

Administrative Instructions for the Management of Social housing

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INTRODUCTION: General Instructions

§ 1 Scope

- (1) This administrative instruction is framed under the Article 16 (10) of the Law on Social and Affordable Housing (**DETAILS**).
- (2) As per the Law, the instruction shall apply to determine:
 - a. the management of the stock of social housing units (PART I),
 - b. the criteria for setting the non-profit rent and the value of the rent (PART II),
 - c. the procedures for collecting and managing the rent (PART IV),
 - d. the procedures for subsidizing the non-profit rent (PART V), and
 - e. the procedures for subsidizing private rental housing units (PART VI).
- (3) The instruction shall also apply if:
 - a. its application is prescribed or assumed in other legal provisions.
 - b. the application of any predecessor of this Administrative Instruction (AI) or an equivalent AI under a predecessor of the Law is prescribed or assumed in other legal provisions, unless prescribed differently.

§ 2 Authority

WORKSHOP CLARIFICATION REQUIRED

- (1) For the purposes of this Instruction, the support-approving authority (or simply “authority”) is the public body competent to approve public financial support for the housing project.

For this purpose, support shall include:

- a. capital subsidies for the development of new or for the modernization of social housing;
- b. related tax privileges;
- c. related rent subsidies, covering the gap between the net non-profit rent and the assumed-affordable payment by the household for the deemed adequate dwelling unit size, as per **TBD and** the Regulation on Adequate Dwelling Unit Size; and
- d. other subsidies or other support, for example for operation and maintenance.

Where multiple public bodies provide support, one body shall be designated as the authority. If no authority has been designated, the authority shall be the higher-level body or, where the level is the same, the body providing the larger financial contribution (measured by the net present value of the expected contribution over time).

- (2) For the purposes of this Regulation, the project owner be the entity — such as a municipality, a publicly owned enterprise, a faith-based or non-profit entity, or a private, social, or limited-profit enterprise — owning the social housing project.

PART I: The Management of The Stock of Social Housing Units

§ 3 Scope of PART I

- (1) This PART I shall apply to determine the management of the stock of social housing units.
 - a. what about the content of the rental contract — cf. AI 18/2010?

§ 4 Required, Permitted, and Prohibited Actions

- (1) The project owner shall have the power and shall be obligated to manage the social housing project(s) as determined by this Instruction.
- (2) The project owner shall:
 - a. Plan and develop new social housing projects, subject to:
 - i. Ensuring that the location of the housing project is adequate, as indicated by the Law, and ensuring the connectivity and accessibility to social (e.g., health and education, cultural and recreational) as well as economic (e.g., employment) opportunities that contribute to (enable) the primary human right to an adequate standard of living, under which the secondary human right to adequate housing is subordinated. This requires that the location of the social housing project is near (i.e. within walkable distance) of such opportunities, or be connected via public transport that is available with reasonable service (frequency and operation hours) and cost. This information shall be determined by the project owner and a justification be included in any social housing project proposal.
 - ii. minimizing the non-profit rent, as determined in PART II of this Instruction, while ensuring adequacy (accessibility, connectivity, livability, sustainability and resilience), and mobilize funding, including from concessional sources.

To mobilize adequate projects, project owners may select the project option with the deemed-preferred combination of location, affordability and other performance parameters amongst:

1. Improving existing (sub-standard) housing projects, to make them (more) adequate.
 2. Densifying existing housing and non-housing projects, to add additional social housing units and/or expand the social housing residential floor area.
 3. Reusing and/or adapting non-residential buildings.
 4. Developing new projects at new locations, including:
 - a. urban infill projects at suitable (relatively) central locations, and
 - b. urban expansion projects at suitable (relatively well connected and accessible peripheral) locations
 5. Other options deemed suitable.
- b. Allocate existing and new social housing units to tenants that are eligible in accordance with the Law and its subordinated acts. This entails the obligation to:
 - i. minimize vacancy, not precluding vacancy deemed necessary for reasonable maintenance and repairs.
 - ii. regularly, as may be prescribed by the Law or elsewhere, reassess the tenant household regarding the adequate dwelling unit size and the deemed-affordable rent, and — as may be deemed suitable by the project owner or rent-subsidizing entity — reallocate dwelling units and adjust the rent to be collected from the household.

- c. Conclude a rental contract with tenants, subject to:
 - i. Tenant eligibility and unit allocation, as may be regulated elsewhere. (AIs on beneficiaries)
 - ii. Unit suitability, as per the Regulation on Adequate Dwelling Unit Size.
 - iii. The details of that rental contract shall comply with the legal requirements, as may be regulated elsewhere. In the absence of more recent regulations, the rental contract should, mutatis mutandis, follow the specifications of AI 18/2010.
- d. Collect the non-profit rent, as determined in PART II of this Instruction, first from the tenants (up to the deemed affordable level), and second from other sources (covering the gap between affordable level and non-profit rent).

Where the dwelling unit is larger than the maximum of the adequate range, as per the Regulation on Adequate Dwelling Unit Size, the rent for the excess area shall not be subsidized but be borne by the occupying household alone.

