AN OVERVIEW OF HOUSING EXCLUSION IN EUROPE

2015

The Foundation Abbé Pierre - Feantsa

FEANTSA

Fondation Abbé Pierre pour le logement des défavorisés

CHAP. 3

EUROPEAN UNION LEGISLATION RELATING TO HOUSING

Although housing is not a competence of the European Union, it is increasingly affected by Europe-wide laws. The following non-exhaustive list summarises the regulatory framework impacting on Europeans' housing conditions.

The standards described here are grouped into four categories, representing the policy lines around which the European project has been built. The aim is to clarify the principles underpinning the referred-to texts, forming the cornerstones of political battles required to steer the regulatory framework towards a socially just Europe.

1. PROTECTION OF INDIVIDUALS

THE RIGHT TO HOUSING AND HOUSING ASSISTANCE

The Charter of Fundamental Rights enshrines a series of personal, civil, political, economic and social rights that EU citizens and residents are entitled to, including a number that directly or indirectly concern housing. In particular:

Article 7: *«Everyone has the right to respect for his or her private and family life, home and communications».*

Article 34(3): *in order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Community law and national laws and practices. «*

Article 36: *«the Union recognises and respects access to services of general economic interest as provided for in national laws and practices, in accordance with the Treaty establishing the European Community, in order to promote the social and territorial cohesion of the Union».*

With the entry into force of the Lisbon Treaty in 2009, the Charter of Fundamental Rights became legally binding. As a consequence, all EU institutions are legally obliged to comply with the Charter (European Commission, European Parliament, etc.), as are the Member States when they are implementing Union law. A brief summary of the outcome of this legislation is set out below.

NON-DISCRIMINATION ON THE BASIS OF ETHNIC ORIGIN AND GENDER

Housing discrimination is an important factor when it comes to housing exclusion, whether it relates to supply or to allocation . The following anti-discrimination Directives have been adopted on the basis of Article 19 of the Treaty on the Functioning of the European Union (TFEU):
The Racial Equality Directive (2000/43/EC) applies to all persons, in both the public sector and private sector, in relation to «access to and supply of goods and services which are available to the public, including housing» (Article 3(1)(h)). Housing is not defined in this Directive, but should be interpreted in light of international legislation concerning human rights, including the right to respect for his or her home as set forth in Article 7 of the EU Charter of Fundamental Rights and Article 8 of the European Convention on Human Rights and the right to adequate housing contained in Article 11 of the International Covenant on Economic, Social and Cultural Rights (European Court of Human Rights and the Agency for Fundamental Rights, 2011).
The Directive implementing the principle of equal treatment between women and men (2004/113/EC) does not make specific reference to housing, but it comes under the description «goods and services made available to the public»[1]. The preamble to this Directive mentions two examples of derogation from the principle of equal treatment in relation to housing: the case of gender-specific shelters for victims of sexual violence and the case of accommodation provided in private homes.

1 Ringelheim, J and Bernard, N (2013) Discrimination in Housing, European Commission, Directorate-General for Justice.

FREE MOVEMENT OF EUROPEAN CITIZENS

Free movement is another fundamental principle of the European Union enshrined in Article 45 of the TFEU. **Directive 2014/54/EU includes measures intending to facilitate the standardised application of the right to free movement of workers within the Union.** Its scope covers access to a number of social rights, in particular related to housing (Article 2 (1)(f)). EU citizens working in another Member State shall enjoy the same rights and benefits afforded to national workers of that other Member State in matters of housing[2].
EU legislation proposes clear provisions concerning access to social rights and housing for European citizens who enjoy the status of 'worker'. On the other hand, the rights of European citizens are more uncertain if they are economically inactive or if they are experiencing difficulties in proving their status as a job-seeker or worker. This is now a highly sensitive issue in several Member States, with significant implications in terms of homelessness and exclusion.
The right to free movement applies to all EU citizens. It is only restricted if a foreign citizen has committed a public order offence or has become an 'unreasonable burden' for the social welfare system of the host country. In any event, recourse to provisions guaranteeing fundamental rights (schooling, emergency medical services, night shelters) may not be considered as an unreasonable burden.

MIGRATION MANAGEMENT AND THE PROTECTION OF POPULATIONS COMING FROM THIRD COUNTRIES

EU legislation regarding migration contains certain important provisions concerning the housing rights of non-member state (third country) nationals who enter and stay on the territory of the Union.

Directive 2003/109/EC grants third country nationals who are long-term residents the right to equal treatment in access to goods and services made available to the public, including housing assistance. This is set forth in Article 11 (1): «Long-term residents shall enjoy equal treatment with nationals as regards: [...] access to goods and services and the supply of goods and services made available to the public and provisions for procuring housing...» On the basis of the aforementioned Article 11 taken in conjunction with Article 34 of the Charter of Fundamental Rights on the right to housing, the Court of Justice of the European Union delivered a judgement granting entitlement to individual allowances for non-European long-term residents in Italy (Kamberaj judgement, C571/10).

