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How exceptions to land use regulations enter planning legislation. The Flemish case of rebuilding non-conforming dwellings

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ABSTRACT

Existing research shows that exceptions, i.e. planning permissions for developments that deviate from land use regulations, have become common in planning as a means of addressing unique or urgent building project needs. In Flanders, the Northern region of Belgium, one can observe a long history of exceptions ever since the Belgian government implemented territory-wide national land-use plans in the 1970s. However, how the legal provision for granting exceptions became embedded in planning legislation has never been the subject of academic research. This paper fills this gap by examining the decision-making process behind the 1999 legal provision for rebuilding residential dwellings in agricultural zones in Flanders (i.e. non-conforming dwellings). An analysis of parliamentary reports and press releases was complemented by semi-structured interviews with the top-level actors involved in this decision and the actors with whom they interacted down to the local government level. This actor-interaction-set analysis (AISA) revealed the subtle interactions between public, semi-public, and private actors in legislative decision-making processes. Additionally, we found seven different roles these actors personified in cross-level interactions: homeowners, caseworkers, high-level caseworkers, constituency advocates, lobbyists, associational advocates, and legislators. These actor-roles and their interaction-sets have enabled individual building projects to be subtly articulated into planning legislation.

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1. On the origins of exceptions in planning policy

Since the late twentieth century, strategic planning has increasingly taken place at the urban-regional level to address environmental, social, and economic issues in Europe and beyond (Albrechts 2006b; Albrechts, Balducci, and Hillier 2017; Knaap, Nedovic-Budic, and Carbonell 2015; Reimer, Getimis, and Blotevogel 2014; Taşan-Kok 2004). It usually consists of two main phases: a plan-making phase, which involves the preparation of strategic plans with long-term visions, frameworks, and principles; and a plan-

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implementation phase, which translates these long-term visions into legally binding land-use plans and policies for development control (Albrechts, Balducci, and Hillier 2017; Healey et al. 1997; Hersperger et al. 2019). The outcome of these phases is a regulatory framework in which local or regional governments assess the spatial quality of planning applications and decide whether or not to grant planning permission, even beyond the allocation of land in land-use plans (i.e. discretionary powers, Booth 1996).

However, the ideal of strategic planning often clashes with the practical realities of daily planning practice (Albrechts 2006a; Alfasi 2006; Faludi 1983). Through strategic plans and operational land-use plans, governments attempt to mediate between social, environmental, and economic objectives (Allmendinger and Haughton 2010). In developing these plans, however, governments are unable to anticipate all the potential interests and sometimes pressing needs of users of an area, leading to frustration at the time-consuming and bureaucratic decision-making involved in refining or amending these plans (Booth 1996; Harris 2021). Consider, for example, a homeowner who wishes to add an extra floor to a dwelling to accommodate a newborn or an elderly family member. While this soft densification may not harm the interests of any third party, while meeting individual housing needs and helping to limit urban sprawl, it may still conflict with an existing land-use plan.

That is why the use of exceptions in development control has become common worldwide as a means of addressing unique or urgent building project needs (Harris 2021; Twining and Miers 2010). In the UK, for example, exceptions exist for affordable housing on so-called 'rural exception sites' (Stirling, Gallent, and Hamiduddin 2024). Denmark allows exceptions for non-agricultural enterprises in rural zones under certain conditions (Busck et al., 2008). Norway and Germany use exceptions for minor projects in certain zones, such as increased building height or density (Larsson 2006; Skog and Hengstermann 2024). The Netherlands has a long history of exceptions, both for small projects and for temporary projects (Buitelaar, Galle, and Sorel 2011). In Flanders, the northern region of Belgium, exceptions allow the reuse of former farm buildings for housing or non-agricultural enterprises in open spaces allocated to agriculture (Verhoeve et al. 2015). Along with existing residential dwellings in these zones, these non-conforming structures can also be renovated, extended, and rebuilt (Sebreghs 2001).

However, as exceptions have become more widespread, research in Norway and the Netherlands shows that the implementation phase of the strategic planning system, namely the development and approval of land-use plans, is losing its purpose (Buitelaar, Galle, and Sorel 2011; Skog and Hengstermann 2024). Similar trends can be observed in Flanders: since the Belgian government adopted national land-use plans as the legal basis for assessing planning applications in the 1970s, the possibility to grant exceptions has significantly reduced the need to refine or amend them (Renard, Coppens, and Vloebergh 2022). As a consequence, the essential mediation between social, environmental, and economic objectives in planning before decisions are taken on planning applications is also circumvented. In the landscape, residential villas, tourist facilities, and non-agricultural enterprises increasingly dominate open spaces where actually agriculture should prevail (Pisman et al. 2021).

Academic literature has already addressed various aspects of the use of exceptions in planning policy. Brady (1987) discusses the ethical principles, while Harris (2021)

provides theoretical explorations and broader applications. In addition, Buitelaar and Sorel (2010), Booth (1996), and Lord et al. (2023) address the balance between rules and exceptions, highlighting the tension between legal certainty and flexibility. However, there is still a notable gap in how the legal provision for granting exceptions has been embedded in planning legislation. While planning scholars have primarily focused on actor-centred research at the local government level (Purkarthofer and Stead 2023), legislative studies also tend to overlook the role of individual actors at the (sub)national level (Alexiadou 2015). This paper aims to fill this gap by examining the decision-making process in Flanders that led to the legal provision for rebuilding residential dwellings in agricultural zones (i.e. non-conforming dwellings). Specifically, an analysis of parliamentary reports, press releases, and interviews with the actors involved reveals the roles these actors personified in mutual interactions to articulate this exception in planning legislation.

The paper is structured as follows: first, we provide a historical overview of the use and culture of exceptions for residential development in agricultural zones in Flemish planning legislation, followed by our empirical case study on the legal provision for rebuilding non-conforming dwellings. Next, we outline the theoretical lens of actor-roles and negotiated interactions that we have used to analyse the decision-making process on this provision. The actor-interaction-set analysis method we developed to do this is presented in the fourth section. In the following sections, we identify the roles personified by the Flemish actors who participated in this decision-making process, along with the societal drivers that were crucial for understanding these roles. We then explain the interactions between these roles during the decision-making process. Finally, we conclude with a single case theory on the articulation of individual building projects into planning legislation.

2. The case of rebuilding non-conforming dwellings in Flanders

Since the adoption of the Spatial Planning Act of 1962, which centralized local development control policies into a single procedure, the flexibility of planning legislation in Flanders with regard to exceptions for residential development in agricultural zones has varied considerably. An analysis of the Belgian Official Gazette and supplementary literature from Flamey and Ghysels (2002), Roelandts (1998), and Sebreghts (2001) shows that as early as the 1970s, planning legislation included provisions for the renovation and extension of non-conforming dwellings and even the construction of new dwellings in agricultural zones via the so-called ‘infill rule’. In the 1980s, when planning policy became the responsibility of the Flemish government, these provisions were extended to allow the complete rebuilding of non-conforming dwellings. In 1993, the government restricted these provisions again by abolishing the possibility to rebuild and the infill rule. Yet, in a striking reversal, the 1999 legislation restored the provision for rebuilding non-conforming dwellings again. The Flemish government continued this shift towards flexibility in the early 2000s, granting non-conforming homeowners absolute legal certainty for planning permission to renovate, extend, and rebuild. Finally, in 2009, residential developments in agricultural zones were allowed if they were adjacent to an existing ‘blind façade’, but this exception was abolished in 2024.