- e. Maintain and repair the property, including common areas, to guarantee the assumed service life, as determined in PART II of this Instruction,
 - f. Modernize and invest into the property to, inter alia, improve access to adequate housing (as a means to an adequate standard of living), and enhance the environmental performance (e.g., energy efficiency) and economic performance (e.g., affordability of the gross rent, including (i) the net non-profit rent and (ii) eligible additional charges, as determined in PART II of this Instruction, as well as (iii) tenants' other own costs, such as for individual heating and energy contracts) of the property.
 - g. Operate the private and common areas of the property adequately, to ensure public health and safety, and recover any eligible expense (e.g., for related service contracts) in addition to the net non-profit rent, as determined in PART II of this Instruction.
 - h. Always enforce the lease contract upon all tenants and, in case of violations, take appropriate actions. In case of severe violations, such as violence or drug trafficking (confirmed by the police or by the judicial system), or deliberate non-payment of the rent to be collected from the tenant household, the lease may be terminated, and the tenant to be evicted. To be discussed
 - i. Monitor the housing project as determined in the Regulation on Monitoring Social Housing.
 - j. Where a social housing project nears the end of its determined service life — or risks being demolished for other reasons — within the next five years, the project owner shall develop a feasible strategy for replacing the housing stock in situ or near situ or at another adequate location to accommodate (at least the) existing tenants, and take necessary actions to realize the strategy in a manner timely to ensure access to adequate housing for the tenants.
- (2) The project owner may:
- a. Privatize social housing projects or units, subject to compensation pursuant to § 32, and as may be prescribed elsewhere. To be discussed.
- (3) The project owner must not:
- a. —
- (4) The tenants should be allowed to participate in the building management. Unless details are regulated elsewhere, the provisions of the Law on Condominium Housing shall apply, mutatis mutandis.
- (5) Municipalities should:
- a. Invest in improvements of the habitat (neighborhood) of social housing projects (e.g., in social amenities, open spaces, public and non-motorized transportation) to enhance affordable access to social and economic opportunities of tenants and to make the social housing project itself attractive for mixed-income.

PART II: Financial Feasibility Analysis for Determining the Net Non-Profit Rent

§ 5 Scope of PART II

- (1) This Part of the Instruction shall apply to determine, inter alia:
 - a. calculating the financial feasibility, cost burden, residential floor area, full cost rent, or reasonable purchase price for social housing.
- (2) It shall also serve as the basis for a digital management system to be developed.

Section 1: Introduction and Structure of the Financial Feasibility Analysis

§ 6 Subject of the calculation

- (1) The financial feasibility of a housing project shall be determined by comparing the annual expenses and annual revenues attributable to a defined unit of analysis that contains the social housing.

§ 7 Unit of analysis

- (1) The unit of analysis shall be defined in an objective manner to ensure the transparent and accountable allocation of expenses and revenues attributable to social housing, without prejudice to cross-subsidization (e.g., from for-profit housing, commercial floor area).
- (2) The unit of analysis shall consist of either
 - a. a **single building** containing social housing (residential space); or
 - b. an **ensemble of buildings** containing such housing (space).Regarding b:
 - i. To be eligible for assessment as an ensemble, the buildings shall belong to the same owner, be in close physical proximity to each other, and their development was, or for the purpose of the calculation, is treated as being based on a single financing plan. Any support-approving authority may prescribe a single or multiple financing plan(s).
 - ii. The developer shall propose whether a housing project is based on a single building or an ensemble of buildings and whether a single financing plan applies. In the case of **publicly supported housing**, the approving authority may confirm, modify, or reject the proposed unit of analysis (the financing plan) and may make the granting of public support conditional upon such determination.
- (3) The unit of analysis shall always include:
 - a. the building or (ensemble of) buildings;
 - b. the underlying land, functionally associated with letter a; and
 - c. all auxiliary buildings, facilities, infrastructure, landscaping, equipment, and other improvements to the land, associated with letters a and b.Regarding b:

The land included in the unit of analysis shall comprise built-up and undeveloped areas, including all associated land rights and obligations. Any support-approving authority may prescribe a minimum or maximum land size per project.
- (4) If a unit of analysis has been divided (or is intended to be divided) into multiple parts, or if two or more units have been amalgamated (or are intended to be amalgamated) into one or multiple new units of analysis, the financial feasibility analysis is to be carried out for the new unit(s).
- (5) Where individual ownership is established or intended, key metrics (such as expenses, revenues, rents, or prices) shall be determined for each (category of) individual dwelling units. In publicly supported housing, any deviation requires approval by the support-approving authority.

§ 8 Form of the Analysis

- (1) Spaces not intended to be rented or otherwise generate operating revenues shall be excluded from the unit of analysis wherever this is reasonably possible. Where such exclusion is not feasible due to structural or legal constraints, the support-approving authority may require the use of imputed revenues to neutralize cost allocation effects.
- (2) If a unit of analysis includes other space(s) in addition to social housing, the financial feasibility calculation shall be prepared in one of the following forms, subject to the nature of the additional space and the allocability of costs:
 - a. The partial financial feasibility calculation is *mandatory*, unless the authority determines that a combined or mixed calculation better reflects the economic reality of the project without distorting the cost burden of social housing. This calculation assesses only the expenses that are allocated exclusively to social housing, with any costs attributable to other space(s) being excluded.
 - b. The combined financial feasibility calculation is *permissible* only under homogeneous use (e.g., similar standard and rent level) and homogeneous support regime (i.e., where all categories of social housing themselves, as well as any other space — such as caretaker apartment, shared laundry rooms, bicycle storage, technical rooms, etc. — are all supported in the same way, or eligible for the same support). If so, this calculation combines all eligible expenses for all spaces.
 - c. A mixed financial feasibility calculation is *permissible* only where capital costs cannot reasonably be separated. If so, this calculation assesses all capital-related expenses for all spaces in combination (as per letter b) and operating expenses separately (as per letter a).

Examples for the three approaches are given in [Appendix 1](#).

§ 9 Baseline assumptions for preparing the calculation

- (1) The financial feasibility calculation shall be prepared on the basis of the economic, financial, and legal circumstances prevailing at the time the application for public support is submitted.
- (2) Where significant changes in economic, financial, or legal circumstances occur, or where market rents or prices are determined upon completion or first occupancy, the calculation shall be updated accordingly. The support-approving authority may require an updated calculation. It may also determine a different reference date where justified by the nature or timing of the project.