The EU legislation on asylum policy stipulates that essential products must be made available in order to guarantee asylum-seekers a dignified standard of living. **The Directive regarding reception conditions for asylum-seekers** (2013/33/EU) lays down minimum EU standards in this regard. Material reception conditions include housing, food and clothing provided in-kind, as financial allowances or vouchers (or a combination of the three) in addition to a daily expenses allowance. Article 18 of this Directive sets out the terms for reception, which may be offered in the form of accommodation centres guaranteeing a sufficient standard of living, a house, an apartment, a hotel, or another suitable place.
Whatever the type of reception accommodation provided, it must ensure the protection of private and family life and children are to be housed with their parents. Moreover, the reception should facilitate contact with legal advisers, NGOs and aid agencies. Member States must take into account the sex, age and vulnerability of individuals. Dependent adult applicants must be housed with their closest relatives. Members States may exceptionally put in place different reception arrangements from those set out above, but always taking into account the specific needs of the applicant and only when accommodation capacities normally available are temporarily exhausted.

The Directive on mass influxes (2001/55/EC) lays out exceptional procedures for the provision of immediate and temporary protection for displaced persons fleeing wars or disasters, arriving in large numbers from non-EU member countries when the conventional asylum system is overwhelmed. The Directive requires States to ensure that individuals entitled to temporary protection have access to or receive the means to procure suitable housing.

Directive 2014/36/EU addresses the entry and stay of third country nationals for the purpose of employment as seasonal workers. Although it does not provide for equal treatment to that of EU nationals in terms of housing, minimum standards ensuring decent living standards still apply in accordance with national law and/or practices for the duration of his or her stay (Article 20). Where accommodation is arranged by or through the employer, the seasonal worker shall not be required to pay rent which is excessive in relation to his or her net remuneration and the quality of the accommodation. The rent shall not be automatically deducted from the pay of the seasonal worker. The employer shall provide the seasonal worker with a rental contract or equivalent document and the accommodation must meet the general health and safety standards in the Member State concerned.

PROTECTION OF PERSONS WITH DISABILITIES

The European Union is a party to the **United Nations Convention on the Rights of Persons with Disabilities** and its Member States are committed to ratifying the provisions contained therein. The Convention provides for appropriate measures in relation to protecting and safeguarding a full range of civil, political, social and economic rights of persons with disabilities and stipulates the obligation to promote access to housing (Articles 9(1)(a) and 3(f)). Appropriate measures must be taken to ensure that housing is arranged in a suitable manner (Article 5(3)).

KNOWLEDGE OF SOCIAL ISSUES: EUROPEAN UNION STATISTICS REGARDING INCOME AND LIVING CONDITIONS

The European Union has adopted a common framework concerning the systematic production of Community statistics on revenue and living conditions (EUSILC). This instrument includes comparable and timely cross-sectional and longitudinal data regarding income, poverty and social exclusion on a national and European level. The objective is to understand Europe's social reality and exert an influence on social policies within the Union. The Regulation establishing the EU-SILC system (no. 1177/2003) enforces the collection of data relating to housing including tenure status, payment difficulties, housing quality, location and access to services, factors leading to inequality, etc.

2 Article 9 of the Regulation (EU) n°. 492/2011 in relation to which this Directive expressly adopts the scope.

CHAP. 3
E.U. LEGISLATION
RELATING TO HOUSING

2. HOUSING AS A COMMODITY

CONSUMER PROTECTION

European Directive 2014/17/EU on mortgage credit agreements for consumers relating to residential property aims to create a more effective and transparent credit market based on experience acquired from the financial crisis, in particular by seeking to empower consumers and professionals. It lays down a common framework which includes:

- information and advice,
- an obligation to assess the creditworthiness of consumers before approving a loan, with a reliable valuation of their property,
- certain prudential and supervisory requirements applicable to professionals (credit and loan facilitators other than credit institutions).

In the event of a payment default, Article 28 requires Member States to adopt measures to encourage «creditors to exercise reasonable forbearance before foreclosure proceedings are initiated» in relation to housing. Moreover, in instances where the sale of the foreclosed property has an effect on the amount of debt, creditors should ensure that the best price is obtained. Member States are also authorised to keep down the outstanding professional fees charged to consumers.

The Directive on unfair terms in consumer contracts (93/13/EEC) is equally pertinent in terms of housing as well as Directive 2005/29/EC on unfair business-to-consumer commercial practices when contracts relate to residential property and are agreed between a supplier and an individual.

COMPETITION RULES

The Treaty (Article 107 TFEU) prohibits State aid except in specific economic circumstances. The Commission is responsible for ensuring that State aid complies with Union law. Social housing, as a service of general economic interest (SGEI), is exempt from the requirement to notify the Commission of State aid payments (§ 11 of the Commission Decision C (2011) 9380). Member States retain considerable discretionary powers regarding the meaning of the SGEI. The Commission must verify however that there are no manifest errors. Social housing is defined as being intended for «underprivileged citizens or socially less advantaged groups which, due to solvability constraints are unable to obtain housing at market conditions».

It is clear that whether or not social housing is exempt from the notification requirement has significant implications on the efforts of Member States in promoting housing rights. But the Commission's approach to the general economic interest as regards social housing has been the subject of controversy in a number of recent cases. Stakeholders have directed strong criticism at the Commission for its overly restrictive and narrow interpretation, which infringes on the principle of subsidiarity[3].

European legislation on public procurement also has an impact on social housing organisations and social services working with individuals in need of housing assistance. The recently revised Directive 2014/24/EU acknowledges the specificities inherent to social services and offers greater flexibility by permitting their selection in accordance with qualitative and not merely financial criteria in tender processes. Legislation on public procurement coupled with so-called 'public-public cooperation' is important when it comes to social housing.