Of all these legislative decisions, the restoration of the legal provision for rebuilding non-conforming dwellings in 1999 is particularly relevant as a case study. This provision was part of the long-awaited Spatial Planning Decree of 1999, which marked what Van den Broeck (2008, 261) describes as ‘a heyday in the field of spatial planning’. The decree centralized and modernized the existing planning legislation and finalized the strategic planning system (Van Den Broeck et al. 2014). To this end, the first (strategic) Spatial Structure Plan for Flanders in 1997 envisaged ‘no further growth of linear and dispersed development’, with the aim of ‘reducing the high social costs of dispersed living and working’ and ‘strengthening the central function and thus the liveability of the main villages and residential centres’ (AROHM 1997, 408, own translation).

The legal provision for rebuilding non-conforming dwellings completely contradicted this vision. Land use regulations for agricultural zones only allow the construction of buildings necessary for agriculture, including the owner’s residence and some agricultural-related economic activities. This provision, however, allowed the demolition of former farmsteads and existing residential dwellings and the construction of new dwellings in these agricultural zones, with a volume of up to 1000 m³ and without any agricultural use (Belgisch Staatsblad 1999). For this reason, the Flemish Advisory Council for Environment and Nature found the idea ‘absolutely unacceptable’ (MiNa-Raad 1998, 215, own translation). The Flemish Advisory Council for Spatial Planning also found it ‘irresponsible’, as it posed a ‘real threat of further degradation of open space’ (VLACORO 1999, 219, own translation). Despite this unequivocal criticism, the Flemish government left the relevant Article 166 unchanged (Vlaams Parlement 1999).

3. Actor-roles and interactions in policy decision-making processes

As a theoretical starting point for exploring the origins of this legal provision, we looked to the political science literature. According to the German political scientist Fritz W. Scharpf (1997), policy decisions are the result of negotiated interactions between public, semi-public, and private actors across different sectors and levels of government. Each actor in these interactions occupies an institutional position that determines (and is determined by) its resources, which are exchanged in a set of expectations and commitments to reach a compromise (Mayntz 1993; Vatn 2018). However, reaching a compromise also depends on the actors’ intentions towards the outcome of interactions (Fishbein and Ajzen 1975). Apart from personal motivations and psychological factors, intentions are influenced by a wide range of societal drivers, such as institutional norms, economic interests, and public support (Andeweg 2014; March and Olsen 1989; Rasmussen, Mäder, and Reher 2018). For this reason, we introduced the concept of roles into our research (Fenno 1978; Searing 1994).

Role analysis has been widely used in legislative studies to label and categorize the consistent behaviour of Members of Parliament (MPs) across party affiliations (Blomgren and Rozenberg 2012; Müller and Saalfeld 2013). For example, Navarro (2012) identifies four roles in the European Parliament: animators, who cover different policy areas; specialists, who focus on a particular policy area; intermediaries, who act as advocates for a specific population or territory; and outsiders, who challenge conventional parliamentary functioning. Similarly, in the US Senate, Matthews (1960) identifies the roles of professionals, amateurs, patricians, and agitators. In Belgium, De Winter (1997)

categorizes MPs in the federal parliament according to both their activities and their focus of representation. Finally, although far more limited, research has also explored the roles of ministers. Headey (1974) and Searing (1994) identify ministerial roles in the UK, and Alexiadou (2015) does so in France, distinguishing between loyalists, partisans, and ideologues.

However, by focusing solely on the role of actors at the (sub)national level, the above studies capture only a fraction of the various interactions involved in a legislative decision-making process. MPs and ministers consult and negotiate with a wide range of other actors. For example, research by Ackaert (1997) shows that mayors often act as lobbyists towards ministers, seeking public investments for their municipalities. The Belgian institutional framework even allows these mayors to simultaneously hold positions in parliament or government, which increases their influence from within (Van de Voorde and de Vet 2020). Destrooper (2017) further explains that legislators maintain long-term relationships with interest group representatives, noting that this practice is less transparent in Belgium than in other countries. Finally, MPs in Belgium interact directly with citizens through casework and constituency service. Casework typically means responding to individual concerns raised by constituents and therefore involves practical, ad hoc problem solving. It may also be carried out by mayors or alderpersons (Arter 2018; Claus and Leinfelder 2019). Constituency service, on the other hand, involves broader efforts to engage with and represent the collective interests of the geographical area from which MPs are elected, often shaping their policy decisions (Brack and Pilet 2016; De Winter 1997).

If roles are related to institutional positions, the question arises as to what distinguishes them (Andeweg 2014). From a rational choice perspective, Strøm (2012) argues that actors choose which roles to play based on the goals that best serve their interests. Roles therefore aim to maximize the likelihood of achieving these goals within the constraints of the institutional framework. However, according to Searing's (1994) research on the role of British MPs, emotional incentives also come into play. This is consistent with Alexiadou's (2015) findings that personal policy beliefs and political ambitions sometimes influence ministers' goals more than the expectations of political parties or constituents. Furthermore, Fenno (1978) found that US Members of Congress adapt their behaviour depending on the type of constituent they are interacting with, either to reinforce existing support and strengthen relationships, or to persuade and gain trust. Thus, while positions are relatively fixed, actors switch between roles during different interactions based on their personal intentions (Fishbein and Ajzen 1975).

4. The actor-interaction-set analysis method

Based on the theoretical assumptions above, we identified the specific actors and their roles involved in restoring the legal provision for rebuilding non-conforming dwellings. The legislative decision-making process for this provision took place between June 1995, when the Flemish government took office, and May 1999, when this government ratified the Spatial Planning Decree. For this four-year period, we analysed the relevant press articles and parliamentary documents, which enabled us to identify the most relevant actors, such as the Minister of Spatial Planning and several MPs who were particularly

invested in non-conformity.¹ In order to identify their interactions with less prominent actors, we contacted them for semi-structured interviews using a self-developed method of actor-interaction-set analysis (AISA). This method used two specific tools: a folder with magnetic pictures of the actors and a metal whiteboard, which made it possible to draw the interactions between these actors during the decision-making process (inspired by Mayer’s concept of action-sets, 1966). The whiteboard depicted the five levels of government in which planning policy is conducted in Flanders: (from top to bottom) the Flemish level, the provincial level, the inter-municipal level, the municipal or local level, and finally, the level of individual building projects (Figure 1; inspired by Taşan-Kok, Atkinson, and Martins 2021). Hence, with the whiteboard in front of

