

## Study on Unfit Housing and Slum Landlords in the EU

### Summary

4 June 2021

Homes have been the centre of our lives during the pandemic and, for thousands of people in Europe, inadequate housing and cramped conditions have made lockdown unbearable. Furthermore, poor housing conditions have exacerbated COVID-19 transmission risks.

Substandard housing issues have persisted across Europe in recent decades. In 2018, Cyprus, Portugal, Latvia and Hungary had the highest percentage of households living in substandard dwellings, as defined by the EU-SILC severe housing deprivation rate measure <sup>1</sup> (house with a leaking roof, damp walls, floors or foundation or rot in window frames or floor). Finland, Norway, and Slovakia have the lowest percentage.

This last decade, there has been growing demand for private rental properties in Europe and governments are confronted with the obligation to make sure that these dwellings are fit for purpose. Many tenants suffer poor housing conditions or health issues connected to their homes. In the worst cases, these may result in life-threatening situations such as fires and buildings collapsing because of poor or no maintenance at all.

In this study we wanted to shed light on “**slum landlords**” or “**rogue landlords**”, also known as “**marchands de sommeil**” (literally: “sleep merchants”) in French-speaking countries. There is no one definition, and this term may refer to different situations in every country, but they are all unscrupulous landlords taking advantage of a strained housing market to exploit the most vulnerable and fail to fulfil their obligations to keep dwellings fit for human habitation. According to a definition by Michel Vols and Alex Belloir slum landlords exploit tenants, discriminate, rent substandard housing, use property for illegal activities and evade taxes.<sup>2</sup>

The report analyses ten countries in Europe, to understand the legal framework and how to better protect vulnerable tenants from these landlords. In some of these countries, this protection includes severe penal responses to these behaviours.

This study shows that inadequate and insecure housing is a significant problem in the private rental sector in several European countries, despite the presence of regulations to protect tenants. The private rental sector relies heavily on the regulation of the relationship between landlords and tenants at the level of the individual rental contract. These regulations often demand tenants to report housing problems and do hence not take the power difference in the tenant-landlord relationship into account. This makes it difficult for tenants to report problems and leaves the occupier in a vulnerable position in a context of housing shortage. It is therefore necessary to develop new regulations (registration and accreditation schemes) that can help to combat the shortcomings of this contractual approach by introducing regulatory mechanisms that rely on a different underlying logic. The introduction of

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<sup>1</sup> EU statistics on income and living conditions (EU-SILC) on housing deprivation.

[https://ec.europa.eu/eurostat/statisticsexplained/index.php/EU\\_statistics\\_on\\_income\\_and\\_living\\_conditions\\_\(EU-SILC\)\\_methodology\\_-\\_housing\\_deprivation](https://ec.europa.eu/eurostat/statisticsexplained/index.php/EU_statistics_on_income_and_living_conditions_(EU-SILC)_methodology_-_housing_deprivation)

<sup>2</sup> Vols, M., and Belloir, A. (2019). Tackling Rogue Landlords and Substandard Housing: Local Authorities’ Legal Instruments and their Effectiveness. *Journal of Property, Planning and Environmental Law*, 11(1), 2-19. <https://doi.org/10.1108/JPEL-08-2018-0025>, p. 3

criminal sanctions is in its infancy and not yet widespread in Europe. This is an important step in France and Belgium, but also in the Netherlands and Ireland.

Below, we summarise the main findings as regards France, Belgium, the Netherlands and Ireland, countries that established additional criminal legislation to punish the activity of slum landlords.