TAXATION

Value added tax (VAT) applies to the purchase and sale of consumer goods and services including housing.
The Directive on value added tax (2006/112/EC) lays down general rules regarding VAT applicable across the EU and provides national governments with the freedom to set their own rates in this regard. Member States are obliged to apply a standard rate for all goods and services. They may choose to apply one or two reduced rates on the specific goods or services listed in appendix III of the Directive. Included among these goods and services is «the provision, construction, renovation and alteration of housing, as part of a social policy».

THE COORDINATION OF ECONOMIC POLICIES

In response to the financial and economic crisis, the European Union adopted six new legislative texts in 2011 (the so-called 'Six Pack', comprised of five regulations and one directive) to strengthen the economic governance of the euro area and the role of the Union as regards the economic policy of the Member States, on the basis of Article 121.6 of the Treaty. Member States must keep their budget deficits below 3% of GDP and their public debt below 60% of GDP (or a trajectory approaching this value at a satisfactory pace).
Member States that are currently in a state of economic imbalance[4] are subject to a supervisory mechanism which carries sanctions under the excessive imbalance procedure. Changes in house prices and private sector debt are two of the eleven indicators used to identify macroeconomic imbalances. The Commission monitors and formulates recommendations, and may even sanction Member States on the basis of its findings macroeconomic risks, including the functioning of housing markets.

By way of example, France is currently the subject of an excessive deficit procedure that it must correct by 2017. Housing featured as part of the two French national reform and stability programmes presented to the Union during the summer. The main points were: the construction of new social and intermediary housing, the freeing up of land, investment in the energy efficiency of buildings, facilitating innovation and restraining expenditure in relation to housing assistance.

3 The subsidiarity principle aims at determining the level of intervention that is most relevant in the areas of competences shared between the EU and the Member States. This may concern action at European, national or local levels. In all cases, the EU may only intervene if it is able to act more effectively than Member States», See Eur-Lex, available at: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=URISERV:ai0017.

4 On the economic situation of Member States in accordance with EU standards and the reform programmes for each country, see http://ec.europa.eu/europe2020/making-it-happen/country-specific-recommendations/index_en.htm.

3. CONSTRUCTION AND TECHNICAL SERVICES ASSOCIATED WITH HOUSING

ENERGY SAVING

The EU has set itself a 2020 target to reduce its annual energy consumption by 20%. EU legislation on energy efficiency has an impact on the production, maintenance and consumption of housing.

By way of example, **the Energy Efficiency Directive 2012/27/EU** requires Member States to commit to a number of energy-saving targets between 2014 and 2020 for public buildings, which should «fulfil an exemplary role» (Article 5: at last 3% of central government buildings should be renovated each year). Public bodies, including those responsible for social housing, should adopt specific energy efficiency measures (Article 5(7)). The Directive stipulates moreover that Member States may include energy efficiency requirements with a social aim in the obligations they enforce, particularly through priority being given to households affected by fuel poverty or living in social housing (Article 7(7)(a)).

The Directive on the energy performance of buildings (2010/31/EU) details a full range of minimal energy performance requirements and targets for new buildings, renovation works, energy performance certification, etc.

CONSTRUCTION PRODUCTS

The EU standardisation policy aims to improve competition and guarantee the interoperability of products and services within the single market while improving their safety.

Many European standards have been established in relation to construction products that have an impact on housing development and renovation, including on related safety and environmental costs. The standards are covered by the Directive on construction products (89/106/EEC) and Regulation no. 305/2011.

4. EUROPEAN PUBLIC SUPPORT FOR THE HOUSING SECTOR

EUROPEAN UNION STRUCTURAL AND INVESTMENT FUNDS

The regulations governing European economic development funds enable Member States to mobilise these resources to invest in the fight against housing exclusion. The structural funds concerned are the European Regional Development Fund (ERDF), the European Social Fund (ESF) and the European Agricultural Fund for Rural Development (EAFRD).

The ERDF budget amount for 2014-2020 is EUR 185 billion. Regulation 1301/2013 sets out the Fund's priorities. Included among those concerning housing exclusion are: «the promotion of social inclusion, combating poverty and any discrimination» in particular by investing in «social infrastructure» (Article 5(9)(a)); «providing support for physical, economic and social regeneration of deprived communities in urban and rural areas» (Article 5(9)(b); and supporting energy efficiency, smart energy management and renewable energy use in public infrastructure, including in public buildings and in the housing sector (Article 5(4)(c)); and on a more general level, sustainable urban development (Article 7).

Housing infrastructure is not directly eligible for ESF support. In any event, in each Member State at least 20% of the Fund must be allocated to strengthening social inclusion and combating poverty (Regulation no. 1304/2013, Article 4); this may include measures to promote the inclusion of individuals affected by housing exclusion or homelessness.

The EAFRD also permits the issue of housing exclusion in rural zones to be addressed through, for example, investing in small-scale organisations and promoting social inclusion and poverty reduction (Regulation no. 1305/2013).