§ 10 Determination of rents and prices

- (1) The approved financial feasibility calculation shall form the basis for determining rents and prices.
- (2) Changes in determinants (such as costs, financing conditions, or operating expenses) occurring after approval shall be considered only for future periods and only where expressly provided for or required under this Instruction.
- (3) Retroactive increases in rent (e.g., for subsequently higher annual expenses) shall not be permitted. However, any accumulated losses may be recovered during future periods, subject to approval by the authority.
- (4) Where the approved calculation was based on assumptions that later prove to be higher than the actual costs or expenses incurred, the resulting financial surplus shall, as a rule, be retained as a reserve to offset higher expenses or losses in future periods. The existence and amount of such surplus shall be notified to the support-approving authority, which may require that all or part of the surplus be transferred for the benefit of the authority.
- (5) In case of privatization of existing social housing units for rent (pursuant to compensation as per § 32), the reasonable purchase price shall be determined based on the approved calculation at the time of sale. Subsequent changes in costs, financing conditions, or expenses shall not affect the purchase price after transfer of ownership.

In the absence of other regulation, the same approach may be used, *mutatis mutandis*, to determine the price of an affordable housing unit for ownership that is developed with public support (including subsidy or tax incentive).

§ 11 Structure of the Financial Feasibility Analysis

- (1) The financial feasibility analysis shall be structured to contain:
 - a. **The total capital cost,**
aggregating eligible items for land, building, and other improvements to the land.
 - b. **The financing plan,**
showing the annual expenses required to finance the total capital cost (as per letter a), including interest, and other recurring charges.
 - c. **The annual expenses,**
considering capital-related expenses for financing (determined as per letter b) and for depreciation, and operation-related expenses.
 - d. **The annual revenues,**
including — after consideration of other residential and non-residential revenue — the rent to be charged to social housing for recovering the annual expenses (determined as per letter c).
- (2) The financial feasibility analysis shall begin with a header describing the project site and building(s), including:
 - a. the land parcels and/or address, and
 - b. the spatial program, described in a way that allows expenses and revenues to be allocated across space categories, such as floor area and distribution by type (e.g., social housing, other residential and non-residential), number of dwelling units and distribution by relevant type;

Section 2: Total Capital Cost

§ 12 Eligible capital cost

- (1) The costs incurred to acquire, develop, and construct the project (within the unit of analysis) shall be eligible items for the aggregation of total capital cost under the financial feasibility analysis, including:
 - a. land-related hard costs,
being all costs directly attributable to securing the site for the project, including acquisition, preparation, development, and associated charges;
 - b. construction-related hard costs,
being all costs directly attributable to the construction and commissioning of buildings and associated facilities, including building works and installations, and site works and outdoor facilities; and
 - c. development-related soft costs (if separate),
being all costs directly attributable to developing the project, including professional services (such as planning, design, engineering, supervision, and project management), financing and interim financing costs incurred during the construction period, and other ancillary costs directly related to the preparation and implementation of the construction project.
- (2) The following costs shall be included only to the extent that they are necessary, reasonable, and attributable to the project:
 - a. Land cost discipline.
Land-related capital expenditures shall not exceed the cost actually incurred by the project owner. Where land is provided below market value, transferred from public ownership, or otherwise subsidized, such benefit shall not be capitalized into eligible expenditures. The support-approving authority may require evidence of land valuation and may adjust eligible land costs where they are excessive or not economically justified.
 - b. Non-cash contributions control.
In-kind contributions (including in-labor contributions) may be recognized only where such contributions substitute verifiable market services, are economically necessary for the project, and are approved in advance by the support-approving authority. The recognized value shall not exceed the market cost of equivalent services.

- (3) The following costs shall *not* be recognized as eligible capital expenditures or operating expenses for the purposes of the financial feasibility analysis:
- a. costs that are not directly attributable to the project within the unit of analysis, or incurred for purposes unrelated to social housing;
 - b. speculative gains, price increases, or revaluations of land or buildings;
 - c. penalties, fines, damages, or cost increments arising from non-compliance with laws, permits, or contracts;
 - d. cost increments resulting from inefficiency, negligence, or avoidable delays attributable to the project owner or its agents;
 - e. profit distributions, dividends, or returns on equity, except where explicitly permitted under this Instruction.
 - f. any other cost that, in the assessment of the support-approving authority, does not meet the criteria of necessity, reasonableness, and attribution.

§ 13 Changes in capital costs

- (1) Changes in capital costs occurring after approval of the financial feasibility calculation shall be considered only where such changes:
- a. result from circumstances beyond the control of the project owner; or
 - b. arise from approved building modifications or modernization measures.
- (2) Revaluations or changes in market value of land, buildings, or other assets shall not be recognized as changes in capital costs.

§ 14 Building modifications and modernization

- (1) Building modifications may be recognized as additional capital costs only where they are not routine maintenance or repair, and where they:
- a. provide a lasting improvement in use value, living conditions, or resource efficiency; and
 - b. benefit the social housing as a whole.
- (2) Modernization measures are building measures that sustainably improve use value, living conditions, or energy or water efficiency.
- (3) Building modifications and modernization measures affecting eligible capital costs shall require prior approval by the support-approving authority.

§ 15 Use of proxy costs where actual costs cannot be determined

- (1) Where eligible capital expenditures cannot be reliably determined in whole or in part, despite reasonable effort, the support-approving authority may permit the use of **reasonable proxy costs** reflecting market-typical costs prevailing at the time the relevant works or services were carried out. Such proxy costs shall be applied only to the extent necessary and shall be documented and justified.

Section 3: Financing Plan

§ 16 Financing plan

- (1) The financing plan shall identify, in aggregate form, the annual expense for financing the eligible total capital cost (as defined in the Second Section), subject to the financing sources, including:
 - a. debt (borrowed funds), stating each principal amount and key repayment terms;
 - b. public grants or subsidies that do not require repayment; and
 - c. own funds, including equity and the recognized value of in-kind (e.g., labor, material, land) contributions, stating each amount and rate of return, subject to approval by the support-approving authority. (For public bodies, the applicable rate of return shall equal the yield on long-term government bonds at the time of approval, unless another rate is determined and approved by the authority.)
- (2) Where approved capital costs or financing conditions (e.g., interest rates) change, the financing plan shall be updated. However, changes in financing after approval shall not justify higher rents or prices unless:
 - a. the change results from circumstances beyond the control of the project owner; and
 - b. the change has been approved by the support-approving authority.