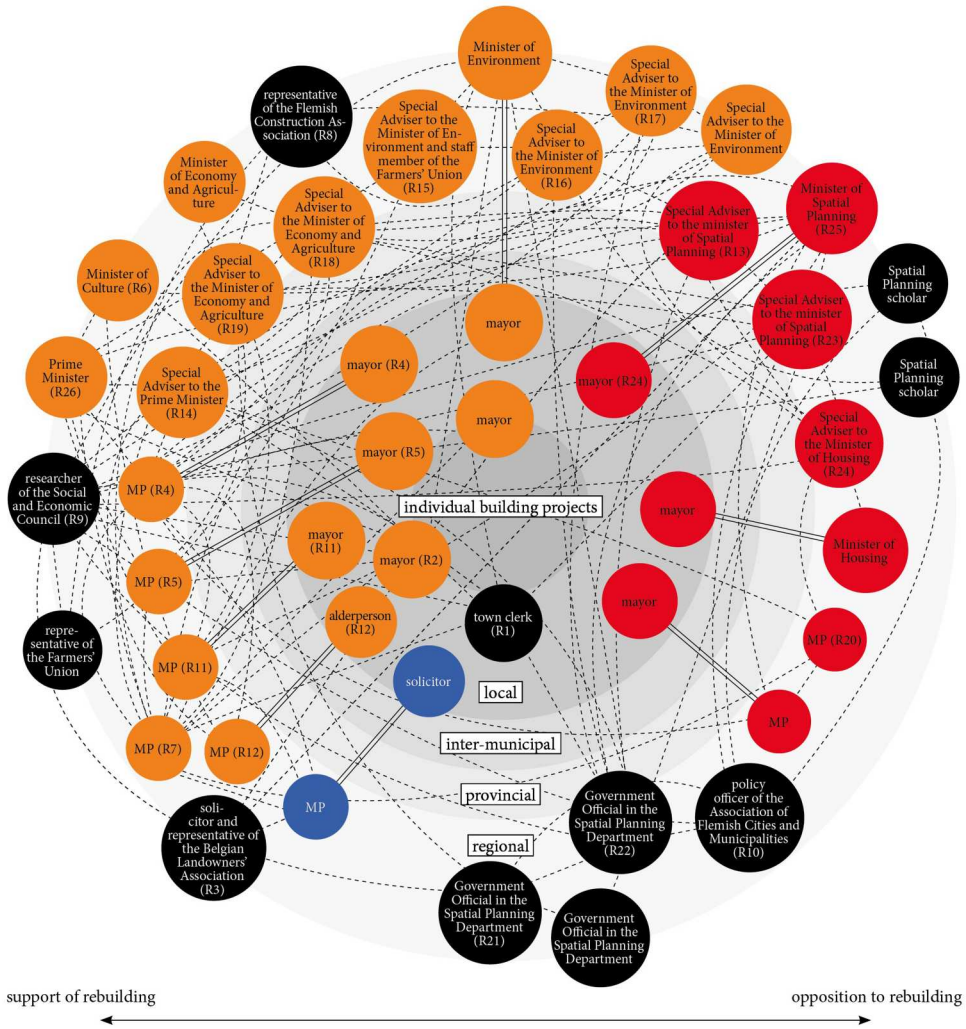


Figure 1. Overlap of actor-interaction-sets in restoring the legal provision for rebuilding non-conforming dwellings. Dashed lines indicate interactions and double lines indicate dual positions. Colour coding was used to indicate political affiliation: blue for (centre-right) Liberal, red for Social Democrat, orange for Christian Democrat, and black for ‘neutral’.

them, respondents were asked about their intentions and who they interacted with to achieve them. As a result, we were able to assign magnets of relevant actors to specific levels of government, create new magnets for relevant actors not mentioned, and draw interaction links between them.²

Using the AISA method, we conducted 26 interviews. The analysis started at the end of the decision-making process and then traced the interactions back to the local level, each time adding new actors to the whiteboard. Actors identified as having been involved in the most critical interactions were contacted for subsequent interviews. In the end, we have interviewed three ministers, eight special advisers, two government officials, six MPs, one mayor, one town clerk, one solicitor, and four representatives of interest groups (each time referring to the respondent's main position). [Figure 1](#) shows the overlap of the completed actor-interaction-sets of all these respondents. To convey the intentions of each actor, we positioned them on a spectrum of support and opposition to the legal provision. The recorded interviews were transcribed, pseudonymised, and returned to the respondents, who were given the opportunity to correct or amend both the content and the pseudonymisation. Finally, we assigned one or more roles to the respondents based on their positions and intentions ([Table 1](#)).³

Table 1. List of respondents, their intentions, and their roles in restoring the legal provision for rebuilding non-conforming dwellings.

R	Position(s)	Intention(s)	Role(s)
1	Town clerk	Arranging planning permission	Caseworker
2	Mayor, Christian Democrat	Arranging planning permission	Caseworker
3	Solicitor and representative of the Belgian Homeowners' Association (AES)	Arranging planning permission and representing the interests of homeowners	Caseworker, high-level caseworker, lobbyist
4	MP and mayor, Christian Democrat	Arranging planning permission and advocating building projects	Caseworker, high-level caseworker
5	MP and mayor, Christian Democrat	Arranging planning permission and advocating building projects	Caseworker, high-level caseworker
6	Minister of Culture, Christian Democrat	Advocating building projects and representing the constituency	High-level caseworker, constituency advocate
7	MP, Christian Democrat	Advocating building projects and representing the constituency	High-level caseworker, constituency advocate
8	Representative of the Flemish Construction Association (VCB)	Representing the interests of construction companies	Lobbyist
9	Researcher of the Social and Economic Council (SERV)	Representing social and economic interests	Lobbyist
10	Policy officer of the Association of Flemish Cities and Municipalities (VVSG)	Representing the interests of cities and municipalities	Lobbyist
11	MP and mayor, Christian Democrat	Arranging planning permission, representing the interests of the constituency and the Farmers' Union (<i>Boerenbond</i>)	Caseworker, constituency advocate, associational advocate
12	MP and alderperson, Christian Democrat	Representing the interests of the Farmers' Union	Associational advocate
13	Special Adviser to the Minister of Spatial Planning, Social Democrat	Representing the interests of the Union for a Better Environment (<i>BBL</i>) and implementing the strategic planning system	Associational advocate, legislator
14	Special Adviser to the Prime Minister, Christian Democrat	Representing the interests of the Farmers' Union and the Belgian Association of Entrepreneurs (<i>UNIZO</i>)	Associational advocate

(Continued)

Table 1. Continued.