The European Fund for Strategic Investments (EFSI) aims to overcome current market failures in the European Union (EU) by mobilising public and private investment (EUR 315 billion over the next three years) in conjunction with the European Central Bank. This funding includes common-interest projects in the area of urban, rural and social development. The 2015/1017 Regulation (Article 9(g)) provides for «better access» to financing for companies operating in the social economy and for non-profit organisations.

THE FUND FOR EUROPEAN AID TO THE MOST DEPRIVED (FEAD)

This fund supports Member States in providing food or material assistance to the most deprived. The FEAD will amount to EUR 3.8 billion over the period from 2014 to 2020. Homeless people are entitled to receive assistance through FEAD. It is specified in the preamble to the FEAD (223/2014) that the latter «should alleviate the forms of extreme poverty with the greatest social exclusion impact, such as homelessness, child poverty and food deprivation».

5. SUMMARY OF EUROPEAN UNION LAW TEXTS IMPACTING HOUSING

COMMUNITY FRAMEWORK

- European Union Charter of Fundamental Rights (2012/C 326/02) of 26 October 2012
- UN Convention relating to the Rights of Persons with Disabilities (CRPD), adopted on 13 December 2006
- Consolidated version of the Treaty on the Functioning of the European Union (2012/C326/01) of 26 October 2012, the Lisbon Treaty amending the Treaty on European Union and the Treaty establishing the European Community, signed on 13 December 2007

DIRECTIVES AND REGULATIONS

- Directive 89/106/EEC of 21 December 1988 on the approximation of the laws, regulations and administrative provisions of the Member States concerning construction products
- Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts
- Directive 2000/43/EC of 29 June 2000 on the implementation of equal treatment between persons irrespective of race or ethnic origin
- Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof
- Regulation n° 1177/2003 of 16 June 2003 on community statistics on income and living conditions (EU-SILC)
- Directive 2003/109/EC of 25 November 2003 on the status of third party nationals who are long-term residents
- Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between women and men in access to and supply of goods and services
- Directive 2005/29/EC of 11 May 2005 on unfair business-to-consumer practices on the internal market
- Directive 2006/112/EC of 28 November 2006 on the EU system of value added tax
- Directive 2010/31/EU of 19 May 2010 on the energy performance of buildings
- Directive 2012/27/EU of 25 October 2012 concerning energy efficiency
- Regulation n° 305/2011 of 9 March 2011 laying down standardised conditions for the marketing of the construction products
- Regulation n° 492/2011 of 5 April 2011 on the free movement of workers within the Union
- Decision of the Commission of 20 December 2011 concerning State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (2012/21/EU)
- Directive 2013/33/EU of 26 June 2013 laying down standards for the reception of applicants for international protection
- Regulation n°. 1301/2013 of 17 December 2013 on the ERDF and on specific provisions concerning the «investment for growth and jobs» target
- Regulation n° 1304/2013 of 17 December 2013 on the ESF
- Regulation n° 1305/2013 of 17 December 2013 in relation to support for rural development through the EAFRD
- Directive 2014/17/EU of 4 February 2014 on credit agreements for consumers relating to residential immovable property
- Directive 2014/24/EU of 26 February 2014 on the public procurement of services
- Directive 2014/36/EU of 26 February 2014 laying down entry and stay conditions of third country nationals for the purpose of employment as seasonal workers
- Regulation n° 223/2014 of 11 March 2014 on the Fund for European Aid to the Most Deprived
- Directive 2014/54/EU of 16 April 2014 on measures facilitating the exercise of rights conferred on workers in the context of free movement of workers
- Regulation n° 2015/1017 of 25 June 2015 on the EFSI, the European Investment Advisory Hub and the European Investment Project Portal

CHAP. 3
E.U. LEGISLATION
RELATING TO HOUSING

MONITORING OF EUROPEAN CASE LAW

LEGENDS

- **EFFECTIVE LAW**
- **MOVING FORWARD**
- **COULD DO BETTER**
- **ONLY THE BEGINNING**

CONSUMPTION

RECOGNITION OF THE HOUSING RIGHTS OF CONSUMERS VIA THE EUROPEAN CHARTER OF FUNDAMENTAL RIGHTS (CFR)

CJEU, C-34/13, 10 SEPTEMBER 2014 / CJEU, C539/14, 16 JULY 2015

A woman agreed a consumer loan of EUR 10,000, secured by her family home. She filed a complaint with a Slovak court to cancel both the loan and the collateral arrangement arising from it, contesting the unfair terms that characterised a number of clauses, particularly the one allowing the foreclosure of a house without a prior court order.

The remedies in place were nonetheless deemed to be sufficient by the Court as they allowed the judge to prohibit the auctioning off of the foreclosed property and therefore p**rotect the consumer from any undue loss of their housing** (given that subsequent financial compensation would not have been adequate).

On this occasion, the Court stressed that the non-repayment of a loan must be proportionate and particular attention should be given when the property serving as the collateral is the consumer's family home. The Court explicitly recognised **the right to housing as a fundamental entitlement within the European Union**, guaranteed by Article 7 of the CFR which must be taken into consideration by national judges when the relevant Directive (§65) is implemented - *a fortiori*, by Member States in their regulations.

