulated according to the degree of "social" commitment taken, that is, the level of rent regulation to which they commit. Since 2006, this mechanism has also been open to owners who do not carry out works but who commit to regulate their rents via covenants with the ANAH; these owners thus benefit from a beneficial tax regime.

³¹ There also exists a tax incentive regime for rental investment in new dwellings or dwellings subject to significant renovation, which will not be covered here.

In these two cases, in exchange for his/her commitments, the owner-landlord benefits from a specific deduction in land tax (imposed on income), 30 % or 45 % depending on the level of rent practised.

2.2 Furnished rentals and other forms of "lodging"

Furnished rental is unregulated and subject only to the provisions of the contract, according to the rules in the civil code. However, a 2005 law now reinforces the protection of the tenant: the tenant whose main residence is in a furnished dwelling benefits automatically from a renewable one-year lease; notice can only be given three months before the end of the lease, and for a "legitimate and serious" motive.

Moreover, since the 2000 "SRU" law, this type of dwelling must also be decent, with the same legal consequences as an unfurnished rented dwelling.

3. Supplements relating to certain technical norms

3.1 Decency of the dwelling (defined by the 30 January 2002 decree)

To be decent, a dwelling must:

- satisfy the following conditions, with regard to the physical safety and health of tenants:
 - Maintain closing and covering: good state of maintenance and solidity of the structure, covering and exterior joinery, protection against water leakages;
 - Good state of windows, stairs, loggias and balconies...;
 - The nature and state of preservation and maintenance of construction materials, drains and surfaces should not present any manifest risks for the health and physical safety of tenants;
 - Networks and wiring for electricity, gas, heating and production of hot water should conform with security norms and be in a good state of use and functioning;
 - Presence and correct functioning of elements for opening and ventilation of the dwelling;
 - Natural light allowing air to flow freely in main rooms.

- configuration of the premises: at least one main room with either a living surface equal to at least 9 square metres and a ceiling height of at least 2.2 metres, or a living volume equal to at least 20 cubic metres.

- contain the following facilities and elements of comfort:
 - fittings for a normal heater;
 - fittings for the flow of drinkable water;
 - fittings for the evacuation of household water;
 - a kitchen or kitchen corner, equipped so as to be able to hold a cooking apparatus, including a sink with installations supplying hot and cold water, and fittings for the evacuation of used water;
 - a sanitary installation inside the dwelling including a toilet, a bath or shower, sup-

plied with hot and cold water and fitted for the evacuation of used water. For a one-room dwelling, it may be acceptable for there to be an outside toilet on condition that it is easily accessible;

- an electric network allowing sufficient lighting in all rooms and entrances, as well as the functioning of common household devices.

3.2 Technical diagnostics accompanying the lease³²

Technical obligations imposed on all landlords (private or public) have significantly increased since 2004. They notably include:

- "Energy performance" diagnostic: this must compulsorily be established in the case of an occupancy transfer in the dwelling since 1 November 2006. It is now also compulsory for rental leases signed or renewed from 1 July 2007 onwards. It applies to all owners in the private or public sector. This diagnostic of energy performance should be annexed to the lease during its signature or renewal.

The diagnostic aims to compare and estimate the energy performance of the dwelling, and indicates, depending on the case:

- either the quantity of energy actually consumed (on the basis of energy consumption statements);
- or the estimated quantity of energy for a standardised usage of the building or dwelling.

The dwelling (or building) is classified by an "energy" label situating it on an evaluation grid classifying buildings according to their energy performance and by a second label indicating greenhouse gas emissions linked with actual or estimated energy consumption.

The diagnostic is accompanied by recommendations aimed at improving this performance.

- Report on the presence of lead in the premises (except for pipes): The report for risk exposure to lead³³ CREP has the task of detecting in housing any fittings containing lead and, if necessary, draws up a report summarising the factors of degradation in the building. A fitting is deemed to contain lead if the surface concentration of lead, measured with the aid of a portable fluorescent ray device, is superior or equal to 1 mg per cm².

This report³⁴ should be provided by the landlord to the tenant in the case of the lease of a dwelling (in a building constructed before 1949) for new rental contracts from 12 August 2008 onwards.

³² Here, we will not deal with diagnostics or works necessary due in case of change of ownership (asbestos, termites and other xylophages insects...) but rather focus on those necessary due to lease requirements.

³³ Constat de risque d'exposition au plomb CREP

³⁴ This report should also be produced during the execution of certain works related to common areas in collective buildings used for residential purposes and constructed before 1949; in the absence of works, by 12 August 2008 at the latest, the common areas of collective buildings partially or completely affected and constructed before 1949, should be subject to a report. The report can also be demanded in the case of a property sale.

References

Institutional Framework Laws (recent)

Law n° 2004-809 from 13 August 2004, relating to local freedoms and responsibilities (notably for the distribution of powers, notably in the area of housing).

Law n° 2005-32 from 18 January 2005, law on programming for social cohesion.

Legislative Texts, relating to the policing of inadequate or dangerous buildings³⁵

Inadequacy: articles L.1331-22 to L.1331-30 in the Public Health Code.

Danger : articles L.511-1 to L.511-6 of the Construction and Housing Code.

Rights of occupiers and re-location: articles L.521-1 to L.521-3-2 of the Construction and Housing Code.

All texts from law n° 2000-1208 from 13 December 2000 relating to urban solidarity and renewal (solidarité et renouvellement urbains), called the "SRU", modified by ordinance n° 2005-1566 from 15 December 2005 and by law n° 2006-872 from 13 July 2006 on national commitment to housing (engagement national pour le logement), called the "ENL".