In such cases where the project owner is a public body and acts as, or is designated as, the support-approving authority, financing decisions approved by that authority shall be deemed approved under this Instruction.
- (3) Refinancing, early repayment, replacement of loans, or changes in financing structure initiated by the project owner shall not affect the approved rent or price levels.

Section 4: Annual Expenses

§ 17 Definition of annual expenses

- (1) Annual expenses are the recurring expenses necessary for the sustainable operation, management, and maintenance of social housing.
- (2) Annual expenses shall be included only to the extent that they are necessary, reasonable, and attributable to social housing within the unit of analysis and in accordance with this Instruction.

§ 18 Eligible categories of annual expenses

- (1) Eligible annual expenses may include, in particular:
 - a. capital-related expenses, being
 - i. interest and approved returns on own capital (in line with the financing plan);
 - ii. depreciation expenses, for eligible total capital cost but excluding land-related hard costs;
 - b. operation-related expenses, being
 - i. replacement costs, for assets essential to the operation of the housing that were not included in total project cost, limited to like-for-like replacement and excluding capacity expansion or quality upgrades, subject to approval by the authority.
 - ii. maintenance and repair expenses, necessary to preserve the use value and functionality of the housing;
 - iii. administration expenses, including property management, accounting, and compliance functions;

- (2) A service life of 100 years shall be the default assumption for social housing. A different service life may be approved where (i) corresponding maintenance standards are ensured, and (ii) the total expenses for depreciation and maintenance and repair are not higher than under the default assumption.
- a. Depreciation expenses shall be calculated based on the assumed service life.
 - b. Maintenance and repair expenses shall be aligned with the assumed service life, and adequate expenses shall be eligible (budgeted) for recovery. Lower actual maintenance and repair expenditures shall be accumulated and retained as reserves for future maintenance and repair and shall not be distributed or used for non-housing purposes.

The support-approving authority may require periodic condition assessments to verify consistency between the assumed service life and actual maintenance practices.

§ 19 Non-eligible annual expenses

- (1) The following shall not be recognized as eligible annual expenses and may not be recovered:
- a. expenses resulting from inefficiency, negligence, or avoidable delays attributable to the project owner or its agents;
 - b. penalties, fines, damages, or costs arising from non-compliance with laws, permits, or contracts;
 - c. expenses related to activities or spaces not attributable to social housing;
 - d. profit distributions, dividends, or returns exceeding those permitted under this Instruction;
 - e. extraordinary, non-recurring, or speculative expenses not required for normal operation.
- (2) Unless prescribed differently elsewhere, the following items shall be eligible for recovery from the tenant as part of the eligible gross non-profit rent, in addition to the net non-profit rent calculated under the feasibility analysis:
- a. Operating expenses, such as utilities, energy, water, waste management, property insurance, and mandatory service contracts (such as for cleaning of common areas, gardening).
 - b. Public charges and taxes, if directly related to ownership and operation of the property (e.g., property tax), but excluding income, profit or capital taxes;
 - c. Other expenses, subject to the approval by the authority.

As such, they are not recognized as eligible annual expenses for calculating the net non-profit rent itself, but shall be recovered separately.

Section 5: Revenues, including adequate Net Non-Profit Rent for Financial Feasibility

§ 20 Definition of annual revenues

- (1) Annual revenues include all income that can be sustainably generated from within the unit of analysis through proper and economically prudent management, including:
- a. rent and lease payments, including from social housing, and other residential and non-residential spaces;
 - b. remuneration from ancillary uses, including parking, storage, service, commercial, technical, or community uses, that are functionally associated with the housing project; and
 - c. imputed rental value of dwelling units or spaces that are used without a rental or lease agreement (e.g., owned units in a mixed building, or rent-free units of staff, such as the caretaker's dwelling), however only where they are included in the unit of analysis and their exclusion is not feasible.

- (2) The following items shall not be treated as annual revenues for the purpose of calculating the net non-profit rent.
 - a. Items recoverable from tenants in addition to net non-profit rent pursuant to § 19 (2).
 - b. The sale, transfer, or privatization of dwelling units or other spaces; instead, it shall be considered a change in capital structure, requiring an adjustment of the unit of analysis and, where applicable, an updated financial feasibility analysis under this Instruction.

§ 21 Net Non-Profit Rent Principle

- (1) Where the financial feasibility analysis is prepared to determine a cost-covering net non-profit rent, total annual revenues shall equal total eligible annual expenses.
- (2) The total net non-profit rent shall be determined as the balancing item required to cover the outstanding balance of eligible annual expenses after accounting for eligible revenues.
 - a. Before calculating the net non-profit rent, the outstanding balance may be grossed up to cover the cost and risk nature of the project — such as structural vacancies, uncollectible rents and legal costs —, subject to the approval of the support-approving authority.
 - b. Unless prescribed differently by the authority, the default provision shall be a gross up by 2.00 percent inflating the outstanding balance of expenses less incomes.
- (3) The net non-profit rent per square meter shall serve as the basis for calculating the rent of all residential spaces (dwelling units), subject to their size. Where appropriate (e.g., for different standards and rent levels), the net non-profit rent per square meter shall be calculated for different categories of residential floor area. For each, the net non-profit rent per square meter shall be calculated by dividing the total net non-profit rent (attributable to the category) by the residential floor area (of the category).
- (4) The Ministry, by means of a subordinated regulation, may determine the residential floor area.

PART III: Determining the gross non-profit rent

§ 22 Scope of PART III

- (1) PART III of the Instruction shall apply to determine the gross rent.

§ 23 Determining the gross non-profit rent

- (1) The project owner shall determine the gross non-profit rent, by summing the individual components due per residential floor area or per social housing dwelling unit, including:
 - a. the eligible net non-profit rent, pursuant to § 21, and
 - b. the recoverable ancillary charges (including operating costs), pursuant to § 19 (2).
 - c. Other charges, as may be approved by the authority.
- (2) Where individual items are charged per unit of residential floor area, the line-item charge shall be determined by the mathematical product of (factor 1) “cost per residential floor area” and (factor 2) “size of the dwelling unit’s residential floor area”.