Article 7 of the CFR protects private and family life as well as the home and loss thereof. The Court of Justice draws on the abundant case law developed by the European Court of Human Rights (ECHR) which, while failing to discuss the right to housing nonetheless considers that **the loss of a dwelling is a serious violation of the right to respect of one's home[1].**

Moreover, in the case of Sanchez Morcillo and Abril Garcia, the Court found that Spanish procedural rules regarding mortgage enforcement «no longer exposed the consumer to the risk of final and irreversible loss of their dwelling in a forced sale before a court had even been able to assess the unfairness of the contractual term» (§47). Pursuant to its Aziz Judgement (C-415/11) of 14 March 2013, the Spanish government amended the procedural rules. In this matter, the CJEU clarifies its reading of Article 34 of the CFR which in its view does not guarantee a right to housing, but rather «the right to housing assistance» as part of the social policies based on Article 153 of the Treaty establishing the European Economic Community (TEEC).

INFORMING CONSUMERS BEFORE INCREASES TO THE PRICE OF ELECTRICITY OR GAS[2]

CJEU, C-359/11 AND 400/11, 23 OCTOBER 2014

The Directives on electricity (2003/54) and gas (2003/55) require States to guarantee a high level of protection to consumers concerning, in particular, the transparency of subscription conditions.

1 It made reference to this in the case of Winterstein and others v France, no. 27013/07, Judgement of 17 October 2013, becoming final on 17 January 2014, in relation to the forced eviction, without any alternative housing, of Travellers on sites where they had settled long term.

2 CJEU, Press Release no. 140/14.

Their aim is to improve how the interior electricity and gas market operates and ensure the security of a stable supply across the Union, given that «access to the non-discriminatory, transparent and fairly priced network is necessary for the proper functioning of competition». **Member States are therefore obliged to guarantee adequate protection for consumers, in particular the most vulnerable among them.**

In this matter, some German customers complained about excessive price increases based on unlawful terms made by their 'last resort' service provider. The Court ruled that by permitting the provider to unilaterally increase the price of electricity and gas without informing the consumer in a timely manner, German legislation did not comply with Union law.

The German government asked the Court to limit the retroactive effects of its judgement in order to minimise any possible financial implications. The Court refused arguing that it had not proved that its decision would retroactively disrupt Germany's entire electricity and gas supply.

STATE AID

THE ECONOMIC AND SOCIAL INTEREST OF SOCIAL HOUSING IN THE NETHERLANDS

GENERAL COURT OF THE EUROPEAN UNION (GCEU), T-202/10, 13 MAY 2015

In 2002, the Netherlands notified the European Commission of their State aid system in favour of wocos (woningcorporaties). These non-profit housing associations seek to acquire, construct and rent out primarily on behalf of «underprivileged persons and socially disadvantaged groups», while simultaneously constructing and managing higher rent housing.

Three years on, the Commission raised doubts as to the compatibility of this aid with the common market alleging that the public service mission of the wocos was not sufficiently targeted at underprivileged persons. The Commission moreover proposed a set of «appropriate measures» to the Netherlands. In 2007, the private sector, via the Dutch Association of Institutional Property Investors, sought to influence the negotiations by filing a complaint with the Commission concerning the aid granted to the wocos. In 2009, the Netherlands proposed an amendment to their system on the basis of the Commission's recommendations. The Commission took note of these commitments and then validated the Dutch scheme in 2010.

The procedure ended with a significant reform to the system of allocating social housing in the Netherlands by fixing a single revenue cap of EUR 33,000, binding on the candidates, independent of the size of the household. The undertakings also pertained to the sale of a portion of the social housing stock that was considered to be «excessive and structural overcapacity» under market conditions.

Five housing associations challenged the waiving of the universalist conception of social housing by the Netherlands which had prevailed up to this point, **seeking an explanation**. In spite of the importance of establishing a European definition of social housing and the contribution that judges could make to implementing it[3], the EU Court declared itself to be incompetent in relation to the matter as the reform arose from a Dutch decision and the objection did not relate to the Commission's binding judgement (the Commission merely advocated a set of appropriate measures). **The question of the degree to which Member States should enjoy independence when faced with the European Commission's recommendations in relation to State aid declaration procedures** also arises, especially when the Commission addresses issues which do not fall within its competence (such as housing).

On 5 May 2012, the French National Union of Property Owners (UNPI) filed a complaint with the European Commission, objecting to aid earmarked for the social housing sector in France. The Commission is currently looking into the French case which, while channelling an undoubtedly generalist but not universalist model of social housing, targets its beneficiaries in a limited manner through means-testing and giving priority to people in disadvantaged circumstances.

THE ECONOMIC AND SOCIAL INTEREST OF SOCIAL HOUSING IN FRENCH OVERSEAS TERRITORIES

EUROPEAN COMMISSION, DECISION C(2014) 9316 OF 10 SEPTEMBER 2014 RELATING TO TAX ASSISTANCE FOR OVERSEAS INVESTMENT WITHIN THE SOCIAL HOUSING SECTOR

Until this decision handed down by the European Commission, social housing in French overseas territories, unlike mainland France, was not covered by the SGEI regime. At issue is the question of dedicated funding derived from three main sources: the single budget line (subsidy), loans granted by the CDC (Caisse des dépôts et consignations) and tax assistance (tax exemption and tax credits). The French government disclosed this public funding as State aid for productive investment, included as part of regional aid intended to offset additional costs linked to the inherent disadvantages associated with building houses in overseas regions. In this case however, aid intensity was capped.