R	Position(s)	Intention(s)	Role(s)
15	Special Adviser to the Minister of Environment and staff member of the Farmers' Union, Christian Democrat	Representing the interests of the Farmers' Union	Associational advocate, lobbyist
16	Special Adviser to the Minister of Environment, Christian Democrat	Representing the interests of the Farmers' Union	Associational advocate
17	Special Adviser to the Minister of Environment, Christian Democrat	Representing the interests of the Nature Conservation Association (<i>Natuurreservaten</i>)	Associational advocate
18	Special Adviser to the Minister of Economy and Agriculture, Christian Democrat	Representing the interests of the Belgian Association of Entrepreneurs	Associational advocate
19	Special Adviser to the Minister of Economy and Agriculture, Christian Democrat	Representing the interests of the Farmers' Union	Associational advocate
20	MP, Social Democrat	Implementing the strategic planning system	Legislator
21	Government Official in the Spatial Planning Department	Implementing what is instructed	Legislator
22	Government Official in the Spatial Planning Department	Implementing the strategic planning system	Legislator
23	Special Adviser to the Minister of Spatial Planning, Social Democrat	Implementing the strategic planning system	Legislator
24	Special Adviser to the Minister of Housing, Social Democrat	Providing sufficient residential zones through the strategic planning system	Legislator
25	Minister of Spatial Planning and mayor, Social Democrat	Arranging planning permission and implementing the strategic planning system	Caseworker, legislator
26	Prime Minister, Christian Democrat	Bringing the Flemish ministers to consensus	Legislator

5. Roles of actors in the decision-making process

Figure 2 shows the roles of actors involved in the decision-making process for restoring the provision for rebuilding non-conforming dwellings in the 1999 Spatial Planning Decree. Each part of this figure is explained in more detail in the text. Firstly, seven different roles were identified in the interviews.

5.1. Homeowners

These were landowners with non-conforming dwellings. Their primary interest was in obtaining planning permission to rebuild their dwellings in order to modernize their standard of living and potentially increase their resale value. Some homeowners had also been less patient and sought retrospective planning permission to regularize building works that had already been carried out.

5.2. Caseworkers

Local mayors and alderpersons who had the discretionary powers to grant planning permission and wanted to do so to help homeowners. They could be assisted in this by the town clerk, the local civil servant responsible for coordinating the staff of the various municipal administrations. They could also work with Flemish authorized officials, who were sub-national civil servants empowered to give binding advice to local

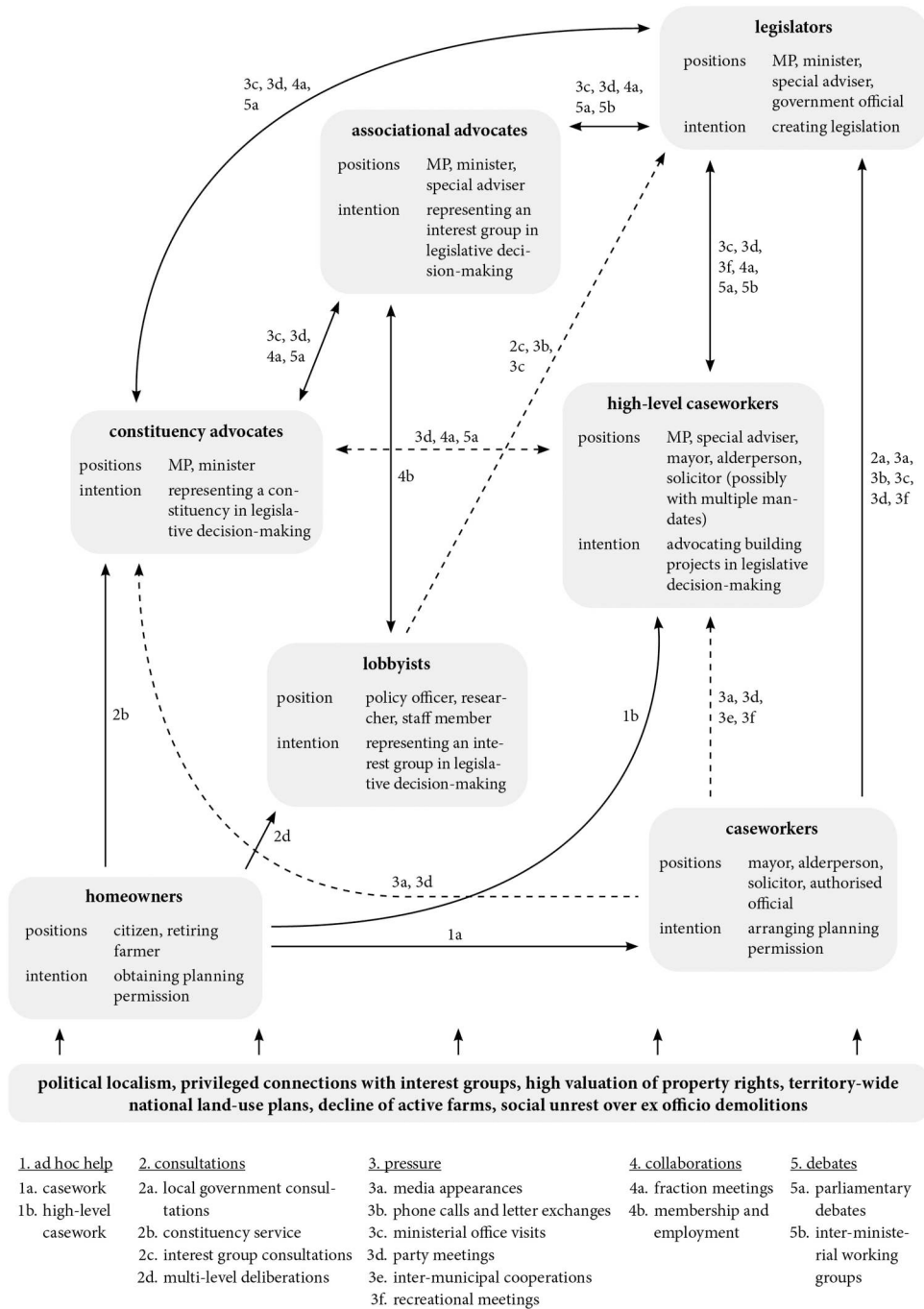


Figure 2. Role-interactions in the decision-making process for restoring the legal provision for rebuilding non-conforming dwellings. Dashed lines indicate intuitively less decisive interactions. Double arrows indicate two-way, deliberative interactions.

governments on planning applications. Finally, solicitors occasionally took on the role of caseworkers to help homeowners obtain planning permission.

5.3. High-level caseworkers

These caseworkers held positions at the level of the Flemish government, such as MPs, ministers, or special advisers who help ministers prepare and decide on policy. They used these high-level positions, sometimes combined with a local position, to influence legislative decisions in favour of individual building projects.

5.4. Constituency advocates

MPs or ministers who focused on representing the broad interests of their constituents – either the whole constituency or a geographically or functionally defined part of it. They consulted their constituents, synthesized their various interests, and advocated legislative decisions in line with the sentiments captured.

5.5. Lobbyists

These actors worked to articulate the problems and needs of interest groups, such as construction associations, nature and environmental associations, and agricultural associations. They communicated these concerns to colleagues and other actor-roles at the Flemish government level.

5.6. Associational advocates

Unlike constituency advocates, these were MPs, ministers, and special advisers who specifically represented the interests of particular interest groups during the decision-making process. They worked with lobbyists to ensure that the needs of these interest groups were considered in legislative decision-making.

5.7. Legislators

These were MPs, ministers, special advisers, and Flemish government officials who focused on reaching a compromise on new legislation. Their main goal was to balance the various interests and achieve a workable outcome.