PART IV: Procedures for Collecting and Managing the Rent

§ 24 Scope of PART IV

- (3) PART IV of the Instruction shall apply to determine the procedures for collecting and managing the rent.

§ 25 Collecting Rent

- (1) The project owner shall collect the eligible gross non-profit rent, as determined by PART III.

§ 26 Collecting Rent from Tenants

- (1) The project owner shall collect the eligible gross non-profit rent from the tenants in full or in part, subject to (capped at) the deemed-affordable amount pursuant to Article 3 of The Law, unless a surcharge may be collected where the dwelling unit is larger than the household-specific assessed-adequate maximum residential floor area.
- (2) The project owner may deduct the eligible (capped) gross non-profit rent:
 - a. from any bank account in the name of (or otherwise reasonably associated with) the tenant, including all household members;
 - b. at the source of any payments to the tenant, including employment income, social transfers, tax refunds, remittances, and other remunerations;
 - c. in cash or in kind, if other forms of payments are not available.
- (3) The project owner may require the tenant to disclose all potential sources. Lack of disclosure, in combination with unperforming payments, shall be considered a violation of the lease and may result in the termination of the lease.
- (4) The project owner shall, in case of arrears in payment:
 - a. Notify the tenant with a first warning if the payment is 10 days late. The warning shall instruct the tenant to pay the due rent or, where the tenant's affordable payment has changed, to take appropriate actions for adjusting his contribution.
 - b. Notify the tenant with a second warning and charge a penalty of 5 euros if the payment is 20 days late.
 - c. Notify the tenant with a second warning and charge a penalty of 5 euros if the payment is 20 days late.
 - d. Where the total of outstanding arrears (for rent, penalties, and other eligible charges) amounts to the value of 3-months of non-profit rent, evict the tenant.
 - e. Attempt to collect all outstanding arrears always, including after eviction, with reasonable effort.

PART V: Procedures for Subsidizing Non-Profit Rent

§ 27 Scope of PART V

- (1) PART V of the Instruction shall apply to determine the procedures for subsidizing non-profit rent.

§ 28 Collecting Rent Subsidies from Other Parties

- (1) The balance (shortfall, gap) between eligible gross non-profit rent and the deemed-affordable payment by the household (that is the capped amount pursuant to Article 3 of The Law) shall be collected from other sources, including:
 - a. municipal sources strictly separated from the finances of the social housing project. (The social housing project finances shall be fully sustainable, without leakage, to sustain the service life of the asset pursuant to the Net Non-Profit Rent Principle in § 21. Thus, for example, the expense may be covered by the Municipal Social Welfare Department.)
 - b. national allocations, including from line ministries with quotas for affordable housing, to reduce the amount payable by municipalities and to, ultimately, provide an incentive to municipalities to develop affordable housing;
 - c. other sources, **such as philanthropic funding** (e.g., charity foundations related to housing).
- (2) To this purpose,
 - a. municipalities shall make sufficient allocations to cover the payment obligations in a timely manner;
 - b. national stakeholders — particularly those in charge of housing, social transfers, and related sectors (including those associated with beneficiary quotas and subgroups, such as repatriated persons, returnees, ...) — should make national allocations that (i) reduce the cost burden to municipalities and (ii) promote municipal investments into social housing projects.
- (3) To reduce the shortfall per social housing project, social housing project owners and other stakeholders may consider strategies for and invest in reducing the non-profit rent, including:
 - a. densification of social housing projects, to increase land use efficiency (and, thereby, reduce the land cost per social housing residential floor area), and
 - b. mixed-use mixed-income diversification of social housing projects (for cross-subsidization).

Where such strategy involved the repurposing of existing social housing floor area for other uses, this shall require upfront compensation measures pursuant to § 32.

PART VI: Procedures for Subsidizing Private Rental Housing

§ 29 Scope of PART VI

- (1) PART VI of the Instruction shall apply to determine the procedures for subsidizing private rental housing units.

§ 30 Subsidies for private rental housing

- (1) Municipalities may subsidize the rent of eligible tenant households living in private rental housing units, to bridge the gap between (i) the deemed-appropriate rent (price) and (ii) the amount deemed-affordable to the tenant, pursuant to Article 3 of The Law.
- (2) Municipalities may determine the deemed appropriate rent (price) eligible for support, subject to assessed market prices based on (i) actual market research or, where available, data of a municipal housing plan or strategy, or (ii) a stylized calculation based on the financial feasibility analysis, pursuant to PART II of this Instruction.
 - a. Municipalities may deprioritize support for a rental contract between community members that may be argued to belong to the same a solidarity group (e.g., extended family), or may reduce the eligible subsidy amount.
- (3) Municipalities shall transfer the determined amount (subsidy) directly into a bank account in name of the landlord.

PART VII: Final Provisions

§ 31 Prohibition of windfalls

- (1) Public support must not be capitalized into private windfall gains but must be used to reduce the cost of social housing.

§ 32 Compensation for loss of social housing

- (1) If a project owner wants to modify the structure, use or other element of a social housing project, with the modification resulting in a reduction of social housing residential floor area or social housing dwelling units, this shall be permissible only subject to providing an equivalent number of social housing units and social housing floor area at an adequate location, as a compensation measure.

§ 33 Project owner and legal successor

- (1) Any rights, obligations, approvals, and responsibilities under this Instruction shall transfer to the legal successor of the project owner. Acts, omissions, or circumstances attributable to the project owner shall also be attributable to the legal successor.

§ 34 Review and control by the authority

- (1) The support-approving authority may review, adjust, or exclude any cost, financing term, annual expense or revenue that does not meet the criteria set out in this Instruction.
- (2) Where standardized benchmarks or reference values are adopted by the authority, such benchmarks may be used to assess the reasonableness of annual expenses and revenues.
- (3) The authority may also prescribe a flat allowance for any eligible expense and revenue, or for any category (group) of expenses or revenues.