In July 2014, the National Union of French Social Housing Federations (USH) alerted the French Minister for Overseas Territories as to the difficulties of balancing operations, relating to national credits which had fallen short of requirements. This situation had been worsened by a reduction, coming from Europe, in French regional aid (dropping from 50 to 45% for the second half of 2014). Funding for more than 2,500 dwellings was blocked and the level of housing financed in 2014 plummeted as a consequence[4]. The seven-point Overseas Housing Plan presented in September 2014 specifically referenced the State's commitment to seeking investment under the SGEI for social housing in order to remove the cap on aid granted to this sector.

Action was taken by the French government in July 2014. In its decision, **the Commission agreed to increase tax assistance to benefit social housing bodies under the public service compensation scheme (SGEI),** subject to regular verification that projects were not 'overcompensated', or receiving more aid than they required.

3 SGEI in relation to social housing: the EU Court sidestepped the issue in the case of T202/10, USH, Laurent Gekhière, 10 June 2015.

4 Social housing overseas: context, issues and perspectives, USH, April 2015.

Having carried out extensive monitoring, the Commission found that tax assistance afforded to private investors overseas was compatible with the interior market in that:

- Aid contributes to the achievement of a common goal: increasing the amount of social housing in French overseas departments given that a significant proportion of households are eligible (around 80%) and that the USH estimates that 90,000 social housing units need to be built across the entire overseas territory.
- Aid is necessary to address market failures and has an incentive effect: restrictions on constructing social housing overseas are manifold (due to remoteness, unsanitary conditions, climate, topography, risks, scarcity of land) and unreservedly hinder investment. Moreover, such aid permitted the amount of social housing to be increased by 53% between 2009 and 2012 and the volume of subsidised housing by 115%, according to the French government, thereby proving its accelerator impact on construction and its multiplier effect on related funding.
- These elements prove that aid is necessary as it generates less distortion of competition; the Commission emphasises the «synergy between the different types of financing», a measure of the consistency of this provision with the overall policy adopted by the French authorities.
- It is proportional in that it addresses a funding gap without producing improper advantages: tax breaks are capped and investors are liable for certain risks (non-completion of the project or rent arrears).

The 2015-2020 overseas housing recovery plan, presented in March 2015, which forecasts the construction or refurbishment of 10,000 dwellings per year, underpins the need for all social housing financing solutions to be included under the SGEI scheme in order to validate the implementation measures and get projects moving without further delay.

THE ECONOMIC AND SOCIAL INTEREST IN RELATION TO ENERGY SAVING (VAT)

CJEU, C-161/14, COMMISSION V UNITED KINGDOM, 4 JUNE 2015

The United Kingdom decided to apply a reduced VAT rate to energy saving materials used in housing. The European Commission brought proceedings for failure to fulfil obligations, considering that this measure did not respect the VAT Directive[5].

The Court of Justice endorsed the Commission's objection that the United Kingdom was not fulfilling its obligation to pursue **an interest that was exclusively or predominantly social.** While a «policy for improving housing is likely to create a positive social impact», the reduced VAT rate was nonetheless applicable to all housing without considering occupants' revenue, age or other critical factors that would have facilitated the most disadvantaged in meeting their energy needs.

5
Directive 2006/112/EC of 28 November 2006 in relation to the common system of VAT, amended by Directive 2009/47/EC of 5 May 2009.

RIGHTS OF FOREIGNERS

PROVISION OF HOUSING FOR POSTED WORKERS[6]

CJEU, C-396/13, 12 FEBRUARY 2015

A Polish company owned a subsidiary in Finland. It hired 186 Polish workers who were subsequently seconded to perform electrical installation works at a Finnish nuclear power centre. The question of their accommodation arose.

To prevent unfair competition and protect the posted workers in the context of service provisions, Directive 96/71 sets forth a set of mandatory rules. It requires EU Member States to ensure that companies apply the labour laws of the host country, especially when they are favourable towards the employee, to determine the constituent elements of minimum pay.

The Court specified that **the inclusion of housing for posted workers did not constitute an element of minimum pay.** It is exempt under Article 3 of the Directive providing for compensation for expenses incurred by secondment, regardless of the arrangements for covering costs (refunded or advanced). The same logic applies to the meal vouchers granted to offset the higher cost of living in the country of posting. Such an inclusion would have the effect of lowering the employee's remuneration for work performed, possibly below the minimum threshold.

Companies, moreover, have the right to recover collective accommodation expenses from the net pay of posted workers. Directive 2014/67/EU of 15 May 2014 (relating to the enforcement of Directive 96/71) requires States **to ensure the implementation of procedures guaranteeing posted workers a refund of any excess amount** withheld or deducted from their pay. The amount was judged excessive in relation to the net amount of remuneration and the quality of accommodation provided.

The French judgement no. 2015-364 of 30 March 2015 relating to combating the fraudulent posting of workers and illegal employment (also addressed by the Directive 2014/67/EU) provides furthermore **for contractors to exercise a duty of care and responsibility towards their sub-contractors or co-contractors in relation to the collective accommodation conditions of posted workers.** This obligation results from the criminal offence of subjecting vulnerable or dependant people to working and collective accommodation conditions that are incompatible with human dignity. The stipulation serves to ensure that premises and facilities are not manifestly dilapidated or substandard and that the size and number are also verified.