6. Explaining role-intentions through societal drivers

It seems that the issue of rebuilding non-conforming dwellings became problematic for homeowners in 1993, when the Flemish parliament approved a legislative change that prevented local governments from granting planning permission for such rebuilding. Based on the interviews, six societal drivers were identified that explain the intentions of the actor-roles involved in the subsequent decision-making process (lower part of Figure 2).

6.1. Political localism

In 1995, a new coalition government of the Christian Democratic Party and the Social Democratic Party came to power. With the Christian Democrats holding 37 of the 124 seats in the Flemish Parliament and the Social Democrats 26, the Christian Democratic Party had far more resources with which they could influence legislation. In this respect, the Christian Democratic Party maintained a strong presence at the local level, particularly in rural municipalities. Eight of its MPs held a dual mandate as mayor and ten as alderperson.⁴ As a result, although the 1999 Spatial Planning Decree was drafted by Flemish ministers and their special advisers, including the Minister of Spatial Planning who was from the Social Democratic Party, it was ultimately up to these MPs with strong local ties to debate and approve it.

If there were problems, they would meet in my office, with the relevant members of the Christian Democratic Party and the Social Democratic Party, possibly supplemented by the ministers, to talk it out.

Testimony 1. MP and mayor, Christian Democrat (R4)

6.2. Privileged connections with interest groups

From the late nineteenth century, the Belgian system of interest representation was organized into ideologically segmented groups or ‘pillars’ (*zuilen* in Dutch). The most influential and powerful was the Catholic pillar, which included the Christian Democratic Party as well as major interest groups such as the Farmers’ Union (*Boerenbond*), the Confederation of Christian Trade Unions (*ACV*), and the Union of Self-Employed Entrepreneurs (*UNIZO*). Competing alongside it were the Socialist pillar and, to a lesser extent, the Liberal pillar, which included similar interest groups but none related to agriculture. The Social Democratic Party and the (centre-right) Liberal Party were integral parts of these respective pillars.⁵ By the 1990s, however, this pillarised way of organizing society had gradually declined. What remained were the networks of interest groups, known within the Christian Democratic Party as ‘estates’ (*standen*), and their privileged connections with decision-makers across all levels of government.

The Christian Democratic Party, as a party of estates, has always been open about this. So the ACV says ‘these are our candidates’, and the Farmers’ Union says ‘these are our candidates’. So the Farmers’ Union sends two and says ‘they must be on the list and be elected’.

Testimony 2. MP, Social Democrat (R20)

6.3. High valuation of property rights

A common discourse in public debates in Flanders is that the Flemish have a ‘brick in their stomach’, symbolizing their hard work and self-reliance in securing housing. In line with this, the respondents often emphasized that property rights and the legal certainty to develop non-conforming dwellings must be fiercely protected.

There are certain things you cannot mess with: you cannot mess with someone's spouse, and you cannot mess with their home. If you touch their home, you'll get in trouble.

Testimony 3. Special Adviser to the Minister of Environment and staff member of the Farmers' Union, Christian Democrat (R15)

6.4. Territory-wide national land-use plans

In Flanders, most of the original owners of non-conforming dwellings, or their heirs, unwillingly found themselves in this legal situation as their land was zoned for agricultural purposes in territory-wide national land-use plans in the 1970s. Although the Belgian Parliament intended these national land-use plans to be strategic guidelines for spatial development, a combination of factors led to them becoming the main legal basis for development control.

I myself live in a non-conforming dwelling, which is perfectly legal, which is not at all in a place where you think 'what's that doing here?' But it's in the agricultural zone. Yes, okay, it has always been in the agricultural zone.

Testimony 4. Special Adviser to the Minister of Environment, Christian Democrat (R16)

6.5. Decline of active farms

In line with the upscaling of farms and the rise of environmental policies, the number of active farms in Flanders decreased. As a result, many farm buildings have been converted to non-agricultural uses, such as housing or small enterprises, becoming non-conforming structures in agricultural zones.

Quite quickly we started to notice that a lot of farms were being abandoned and that there was no succession. I mean, a municipality where there are only farms is doomed. You have no income, no way of developing your municipality. You depopulate.

Testimony 5. Mayor, Christian Democrat (R2)

6.6. Social unrest over ex officio demolitions

In the 1990s, the Flemish government stepped up its enforcement policy and ordered the demolition of illegally built dwellings, many of which were located in zones allocated to nature or forestry in the national land-use plans. These ex officio demolitions received widespread media attention, highlighting the emotional toll they took on the owners. As a result, anxiety grew among non-conforming homeowners, who also lived in non-residential zones and therefore feared that their homes might face a similar fate. Action groups were formed, demonstrations took place, and the demolitions became a central issue in the 1999 Flemish parliamentary elections.

I think they only demolished two houses, but for the Flemish people, the image that is engraved in their minds is this big crane demolishing a whole clean villa. Although I always said, 'let's not focus our discussion on that, but let's make sure that no rebuilding is possible'.

Testimony 6. Special Adviser to the Minister of Environment, Christian Democrat (R17)

7. Typologies of role-interactions in the decision-making process

Finally, Figure 2 shows five typologies of cross-level and negotiated interactions between the different roles identified during the decision-making process. Dashed lines indicate intuitively less decisive interactions, while double arrows indicate two-way, deliberative interactions. In what follows, these interactions are illustrated with testimonies from the actors involved.

7.1. Ad hoc help

The principal way in which individual homeowners signalled their interest in rebuilding non-conforming dwellings was through ad hoc help or casework (Figure 3).

Casework made it hard for mayors or alderpersons to refuse planning permission to individual homeowners because of emotional and electoral considerations.

Unfortunately, there are some local governments that see every opportunity as a right for citizens. A planning application is submitted: ‘Can it be done? OK, then we give permission.’

Testimony 7. Special Adviser to the Minister of Spatial Planning, Social Democrat (R23)

I have listened to people’s problems and, yes, if someone wants to build or buy a property, they want to improve it, they may want to live there; these are legitimate needs that can be met that way.

Testimony 8. MP and mayor, Christian Democrat (R4)

Solicitors advised homeowners on how to obtain planning permission and acted as intermediaries with the local government. Some went further and used their position or connections at the Flemish government level.

He [an MP of the Liberal Party] was also someone who thought for a while that people were far too strict in terms of spatial planning, that nothing was possible in the countryside. He was also a solicitor, and he must have had people visit his practice and say ‘this is not possible, we cannot do anything here’.

Testimony 9. MP and mayor, Christian Democrat (R4)

In retrospect, it achieved little, but it was mostly lobbying that I did, for which the client was actually very grateful that it happened. And, you know, it’s more important to be seen to be doing something than to be doing something quietly.

Testimony 10. Solicitor and representative of the Belgian Homeowners’ Association (R3)

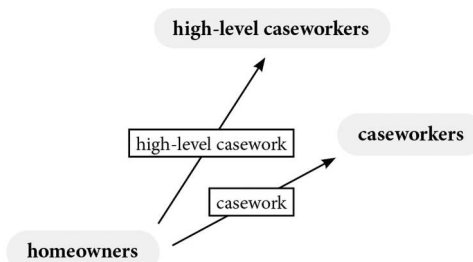


Figure 3. Role-interactions for ad hoc help.