§ 35 Management Information System

- (1) Project owners should manage social housing using digital system(s) that are available and deemed suitable.
- (2) The Government of Kosovo may, at its own discretion, develop, test and prescribe the use of digital management information system(s) to perform functions in line with this Instruction.

§ 36 Power to make regulations under the Instruction

- (1) The responsible Ministry may issue subordinated regulations under this Instruction.

§ 37 Redressal mechanism

Optional provisions for appeals and remedies

§ 38 Entry-into-force clause

optional

§ 39 Transitional provisions

optional

§ 40 Severability

- (1) If any provision of this Instruction is invalid or cannot be applied, the remaining provisions shall remain in force. The competent authority shall apply the remaining provisions in a manner consistent with the objectives of this Instruction.

Internal Use

Regulation on Monitoring Social Housing

§ 1 Scope of the Regulation

- (1) This Regulation determines the data to be monitored regarding Social Housing Projects, Dwelling Units, and Tenants.
- (2) It shall be subordinated to the Instruction ____ or the Law ____.

§ 2 Obligation and Power to Monitor

- (1) The project owner shall have the power and shall be obligated to monitor its social housing project(s), the dwelling unit(s) contained in its projects, and the tenant household(s) and household member(s) occupying the social housing dwelling(s).

§ 3 Monitoring Data

- (1) The project owner shall monitor the data for each (existing and new) social housing project, including:
 - a. The project owner
 - b. The project name
 - c. The project location (address/parcel)
 - d. The space program, including social housing residential floor area (categories) and, as applicable, other residential and non-residential floor areas, number of parking spaces
 - e. The financial feasibility analysis, including input data and determined net non-profit and gross non-profit rents as total amounts (for the entire project) and as amount per unit (meter square) of residential floor area.
 - f. The status and date of assessment regarding energy efficiency, including the characteristics of:
 - i. Building envelope, including facades, roof, and other surfaces and openings (external doors and windows).
 - ii. Building appliances for heating, warm water, and/or cooling.
 - iii. Electrical appliances: e.g. regarding the lighting of internal and external common areas.
 - iv. Alternative energy (e.g., PV, wind, thermal, heat pump).
 - g. The total number of social dwelling units.
- (2) The project owner shall monitor the data for each (existing and new) social housing dwelling unit, including:
 - a. The social housing project, as per number § 3 (1).
 - b. The dwelling size, measured by:
 - i. The dwelling unit's number of habitable rooms, as per the Regulation on Adequate Dwelling Unit Size.
 - ii. The dwelling unit's residential floor area, as per the Regulation on Residential Floor Area.
 - iii. Optional: the dwelling unit's number and type of all rooms, be they habitable or not.
 - c. The net and gross non-profit rents, subject to:
 - i. the imputed net and gross non-profit rents per residential floor area, and
 - ii. each individual unit's residential floor area.
 - d. The market-based net and gross rent for a comparable dwelling unit, subject to the project owner's assessment (made at the sole discretion of the project owner).

e. The occupation status (e.g., occupied / under repairs / available for occupation).

(3) The project owner shall monitor the data for each (existing and new) social housing tenant(s), including:

- a. Full identification of the tenant(s) owing the rent, as per the lease contract.
- b. Full name, date of birth, and gender of all occupants (household members).
- c. The household's housing need, as per the Regulation on Adequate Dwelling Unit Size, including:
 - i. The adequate number of rooms (minimum).
 - ii. The adequate floor area size (minimum to maximum range).
- d. The household's adequate dwelling size status (actual),
 - i. The overcrowding status (i.e., 'overcrowded' where the unit's number of habitable rooms is less than the adequate number of rooms, 'adequate' otherwise).
 - ii. The residential floor area status (i.e., 'adequate' where the unit's residential floor area is within the minimum to maximum range, 'large' where it is above the maximum, and 'small' where it is below the minimum).
 - iii. Where the residential floor area status is 'large', the excess floor area (i.e., the unit's actual floor area less the maximum adequate floor area).
- e. The household's economic means to pay for rent, subject to:
 - i. The assessed household income for each month. In this regard:
 1. the household income shall be determined as the sum of all positive incomes by all household members, and
 2. the income shall be reassessed periodically (at least once per year, ideally on a monthly basis) and be averaged out over each period.

Note: (re)assessment can be largely automated; this is to be regulated (empowered) in the other Instruction.

- ii. The deemed-affordable rent, as prescribed by the Law.
 1. Where applicable, the rent may be recalculated based on (re)assessed income and collected, also retroactively.
- f. The monthly rent due for the dwelling unit to be collected:
 - i. Where the household's deemed-affordable rent (as per (3) e ii) is **lower** than the gross non-profit rent due for the dwelling unit (as per (2) c), the household shall pay rent equal to the sum of:
 1. the subsidized monthly gross non-profit rent (as per (3) e ii), and
 2. the unsubsidized monthly rent for excess floor area, where applicable, being the mathematical product of (factor 1) the excess floor area (as per (3) d iii), and (factor 2) the gross non-profit rent per floor area (as per (1) e).
Where this determined monthly rent payable by the household is less than EUR 5, the rent shall be waived completely. If so, the project owner may charge a nominal administrative fee of EUR 5 instead of rent.
 - ii. Where the household's deemed-affordable rent (as per (3) e ii) is **equal** to the gross non-profit rent due for the dwelling unit (as per (2) c), the household shall pay rent equal to this amount.

iii. Where the household's deemed-affordable rent (as per (3) e ii) is **higher** than the gross non-profit rent due for the dwelling unit (as per (2) c), the household shall pay rent equal to the sum of:

1. the gross non-profit rent (as per (2) c), and
2. half of the difference between the deemed-affordable rent (as per (3) e ii) and the gross non-profit rent (as per (2) c).