Country	Legislation	Main Points
<b>France</b> <i>Proportion of the population living in substandard housing in 2018, according to Eurostat: <b>12.7%</b>.</i>	ALUR law 2014  ELAN law 2018	<p><b>Concept of unfit housing (“habitat indigne”):</b>  This concept covers all housing situations that violate the right to adequate housing and undermine human dignity.</p> <p><b>Sanctions against slum landlords</b></p> <ul style="list-style-type: none"> <li>Financial and administrative sanctions against slum landlords;</li> <li>Additional penalties, such as the prohibition from purchasing property or confiscation of real estate.</li> </ul> <p><b>Action by public authorities</b>  The ELAN Law allows public authorities to impose a mandatory penalty on slum landlords if they do not respect the measures foreseen in the law.</p> <p>In addition, the payment of a penalty may be due in the following cases (non-exhaustive list):</p> <ul style="list-style-type: none"> <li>Provision for habitation purposes of housing that is unfit for habitation (basements, attics, rooms without opening to the outside, etc.);</li> <li>Provision of premises under conditions that clearly lead to their over-occupancy;</li> <li>Use of premises or installations that threaten the health or safety of their occupants;</li> <li>Notice of unhealthy environment, valid definitive prohibition from living in and using the premises.</li> </ul>
<b>Belgium</b> <i>Proportion of the population living in substandard housing in 2019, according to Eurostat: <b>16.7%</b>.</i>	Brussels Housing Code 2004  Tenancy Act  Walloon Regional Housing Code 2013	<p><b>Concept of slum landlord and punishment</b></p> <ul style="list-style-type: none"> <li>Definition: “a person who sells, leases, or makes available a property to vulnerable people, with the intention of making an abnormal profit”.</li> <li>This offence can be punished with imprisonment from six months to three years and a fine of 500 euros to 25,000 euros.</li> </ul> <p><b>Obligations on landlords</b></p> <ul style="list-style-type: none"> <li>To rent healthy and good quality housing;</li> <li>Health criteria to which housing must respond: damp, natural lighting, height of ceilings, water, gas, electricity utilities and sanitary equipment.</li> </ul> <p><b>Options for action by the tenant</b></p> <ul style="list-style-type: none"> <li>A request to the justice of the peace of the area where the building is located;</li> <li>In Brussels and the Walloon Region, the tenant can also request the completion of a health compliance survey.</li> </ul>

		<p>An investigator visits the site and prepares a report describing the condition of the property and the measures to be taken to ensure compliance.</p> <p><b>Action by the municipality</b></p> <ul style="list-style-type: none"> <li>• Municipal competence in matters of safety. In this context, action is limited to housing problems related to the hygiene, safety, or health of the occupants.</li> <li>• Uninhabitable order: a decision by which the mayor decides to close access to a building which is then sealed after the occupants are evacuated.</li> </ul>
<p><b>The Netherlands</b> <i>Proportion of the population living in substandard housing in 2019, according to Eurostat: 14.7%.</i></p>	<p>Buildings Decree 2012</p> <p>Housing Act (administrative law)</p>	<p>In the Netherlands, the primary objective of the Housing Act remains eradicating or at least impeding the occupation of unsafe and deficient homes that meet the definition of substandard housing, and thus indirectly targeting rogue landlords.</p> <p><b>Obligations on landlords</b></p> <p>The Housing Act explicitly forbids property owners from violating the Buildings Decree 2012, which sets out detailed requirements and regulations regarding health, safety, usability, energy efficiency, waste disposal and environment.</p> <p><b>Action by the municipality</b></p> <ul style="list-style-type: none"> <li>• In 2015, the national government implemented new legislation granting local authorities more legal instruments to combat slum landlords. Local authorities can now use a larger number of instruments under administrative law, which include the imposition of “<b>remedial sanctions</b>”, such as imposing incremental penalty payments and, in the most extreme cases, expropriation.</li> <li>• Nevertheless, many municipalities have not included this new Act in their policy. As a result, only a minority of them have drawn up policies concerning the very instruments that were implemented to allow them to deal with this issue more effectively.</li> </ul>
<p><b>Ireland</b> <i>Proportion of the population living in substandard housing in 2018, according to Eurostat: 11.9%.</i></p>	<p>Housing (Miscellaneous Provisions) Act 1992</p> <p>Residential Tenancies Act 2004</p> <p>Housing Act 2009</p>	<p><b>Obligations on landlords</b></p> <ul style="list-style-type: none"> <li>• “Carry out to the structure of the dwelling all such repairs as are, from time to time, necessary and ensure that the structure complies with any standards for houses for the time being prescribed in the Housing Act 1992 which establishes the standards for rented houses.”</li> <li>• “Carry out repairs to the interior of the dwelling, such repairs and replacement of fittings as are necessary so that that interior and those fittings are maintained in, at least, the condition in which they were at the commencement of the tenancy and in compliance with any such standards for the time being prescribed.”</li> </ul> <p><b>Penalties in case of non-compliance with obligations</b></p> <ul style="list-style-type: none"> <li>• A fine not exceeding 3,000 euros or imprisonment for a term not exceeding six months or both.</li> </ul>