Authorized officials collaborated with mayors or alderpersons to give favourable advice on planning applications.

By the way, I threw out [fired] three of the five authorised officials. That was just an engine of casework.

Testimony 11. Special Adviser to the Minister of Spatial Planning, Social Democrat (R23)

Finally, high-level caseworkers mobilized resources to change legislation in favour of individual building projects. The practice of high-level casework explains why the provision for rebuilding non-conforming dwellings was restored in the Spatial Planning Decree.

I remember at the time, who was it, the mayor of [municipality], [MP and mayor, Christian Democrat (R4)], who once held up the whole decree for three months because a veranda in his municipality had to be demolished. [...] Flanders is small, and certainly given the large representation of Christian Democratic mayors here in parliament at the time, this kind of thing played a frighteningly large role. That is why in Flanders we have rules with one overarching principle and 700 exceptions. That's the I-know-another-peasant system.

Testimony 12. MP, Social Democrat (R20)

Several people around the table had an index card box of cases with them. And all these requests were just shoved into the decree. [...] And then all with the idea of 'this isn't so bad, this isn't so bad, this isn't so bad'. And so at the first meeting it's put in brackets. And by the second meeting it might still be in brackets. And in the long run it's conceded.

Testimony 13. Special Adviser to the Minister of Housing, Social Democrat (R24)

For me, being mayor has always been the entrance, the gateway. So I've always been a localist first and foremost, trying to work from the bottom up. In other words, I translate the signals I get from the bottom up, not the other way around. That has to do with the way I work here, seven days a week, very close to the people.

Testimony 14. MP and mayor, Christian Democrat (R5)

7.2. Consultations

Before restoring the legal provision for rebuilding non-conforming dwellings, legislators sought input and approval from the actors and interest groups concerned (Figure 4).

Initially, legislators held regular consultations with local governments, both formally and informally, which allowed caseworkers to express the importance of the legal provision for rebuilding non-conforming dwellings.

The idea was to learn from each other across Flanders, to inspire each other. And every six months there was a meeting of all these mandataries with the ministers to listen to the sounds from below. Because then we could translate what was going on and to what extent we could respond to it in policy.

Testimony 15. MP and mayor, Christian Democrat (R5)

As an MP, you had every interest in having the mayors on your side. I listened to the mayors more than to the ministers because we shared the same electorate.

Testimony 16. MP, Christian Democrat (R7)

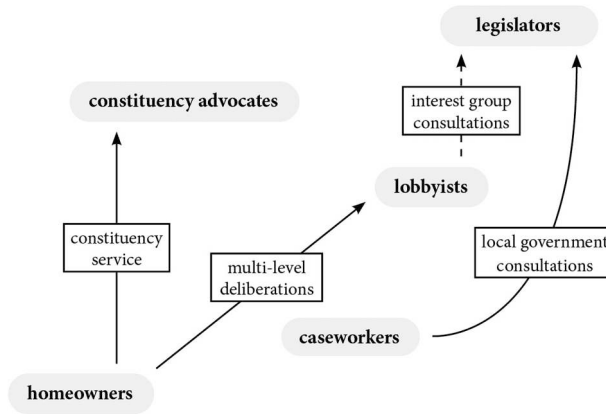


Figure 4. Role-interactions for consultations.

Constituency advocates also interacted with homeowners through the practice of constituency service. They then submitted constituency-specific legislative initiatives or parliamentary questions and used their personal influence with other actor-roles to influence the decision.

On Monday mornings, we didn't have to be in Brussels, so I was in [municipality]. On Wednesdays, I went to [municipality]. These are the central towns here in the [area]. Then, on Tuesday evenings, I went to [municipality]. [...] Then we probably would have told you that we are working on it.

Testimony 17. MP and mayor, Christian Democrat (R11)

I found that Mondays were always a difficult day because, the day before, ministers and MPs had attended four or five local fairs, which sometimes led to annoying questions for us.

Testimony 18. Special Adviser to the Minister of Environment, Christian Democrat (R17)

Furthermore, legislators interacted with lobbyists from interest groups. The legal provision for rebuilding non-conforming dwellings was beneficial to private developers.

Behind the scenes, we were in contact with the Flemish Construction Association, which was also looking for solutions. [...] They invite you to Brussels for lunch and that's how it's discussed. Or you go to their office in the evening.

Testimony 19. MP, Christian Democrat (R7)

In particular, the Farmers' Union, an estate of the Christian pillar, was regularly mentioned in the interviews. Whether or not it was possible to rebuild residential dwellings in agricultural zones had a direct impact on agricultural operations.

What I did then was to knock on the doors of agricultural associations—the Farmers' Union, for example—because I know there's all kinds of talk, the Farmers' Union, the 'mafia' this and that. But I've never felt that way and I've never been a member of the Farmers' Union or anything like that either. But yes, the Farmers' Union had a lot of expertise, and they did educate me.

Testimony 20. Special Adviser to the Minister of Economy and Agriculture, Christian Democrat (R19)

The opinion of the Farmers' Union was formed through a multi-level deliberation process. Issues of non-conformity were first discussed in the local Rural Guilds (*Landelijke Gilden* in Dutch), which included both farmers and rural homeowners. Their compromised opinions were then discussed in the provincial committees and then finally in the central committee. As farmers in agricultural zones often faced nuisance complaints from residential neighbours, the interest group did not publicly advocate the provision for rebuilding non-conforming dwellings.

City people who know nothing about farming and come to live in the countryside are a constant source of misery. So you have to limit that.

Testimony 21. Special Adviser to the Minister of Environment and staff member of the Farmers' Union, Christian Democrat (R15)

However, the legal provision for rebuilding non-conforming dwellings was also in the interests of members of the Farmers' Union who were not active farmers.

The Farmers' Union realised that, with only 2% of the population being farmers, their membership was only a fifth of that of the Nature Conservation Association. To maintain their influence in society, they broadened their base to include the rural movement as a whole.

Testimony 22. Special Adviser to the Minister of Environment, Christian Democrat (R17)

In addition, for elderly farmers approaching retirement, rebuilding a non-conforming dwelling on the site of a former farmstead provided a modern standard of living for any descendants. The added value of selling the dwelling for residential purposes would also be a welcome addition to their retirement funds.

The leadership of the Farmers' Union and the people from the research departments wanted to be quite strict about non-conforming buildings. But they were often pushed back by the central committee, where the farmers themselves sit. Because, of course, there are probably a number of people among them who are starting to do their own accounts and thinking 'I have an old farm here and I want to do something with it'.

Testimony 23. Special Adviser to the Minister of Economy and Agriculture, Christian Democrat (R19)

As long as he is a farmer, he defends his land for his work. The day he stops, all he sees is money; 'how much will this land be worth if I build a house on it?' Then the old farmer actually becomes the enemy of the young farmer.

Testimony 24. Special Adviser to the Minister of Environment and staff member of the Farmers' Union, Christian Democrat (R15)

7.3. Pressure

From caseworkers to associational advocates, almost all respondents described how they had experienced pressure to restore the legal provision for rebuilding non-conforming dwellings (Figure 5).