Expropriation from inadequate buildings and buildings threatening collapse: law n° 70-612 from 10 July 1970, for the facilitation of the elimination of inadequate housing, modified by ordinance n° 2005-1566 from 15 December 2005 and by law n° 2006-872 from 13 July 2006 on national commitment to housing.

Housing for the Vulnerable

Law n° 90-449 from 31 May 1990, modified, targeted at the accomplishment of housing rights.

Law n° 98-657 from 29 July 1998, orientation law relating to the combat against exclusion.

Law n° 2006-872 from 13 July 2006 on national commitment to housing.

Law n° 2007-290 from 5 March 2007 establishing the right to opposable housing and diverse measures in favour of social cohesion.

Rental Law

Law n° 89-462 from 6 July 1989, modified, targeting the improvement of rental relationships and modifying law n° 86-1290 from 23 December 1986.

³⁵ Other than specific texts on lead poisoning.
27-28 September 2007

Decree n° 2002-120 from 30 January 2002, relating to the characteristics of decent housing for the application of article 187 of law n° 2000-1208 from 13 December 2000 relating to urban solidarity and renewal.

Circulars³⁶

National circular 2002-30/UHC/IUH4/ from 18 April 2002 relating to the combat against unfit housing.

National circular 2002-/UHC/IUH4/ from 2 May 2002 relating to the application of the provisions of the "SRU" law concerning inadequate housing.

National circular 2002-68/UHC/IUH4/26 from 8 November 2002 relating to programmed housing improvement operations and general interest programmes.

National circular 2003-293/DGS/DGUHC/SD7c/IUH4 from 23 June 2003 relating to the availability of a new evaluation grid on the state of buildings likely to be declared inadequate. Grid attached.

National circular 2003-31/UHC/IUH4/8 from 5 May 2003 relating to the application and financing of operations for the gradual elimination of remediable inadequate housing. Financial annex.

National instruction 1-2003-03 from 31 March 2003 relating to dossiers on the exit from inadequacy or danger of occupied or vacant buildings or dwellings.

Evaluation grid and document for estimation of works attached.

Bibliography

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³⁶ Principal circulars (excluding specific texts on lead poisoning).

Studies and reports

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The acts of the national day for exchange on 1 October 2004 on the theme of "furnished hostels".

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Other publications

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*Abbé Pierre Foundation*³⁸

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³⁷ See web site: <http://www.anah.fr>

³⁸ Available by request from the Abbé Pierre Foundation: <http://www.fondation-abbe-pierre.fr>.

Table of main acronyms used

ANAH

Agence nationale de l'habitat
(National Agency for Housing)

ANIL

Agence nationale d'information pour le
logement (National Agency for Information
on Housing)

ADIL

Agence départementale d'information pour le logement
(Departmental Agency for Information on Housing)

ANRU

Agence nationale de rénovation urbaine
(National Agency for Urban Renewal)

CAF

Caisse d'allocations familiales
(Family Allowance Fund – social security organism)

CoDERST

Conseil départemental de l'environnement et des risques sanitaires et technologiques
(Departmental Council for the Environment and Health and Technological Risks)

CREP

Constat de risque d'exposition au plomb
(Report for Risk Exposure to Lead)

DDASS

Direction départementale des affaires sanitaires et sociales
(Departmental Health and Social Services Agency – ministry in charge of health)

DDE

Direction départementale de l'équipement
(Departmental Public Work Agency – ministry in charge of housing)

DGUHC

Direction générale de l'urbanisme, de l'habitat et de la construction
(General Directorate for Town Planning, Housing and Building – ministry in charge of housing)

DGS

Direction générale de la santé
(General Directorate for Health – ministry in charge of health)

DGAS

Direction générale de l'action sociale

(General Directorate for Social Services – ministry in charge of housing and ministry in charge of social affairs)

Filocom

(Tax file for local rates on developed property and housing, basis for the evaluation of the PPPI.

Cited in the article relating to the department of Charente.)

FSL

Fond de solidarité logement

(Housing Solidarity Fund – a financial tool of the PDALPD)

HLM

Habitations à loyers modérés

Regulated-rent housing – social public rental housing)

GIP

Groupement d'intérêt public

(Public Interest Grouping – a legal structure for the association of public partners to carry out a common project. Cited in the article relating to the department of Charente.)

MOUS

Maîtrise d'œuvre urbaine et sociale

(Urban and Social Work Management – a technical-social operator)

MSA

Caisse de mutualité sociale agricole

(Social Agricultural Mutuality Fund – a social security organism for professions linked to agriculture)

OMS/WHO

Organisation Mondiale de la Santé/ World Health Organization

OPAH

Opération programmée d'amélioration de l'habitat

(Programmed housing improvement operation)

PACT ou PACT-ARIM

(a professional operator, associative in character, specialised in the treatment of private housing)

PIG

Programme d'intérêt général

(General interest programme)

PNAI

Programme national pour l'inclusion

(National Programme for Inclusion – a community programme encouraging the cooperation between member States in order to combat social exclusion/open coordination of social protection

and inclusion policies)

PPPI

Parc Privé Potentiellement Indigne

(Potentially unfit private stock – global evaluation of inadequate dwellings on the basis of tax)

PDALPD

Plan départemental d'action pour le logement des personnes défavorisées

(Departmental action plan in favour of housing for vulnerable households)

PLH

Programme local de l'habitat

(Local housing programme)

RHI

Opération publique de résorption de l'habitat insalubre irrémédiable

(Public operation for the gradual elimination of irremediably inadequate housing)

SCHS

Service communal d'hygiène et de santé

(Municipal service for hygiene and health)

SEM

Société d'économie mixte

(Mixed economy society – the SAIEM cited in the article on the department of the Var is an SEM)