Moreover, contractors and ordering parties are obliged to insist on the regularisation of accommodation conditions. Failing this, they are bound to accommodate employees without further delay in premises that comply with the minimum specific demands set forth in Articles R. 4228-26 to -37 of the Labour Code (allocation of premises, living surfaces, equipment, etc.).

6
CJEU, Press Release no. 17/15.

MINIMUM RECEPTION CONDITIONS FOR ASYLUM SEEKERS THAT GUARANTEE A DECENT STANDARD OF LIVING

CJEU, C-79/13, 27 FEBRUARY 2014

In October 2010, a family submitted an application for asylum in Belgium. Members of the family were told by the dedicated agency FEDASIL (Federal Agency for the Reception of Asylum Seekers) that it would be impossible to provide them with accommodation and consequently sent them back to the city's social action centre. Without an offer of accommodation they turned to the private rental market, but as they could not afford to pay rent instead applied for financial aid from the social action centre. Their request was rejected on the grounds that the family met the criteria to be eligible for accommodation run by FEDASIL.

It was only after a legal decision handed down three months later that the family was accommodated in an asylum seeker reception centre. During an appeal for compensation, the Belgian judge observed that no national provision enabled **asylum seekers to be guaranteed accommodation in a timely manner** in instances where FEDASIL had failed and that the amount of social welfare received did not guarantee a place to stay.
The Court considers that in instances where a Member State opted to provide material reception conditions in the form of a financial allowance it must be:

- granted upon the lodging of the asylum application,
- an amount sufficient to ensure a standard of living that is adequate for the health and subsistence of the applicants and their families.

In particular, States must **ensure that asylum seekers are provided with accommodation that takes into account their specific needs and interest,** such as the preservation of the family unit for example. **The saturation of specific reception networks may not be used to justify any derogation whatsoever** from the upholding of these standards. European law does not oppose the directing of asylum seekers towards organisations falling within the scope of the more mainstream reception system. **If necessary, a solution may be found on the private rental market.**

Moreover, in France, asylum seekers not housed in centres for asylum seekers (CADA) receive a temporary waiting allowance (ATA) of EUR 11.35 per day per adult, equivalent to EUR 343.50 per month, without taking children into consideration. This amount is glaringly insufficient for individuals and families to cover their fundamental needs including housing, food and clothing. The law reforming the right of asylum of 29 July 2015 provided for a new allowance for asylum seekers which will replace the temporary waiting allowance. An application order must specify the scale and the payment conditions of this new allowance.

ECHR, T. V SWITZERLAND, NO. 29217/12, 4 NOVEMBER 2014

Eight Afghan asylum seekers complained about a Swiss decision to send them back to Italy as they risked finding themselves without accommodation or lodged in living conditions deemed contrary to human dignity due to the systematic failure of the Italian reception system.

In principle, if the Dublin Regulation is applied then it is the country in which an application was lodged that is responsible for its examination and the minimum reception conditions that ensue. This is still the case even if the individuals in question continue to travel within Europe, unless circumstances arise where another country has a vested interest or the State held accountable does not fulfil its obligations in accordance with the European Convention on Human Rights. Switzerland is not a European Union Member State but adheres to the Dublin Regulation.

According to the case law of the Court, **the transfer may pose a problem when it presents a real and serious risk of inhuman and degrading treatment** (forbidden by Article 3 of the Convention) should the situation present a minimum level of severity. In a case like this, the presumption that host Member States respect the fundamental rights of asylum seekers may be reversed. The Court recalled that asylum seekers represented a particularly underprivileged and vulnerable group in need of special protection and should moreover receive particular attention in this regard.

The responsibility of a State may be invoked under Article 3 if an asylum seeker is «wholly dependent on state support and faced with the indifference of the authorities should he or she find him or herself in a situation of deprivation or want of such severity that it is incompatible with human dignity. (...) the extreme vulnerability of the child being determinant and overriding the illegal residence status»[7].

The Court examined the **Italian situation** and observed that with the number of refugees reaching 64,000 in 2012, **the amount of specialist and mainstream accommodation places was far short of requirements** (the exact figures are unknown, but reportedly amount to 12,800 places at one Italian reception centre for asylum seekers and 1,700 at emergency shelters in Rome and Milan). With thousands of names on the waiting list, the length of asylum seekers' stay is limited to six months and it is reported that only 6% of those admitted manage to obtain access to employment or training. While the government put forward a 2014/2016 capacity-building plan to increase the number of places to 16,000 (1,230 had already been allocated), there is a 'gross' disproportion between the number of asylum applications lodged in 2013 (14,184) and the number of places available (9,630). According to the Court, Italy was not able to «absorb even a significant part, never mind all, of the demand for accommodation».

Moreover, several international and European reports described instances of violence and substandard conditions in a number of reception centres and specific concerns prevail in relation to preserving family unity, access to legal assistance and healthcare, delays in identifying vulnerable persons, etc. The Court found that serious doubts existed in relation to the Italian reception system's capacity to respect the fundamental rights of individuals and families seeking asylum.

As a result, **it became incumbent on Switzerland to ensure that the applicants would be lodged in reception centres suitable for families.** A mere statement of intent from Italy would not suffice. Switzerland was bound **to obtain precise and reliable information** as regards the reception structure, the material accommodation conditions and the preservation of family unity.