Where this determined monthly rent payable by the household exceeds the market-based rent for a comparable dwelling unit, as per (2) d, the charge to the household shall be capped at this market-based rent, provided that this market-based rent is higher than the established gross non-profit rent, as per (2) c. (If the market-based rent is lower than the non-profit rent, the latter shall prevail.)

Explanatory digression: for the social mix and stability of a project, it is not only desirable to have different income groups in the dwelling unit, but also that tenants who entered the project with a rent subsidy may stay even if their income increases so much that they do not need the subsidy any longer. If so, they may be charged a reasonable amount above the non-profit rent. With the proposed rule, it would result in 15 percent of additional income.

iv. The rent-supporting entity, such as the municipal social welfare department, shall pay the balance (difference) between the gross non-profit rent due for the dwelling unit (as per (2) c) and the charge collected from the household (as per (3) f i through 0).

Where the household pays rent above the gross non-profit rent, the surplus shall accrue to the benefit of the rent-supporting entity.

(4) The project owner shall monitor the social housing finances, including the following data:

- a. For each individual dwelling unit:
 - i. The actual monthly payments received from the household and the rent-supporting entity.
 - ii. The outstanding balance of payments, being the difference between all dues and all payments received over time, for both the household (incl. late fees and administrative charges, as applicable) and the rent-supporting entity.
- b. For each social housing dwelling project, the data of individual dwelling units shall be aggregated.
 - i. The aggregate balance of the rent-supporting entity (including potential surpluses as per (3) f 0) shall be settled with the entity regularly, at least on a quarterly basis, preferably on a monthly basis.
- c. For each project owner, the data of all individual projects shall be aggregated, too.

§ 4 The Municipal Housing Profile and Plan

- (1) Municipalities shall aggregate the social housing monitoring data for their territory. For this purpose, they shall collect all data from all project owners within their territory, and the respective project owners shall be obligated to provide the social housing monitoring data.
- (2) Where required by other frameworks, and/or where appropriate, personal information (e.g., regarding individual occupants and their payments status) may be anonymized, or such data may be provided only at the aggregate level (e.g., the social housing project level, with total numbers and averages for individual indicators).
- (3) Municipalities shall use this data for, inter alia, developing the prescribed Municipal Housing Profile and Plan.
- (4) Additional details may be prescribed by the Administrative Instruction on the Municipal Housing Profile and Plan.

Regulation on Residential Floor Area

Optional: this can/should be skipped if there is an existing and better framework for this.

§ 1 Scope of the Regulation

- (1) This Regulation determines the residential floor area of social housing projects and of individual social housing units.
- (2) It shall be subordinated to the Instruction ____ or the Law ____.

§ 2 Objective

- (1) The objective of this Regulation is to ensure fairness when determining the non-profit rent for each social housing dwelling unit, subject to residential floor area.

§ 3 Residential floor area definition

- (1) Residential floor area is the floor area of a dwelling unit that is intended for permanent residential use and is suitable for living, sleeping, cooking, sanitary use, and internal circulation.
- (2) The determined floor area shall be the basis for Financial Feasibility Analysis to determine:
 - a. the eligible non-profit (net) rent per meter square of residential floor area in social housing projects.
 - b. the eligible non-profit (net) rent of individual dwelling units (in social housing projects), subject to their determined individual residential floor area.

§ 4 Included areas

- (1) The following areas shall be fully included in residential floor area:
 - a. living rooms, bedrooms, kitchens, and kitchenettes;
 - b. bathrooms, toilets, and sanitary rooms;
 - c. internal corridors, hallways, and storage rooms within the dwelling unit;
 - d. indoor staircases of three or less risers;
 - e. floor areas with a clear height of at least 2.00 meters, measured to the finished interior surfaces.
- (2) The following floor areas shall be partially included
 - a. at the rate of 50 percent:
 - i. floor areas with a clear height between 1.00 meter and 2.00 meters;
 - ii. loggias directly associated with the dwelling unit; and
 - iii. roofed terraces directly associated with the dwelling unit or located inside a private open space (e.g., individual tenant garden) directly associated with the dwelling unit.
 - b. at the rate of 25 percent:
 - i. balconies directly associated with the dwelling unit; and
 - ii. terraces (without roof) directly associated with the dwelling unit or located inside a private open space (e.g., individual tenant garden) directly associated with the dwelling unit.

- (3) The following areas shall not be included in residential floor area:
- a. indoor staircases of more than three risers;
 - b. floor areas with a clear height below 1.00 meter;
 - c. cellars, basements, technical rooms, and storage rooms not located within the dwelling unit;
 - d. circulation areas, stairwells, elevators, and common rooms (shared across multiple dwelling units);
 - e. garages, parking spaces, and bicycle storage rooms;
 - f. balconies, loggias, terraces, and roof areas, where they are not directly associated with the dwelling unit.

§ 5 Measurement rules

- (1) Residential floor area shall be the gross internal area of the dwelling measured to the inner face of external and internal walls, measured at floor level.
- (2) Minor intrusions and recesses shall not be measured separately, specifically:
- a. Intrusions — such as fixtures, installations, built-in furniture, columns, service shafts — shall not be deducted, unless each permanently reduces usable floor space by at least 0.10 square meters.
 - b. Recesses— such as wall niches and indentations — shall be treated as part of the surrounding room and not be added to the residential floor area, unless each permanently increases the usable floor space by at least 0.10 square meters.
- (3) Residential floor area may be determined by the following methods:
- a. by measurement in the completed dwelling; or
 - b. based on approved construction drawings suitable for permitting purposes. In this case, either the specific dimensions for finishes shall be deducted from the gross distance between walls so to infer the net distance between the inner faces of walls, or 2.00 percent flat shall be deducted from the area calculated based on gross distances

If construction deviates materially from the drawings, the completed dwelling shall prevail.

- (4) Minor measurement deviations that do not materially affect rent, price, or eligibility shall be disregarded.

§ 6 Consistency requirement

- (1) The same method for determining residential floor area shall be applied consistently:
- a. within the financial feasibility analysis;
 - b. for rent calculation; and
 - c. for reporting and monitoring purposes.