		<ul style="list-style-type: none"> <li>• In case of recidivism: the person is guilty of a further offence on every day on which the contravention continues and for each such offence, the person shall be liable on summary conviction to a fine not exceeding 250 euros.</li> <li>• Proceedings in relation to an offence under this Act may be brought and prosecuted.</li> <li>• Since 2018: possibility to sentence rogue landlords to imprisonment. Unfortunately, the enforcement powers lie with the local authority rather than the tenant and in practice, this option has not been used and no landlord has been sentenced in this way.</li> </ul>
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In addition to these four countries, the study also examines the situations in the **United Kingdom, Spain, Portugal, Finland, Poland and Hungary**.

This study shows that unsafe and unhealthy housing is a problem in the private rented sector in several countries in Europe, despite the existence of regulations intended to protect tenants. The private rented sector has relied largely on the regulation of the relationship between landlord and tenant at the level of the individual tenancy agreement. Rental housing quality regulations often rely on tenants reporting problems with their housing, but this fails to take account of power dynamics in the tenant/landlord relationship that makes it difficult for tenants to do so. Hence, there is a need for broader regulatory interventions – registration, licensing, and accreditation schemes – which can help address the deficiencies of this contractual approach by introducing regulatory mechanisms that rely on a different underlying logic. The introduction of criminal penalties is very incipient and not widespread in Europe. It has been an important step in France and Belgium particularly but also in the Netherlands and Ireland.

## Recommendations

### For the EU Member States

- A lawsuit should not be a tenant's only means of defence, because legal proceedings may be long and expensive.
- If a lawsuit is needed, the availability of legal aid can be important in supporting a tenant to understand and assert their rights.
- Provide for governmental authority for **monitoring housing conditions**. Provide local authorities with the means to monitor the conformity of rented houses.
- Establish **common minimum standards** to which every housing unit must respond.
- Establish the possibility for tenants to request a **health compliance survey**.
- Introduce **criminal legislation** to tackle the activity of slum landlords, modelled on good practice in other European countries.
- In the case of re-housing decided by an administrative authority, the new rent must not exceed that of the previous accommodation.
- Set up the possibility for the tenant to terminate a lease agreement without any notice period if the accommodation has defects that endanger the life or health of the tenant.
- Require co-ownership managers and estate agents to report to the public authority any suspicions of slum landlord activity of which they become aware in the performance of their duties.

## For the EU

- Recognise housing exclusion and housing quality as critical social issues in the EU. The **European Pillar of Social Rights** recognises this issue in Principle 19 on Housing and assistance for the homeless. EU policies must counter poor housing conditions and provide funding for the improvement of these buildings. Funds from the MFF, the "**NextGenerationEU**" Recovery Plan and European Cohesion Funds should be used to achieve this goal.
- Address substandard housing in the policies established to deliver the energy transition to mitigate climate change. The European Commission's "**Renovation Wave strategy**" has the goal of improving the energy performance and resource efficiency of buildings. To make this possible, the Renovation Wave should enable the doubling of renovation rates for the next ten years. The forthcoming **Energy Efficiency Directive (EED)** and the **Energy Performance in Buildings Directive (EPBD)** provide the unique opportunity to bring significant social, health, and economic benefits to lower-income and vulnerable households, through improved housing conditions and by combating energy poverty. Both European and National funds must be targeted towards the renovation of inadequate housing and "worst-performing" buildings, especially in the interest of low-income tenants but also of low-income property owners.
- **Although we consider housing as a right and not a commodity, consumer law must be brought into consideration** in issues associated with this regulatory framework. Effective consumer protection policy ensures that the Single Market can function properly and efficiently. It aims to guarantee consumers' rights vis-à-vis merchants and provide enhanced protection for vulnerable consumers. Empowering consumers and effectively protecting their safety and economic interests have become essential goals of EU policy and should be taken into account regarding vulnerable tenants in relation to their rented housing.