Caseworkers used phone calls, letters, and direct visits to ministerial offices to reach legislators.

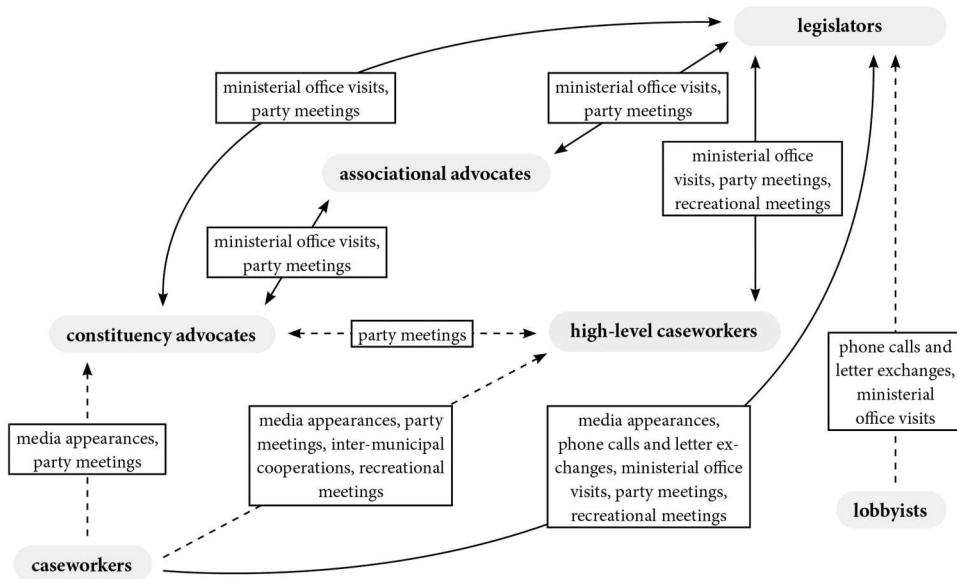


Figure 5. Role-interactions for pressure.

The municipalities have also been very vocal about this. When they were forced to say to citizens ‘we can’t give you planning permission here because you are non-conforming’, they raised the issue with us – both with the relevant minister’s offices and with the Prime Minister, through letters or direct contact.

Testimony 25. Prime Minister, Christian Democrat (R26)

Party meetings, inter-municipal cooperations (both formal and informal), and even a football team were also mentioned.

I remember that [mayor, Christian Democrat], who has since passed away, was mayor of [municipality], and he sat next to me in the Christian Democratic Party office. How many times did he say to me, ‘That’s stupid, these rules! That people are given almost no room for manoeuvre to get a case approved, this is untenable.’ And all these things eventually led to a pretty tough negotiating position to find a solution for the non-conforming dwellings.

Testimony 26. MP and mayor, Christian Democrat (R4)

We met every month in a different municipality of the region, so we always took turns to share all the information, but also the wishes and the complaints. And so I always tried to capture the sensitivities at the regional level.

Testimony 27. MP and mayor, Christian Democrat (R5)

I also played football with [Minister of Environment and mayor, Christian Democrat]. We had a team of the Flemish mayors. And he was the initiator and the captain.

Testimony 28. Mayor, Christian Democrat (R2)

Other caseworkers campaigned and raised the issue of non-conformity through media appearances.

We actually did a bit of campaigning, with opinion pieces, organising things around us. We acted from the grassroots, from the bottom up. [...] The solidarity around it slowly grew. And other mayors who were in a similar situation to us took it up.

Testimony 29. Mayor, Christian Democrat (R2)

Eventually, high-level caseworkers and constituency advocates articulated this pressure directly to legislators through ministerial office visits.

I remember three MPs, and I think there was a fourth, who came to besiege me in the minister's office – well, besiege me – in Martyrs' Square [in Brussels, where the Flemish ministries are located] to say 'listen, this is impossible'.

Testimony 30. Prime Minister, Christian Democrat (R26)

7.4. Collaborations

Several actor-roles were committed to collaborate with each other to restore the legal provision for rebuilding non-conforming dwellings from within the Flemish parliament or government (Figure 6).

Within the Christian Democratic pillar, MPs or ministers became associational advocates for the Farmers' Union because they grew up among farmers or were members. They were therefore appointed by the Farmers' Union to represent its interests.

These are MPs who are recognised as MPs who also defend agricultural interests. This is very classic in the Christian Democratic Party. You also had that on the workers' side. And the middle class as well. So in order to be able to say 'I am a candidate and I am supported by the farmers' association', the farmers' association has to accept you.

Testimony 31. Special Adviser to the Minister of Environment and staff member of the Farmers' Union, Christian Democrat (R15)

A second way in which the decision-making process involved collaboration was through parliamentary fraction meetings of the political parties. In addition to the MPs of the

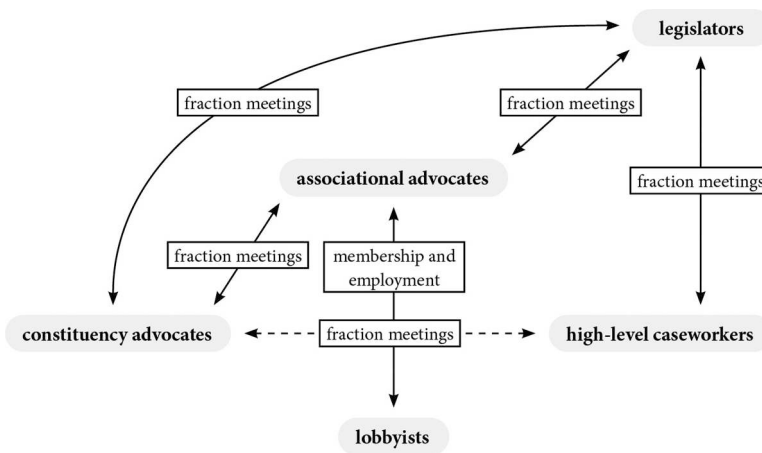


Figure 6. Role-interactions for collaborations.

Christian Democratic Party, these meetings were attended by associational advocates and sometimes by lobbyists.

MPs would get together, some people from the party, some people from the ministerial office – you always had to have someone who knew what was going on anyway – and then the estates were always there too. Someone who could say ‘oh, wait a minute, you’ve forgotten something’.

Testimony 32. Special Adviser to the Minister of Environment and staff member of the Farmers’ Union, Christian Democrat (R15)

7.5. Debates

Once the issue of rebuilding non-conforming dwellings was on the policy agenda, it was seen as a publicly acknowledged problem. To reach a compromise, legislators weighed this issue against others in debates (Figure 7).

Parliamentary debates on the rebuilding of non-conforming dwellings were conducted by questioning the government and preparing and voting on new proposals for decrees. The Christian Democratic fraction had already submitted a proposal to this effect at the beginning of the legislative period in 1995. The proposal was never adopted, but served as a starting point for further debates on the Spatial Planning Decree.