§ 7 Approval and exceptions

- (1) The support-approving authority may approve deviations from this Section where justified by building typology, construction method, or housing concept, provided that transparency and comparability are maintained.

Regulation on Adequate Dwelling Unit Size

§ 1 Scope of the Regulation

- (1) This Regulation defines the criteria for determining the adequate size of a dwelling unit.
- (2) It shall be subordinated to the Instruction _____ or the Law _____.

§ 2 Objective and general principle

- (1) The objective of this Regulation is to reduce the risk of overcrowding.
- (2) A dwelling unit shall be considered adequate if its size and room configuration prevent overcrowding, taking into account the size and composition of the household.

§ 3 Minimum number of rooms per household composition

- (1) A dwelling shall be considered to have adequate size (measured by the number of rooms) if it provides at least one room (bedroom, living room, or dining room) for:
 - a. each adult couple (with at least one adult member);
 - b. each adult single (not included under letter a);
 - c. each adolescent pair of the same gender;
 - d. each adolescent single (not included under letter c); and
 - e. each pair of children, regardless of gender.
- (2) For the purposes of this Regulation:
 - a. an adult is a person aged 18 years or over.
 - b. an adolescent is a person aged 12-17 years.
 - c. a child is a person aged under 12 years.

§ 4 Indicative residential floor area requirements

- (1) A dwelling may be considered to have adequate size, measured by residential floor area, if its total residential floor area falls within the minimum and maximum range derived by summing the applicable indicative values set out in paragraph (2). Residential floor area shall be determined in accordance with the Regulation on Residential Floor Area.
- (2) The following residential floor area requirements are indicative only. They provide flexible ranges (with minimum and maximum values per household member or member group) to allow for alternative residential layouts and to support cost-efficient housing solutions:
 - a. Initial area for the first adult household member(s):
 - i. The first adult couple may require 20 to 25 m², for example 8-12 m² private space and 10-15 m² additional (shared and/or private) space;
 - ii. Where no adult couple is present, the first single adult may require 18 to 20 m², for example 6-10 m² private space and 8-12 m² additional (shared and/or private) space;
 - b. Additional area for additional couples or pairs:
 - i. Each additional couple or pair may require 12 to 14 m², for example 8-12 m² private space and 2-4 m² additional (shared and/or private) space;

- c. Additional area for additional individuals (not included above):
 - i. Each additional individual adult or adolescent may require 8 to 10 m², for example 6-10 m² private space and 1-2 m² additional (shared and/or private) space;
 - ii. A single child is not entitled to a private room but may share a sleeping space with other household members. Where available, an additional 4 m² may be provided;
- d. Additional area for special needs:
 - i. Additional area requirements for household members with special needs (for example, wheelchair use) shall be determined on a case-by-case basis.

§ 5 Closing provisions

- (1) Households eligible for social housing support shall, where possible, be allocated a dwelling unit of adequate size in accordance with § 3.
- (2) Where the number of eligible households exceeds the number of available dwelling units, allocation shall prioritize households with the greatest need, measured by the number of required rooms in accordance with § 3, even if this results in overcrowding, unless another household must be prioritized for overriding reasons, such as special needs.
- (3) The housing need of households living in social housing shall be reassessed at least once every two years. Any change in household size or composition shall trigger a reassessment of the household's housing need and adequate dwelling unit size (measured by number of rooms under § 3 and resulting indicative area under § 4).
- (4) Where the dwelling unit is smaller than the household's determined need:
 - a. a household experiencing overcrowding shall be eligible for relocation to another social housing unit, provided that a suitable unit is available and not required by another household with equal or higher need or priority.
- (5) Where the dwelling unit is larger than the household's determined need:
 - a. a dwelling unit shall not be allocated to a household if its residential floor area exceeds the indicative maximum under § 4, unless no smaller (while still adequately sized) unit is available;
 - b. a household occupying a dwelling unit exceeding the maximum adequate residential floor area under § 4 may be allocated a smaller but adequate unit, if available, at the discretion of the social housing project owner or the rent-subsidizing entity;
 - c. the project owner or rent-subsidizing entity may require the household to pay the full cost rent for the residential floor area exceeding the maximum under § 4, even if this results in the household paying net rent exceeding 30 percent of household income.

Example (provided for illustration only; does not create rights or obligations):

Household composition:

- one married couple (adequate 20-25m²).
- one pair of adolescents (adequate 12-14m²).
- one individual adolescent (adequate 8-10m²).
- one additional child (adequate 4m²).

Resulting indicative adequate residential floor area for the 6-person household: 44-54m².

Scenario 1: dwelling within the maximum adequate area

Assume a non-profit rent of 2.00 EUR per m².

The maximum supported net non-profit rent is 54m² * 2.00 EUR /m² = 108 EUR.

Assume household income of 300 EUR per month.

The assumed-affordable (net) rent at 30% of income equals 90 EUR.

The rental subsidy (covering the cost/affordability gap) equals 18 EUR.

Scenario 2: dwelling exceeding the maximum adequate area

Assume the dwelling unit has a residential floor area of 60 m².

Total net non-profit rent equals 60 m² × 2.00 EUR/m² = 120 EUR.

The excess area of 6 m² is not subsidized.

Cost of excess area: 6 m² × 2.00 EUR = 12 EUR (to be borne by the household alone).

Total net rent paid by the household:

90 EUR (for the maximum adequate area of 54m² that is subsidized)
+ 12 EUR (for the excess area of 6m² without subsidy)
= 102 EUR total.

The rental subsidy (covering the cost/affordability gap) remains equal at 18 EUR.

Conclusion

If a household occupies a dwelling unit, of which the residential floor area exceeds the adequate range, the rent increment for the excess area is to be borne by the household alone, while the public rent subsidy (to cover the gap between household contribution and non-profit rent) remains constant. This aims to prevent moral hazard where a household consumes excessive floor area, speculating on a larger subsidy.