Rebuilding was one of our showpieces actually. It had to be done. [...] Because our brothers from the Social Democratic Party were so strict about non-conformity. Even renovations for the most basic human needs were almost impossible. And then it was opening up the debate, that took a lot of negotiations, a lot of separate conversations. Yes, I had ... I have to say that, also with [MP and mayor, Christian Democrat (R4)], we went around a lot from one party to another.

Testimony 33. MP and mayor, Christian Democrat (R11)

The Spatial Planning Decree was eventually prepared by the Flemish government itself. Crucial in this respect were the debates between legislators and associational advocates, in particular special advisers working for the relevant ministers, in inter-ministerial working groups.

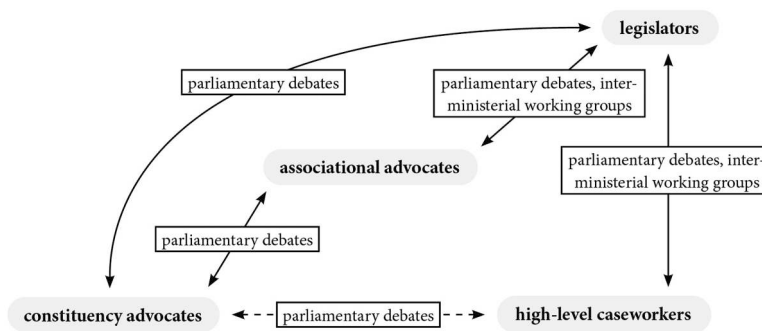


Figure 7. Role-interactions for debates.

We had three days off a week to negotiate. Three days. It was about the Decree, the Spatial Structure Plan, the national land-use plans, the changes that were being made at the time, ... It was a big room we sat in, you know, because these maps had to be opened up.

Testimony 34. Special Adviser to the Minister of Spatial Planning, Social Democrat (R13)

As special advisers preferred to know in advance whether the draft Spatial Planning Decree would be approved in parliament, MPs were also involved in these inter-ministerial working groups. Once they had reached a compromise, the draft was sent to the Council of Ministers, where a few remaining bottlenecks were discussed. Only when the ministers agreed was the draft decree sent to parliament.

Sometimes, when it comes to important decrees, there are consultations with friendly MPs within a ministerial office. And then the progress is discussed in the inter-ministerial working groups. At that point we sit there and check: 'Do you think that's OK?' Because you can approve a draft decree in government, but if your MPs don't agree with it, then you're going to have problems in parliament afterwards.

Testimony 35. Special Adviser to the Minister of Economy and Agriculture, Christian Democrat (R19)

8. Conclusion

The objective of this article was to demonstrate how local governments acquire the discretionary powers to grant exceptions to land use regulations in development control. To this end, using the self-developed AISA method, we interviewed key actors involved in the decision-making process behind the 1999 legal provision for rebuilding residential dwellings in agricultural zones in Flanders (i.e. non-conforming dwellings). In particular, we asked mayors, alderpersons, MPs, ministers, special advisers, civil servants, solicitors, and interest group representatives about their intentions and interactions regarding this legislative decision. This approach revealed the different roles these actors personified in cross-level and negotiated interactions. Future research could apply this methodology to other policy-making processes and countries to explore the influence of different institutional frameworks on role-interactions.

Our findings are in line with Buitelaar, Galle, and Sorel (2011, 940), in that 'planning law is not only institutionalised in local practices: local practices are also formalised and institutionalised into planning law'. In our case – our research on the legal provision for rebuilding non-conforming dwellings in Flanders – the practice of casework has proven to be particularly relevant. In addition, almost every respondent pointed to frequent consultations between ministers, MPs, citizens, and interest groups, including phone calls and visits to municipalities to respond to constituent demands. An unexpected finding was the support of the Farmers' Union for this provision. Agricultural associations generally agree that urban sprawl is a threat to agricultural production. In Flanders, however, every vacant farm has the potential to become a non-conforming dwelling, leading to a significant increase in its property value. This high potential value may explain the support of the Farmers' Union for this legal provision through its established network with Christian Democratic legislators – even having a representative within the office of the Flemish Minister of Environment. Further research could investigate whether the intentions of agricultural associations in decision-making in other countries differ from common assumptions.

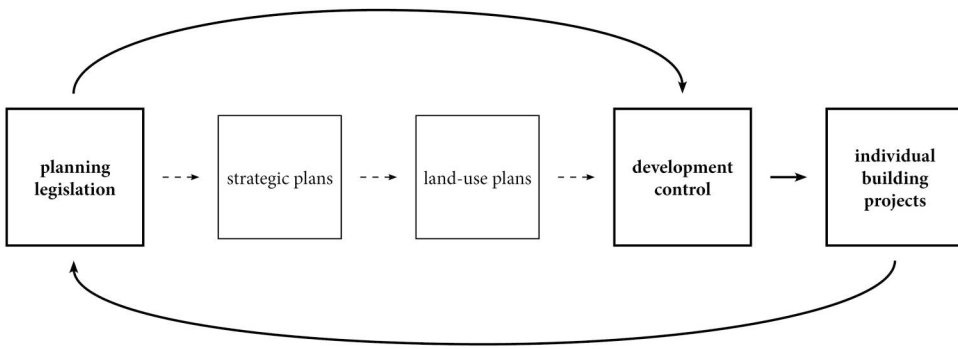


Figure 8. The articulation of individual building projects into planning legislation.

Overall, our findings indicate that it is difficult for mayors or alderpersons to refuse planning permission when they have the discretionary powers to grant it. By granting these permissions, they can have a significant impact on the property values and living standards of their constituents. Development control is therefore influenced by emotional factors, economic and electoral considerations, and pressure from homeowners and interest groups. This becomes particularly problematic when the individual building projects of citizens conflict with strategic planning ambitions. Ideally, governments should then assess whether the adaptation or replacement of land-use plans is consistent with the strategic plan. If not, they should update the strategic plan with more up-to-date long-term visions. In practice, however, the desire to approve homeowners' individual building projects can override these phases of strategic planning. Through interactions with interest groups and legislators at higher levels of government, individual building projects articulate directly from the local government level into planning legislation, resulting in development control that is no longer in line with any strategic long-term vision (Figure 8).

Notes

1. The press releases were found with the online search application Belga Press (www.belga.press); parliamentary documents, including minutes of parliamentary debates, proposals, draft decrees, and official advice, were found on the website of the Flemish Parliament (www.vlaamsparlament.be).
2. Two magnets were provided for actors holding dual positions.
3. Respondents who were assigned a specific role did not necessarily see themselves that way. We based these assignments on their positions, their intentions, and what other respondents said about them.
4. This information was obtained from the personal pages of the MPs from this legislative period on the Flemish Parliament's website (vlaamsparlament.be).
5. The Liberal Party is usually described as being to the left on ethical issues and to the right on socio-economic issues. The party opposes central direction in planning, preferring a type of planning that is sensitive to local circumstances and works with the market.

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Ethics approval

This research project has been ethically approved by the Social and Societal Ethics Committee (SMEC) of KU Leuven. The processing of personal data meets the requirements of the General Data Protection Regulation (GDPR). The approval number is G-2020-2917-R3(MIN).

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