Accordingly, all countries adhering to the Dublin Regulation and in which asylum seekers travel agree to receive the aforementioned in an appropriate manner, to the point of making up for the shortfalls of others when they present a serious risk of violating human dignity.

7 Budina v Russia, no. 45603/05, 18 June 2009 and Popov v France, no.39472/07 and 3947407/07, § 91, 19 January 2012.

The Court took into account the position of national European jurisdictions. It pointed out that for the same reasons, German courts were already opposed to returning asylum seekers to Italy pursuant to the Dublin Regulation and the United Kingdom Supreme Court requested a case-by-case examination of the risk that a return to Italy entailed.

ECHR, V.M. AND OTHERS V BELGIUM, NO. 60125/11, 7 JULY 2015

A family of Serbian nationals of Roma origin with five children who were seeking asylum complained that the reception conditions they experienced in Belgium were contrary to human dignity. They invoked Article 3 of the European Convention on Human Rights providing for protection from inhuman and degrading treatment.

The family had decided to leave Serbia because of the discrimination and ill-treatment they had been subjected to, preventing them from accessing work, healthcare, schooling, etc. The eldest girl was mentally and physically handicapped, and suffered from epileptic fits. The entire family left for Kosovo, then France where they lodged asylum applications that were eventually rejected. Due to the precarious nature of the reception conditions in France which prevented them from meeting their basic needs, the family returned to Kosovo and then Serbia without waiting for the decision to be handed down. As their circumstances had not changed in Serbia, they subsequently went to Belgium and sought asylum again.

Belgium declared that it had no proof that the family had left France for more than three months (a condition that had to be fulfilled for Belgium to be obliged to consider their asylum application) and decided to send them back. After some discussion, France agreed to accommodate them, but the family resolutely refused to return to the country for fear of finding themselves in a situation of extreme vulnerability. The Belgian social worker involved heard the following testimony: the family did not have any means of subsistence in France and members were lodged in a night shelter that they had to leave during the day; they would find themselves out on the streets from 7am with the children; they were given a buggy in lieu of a wheelchair for the young disabled girl; and they did not receive any medical attention of any kind, nor did they have access to social workers, lawyers or interpreters. In short, they had no idea what to do nor what awaited them.

Although the French reception conditions for asylum seekers were called into question in this case, it was in fact the liability of the Belgian State that was at issue. After having seen its application for residence rejected due to their eldest daughter's medical condition and having received an order to leave the territory (after a prolonged delay due to the mother being heavily pregnancy), the family was excluded from the accommodation centre it was staying in. In Brussels, housing associations then directed them to a public shelter for other homeless Roma families, without providing them with any assistance to address their basic needs such as food, washing facilities and accommodation. After two nights in a transit centre, the applicants were put back out on to the street and ended up staying in a train station for over three weeks until their return to Serbia was organised by a charitable association.

The Court observed that a reception crisis had emerged in Belgium, following the arrival of an exceptionally high number of asylum seekers and the reception network run by FEDASIL being constantly at saturation point. An order was given to no longer accommodate foreigners residing illegally; applicable in all cases except in instances of sentencing by the courts or in the event of intervention by federal ombudsmen. The same order was given to social services in relation to mainstream accommodation.

In the event of an appeal, the legal system did not appear to offer guaranteed protection. Belgian case law was not clear as to which entity was responsible for receiving asylum seekers (FEDASIL or social services). Furthermore, the courts are entitled to take more than ten days to deliver an order in an emergency situation. In any event, case law is not consistent when it comes to recognising the accommodation rights of families residing illegally, and under the Dublin system, the enforcement of any favourable legal decision may take several weeks.

The Court found that in 2012, the European Committee on Social Rights observed a violation of Article 17 of the European Social Charter which provides for the protection of children by the Belgian government: the overstretching of the FEDASIL reception network and the refusal to accommodate families residing illegally would force those with under-age children to live on the streets. The Committee noted the ongoing failure of the Belgian State and the problems posed by unsuitable accommodation in hotels.

It concluded that this constituted a violation of Article 3 of the Convention by the Belgian State. Notwithstanding the exceptional crisis facing the country in accommodating asylum seekers, the applicants had been left exposed to unacceptable living conditions that included: extreme poverty over a four-week period; living rough; without funds or means to survive; no access to sanitary facilities; in short, a situation that would undoubtedly incite a sense of fear, anxiety or inferiority conducive to despair, with no prospect of an improvement to their circumstances.

The Court also referred to a number of European reports in relation to Serbia describing how a majority of the Roma population continued to live in unofficial camps which had no running water, electricity or sanitation, without access to schooling or medical facilities. Furthermore, the camps were overpopulated, located far from basic facilities or services and sheltered victims of forced eviction with no prospects of being rehoused, etc.

MOVEMENT OF ECONOMICALLY INACTIVE EUROPEAN CITIZENS WITHIN THE EUROPEAN UNION: AN UNREASONABLE BURDEN?

CJEU, C-333/13, 11 NOVEMBER 2014/CJEU, C-67/14, 15 SEPTEMBER 2015

In the first case, the claimant, a Romanian national, challenged a Leipzig job centre's refusal to grant benefits on the basis that she had not fulfilled the residence conditions prescribed by German law. The woman was a mother of one child and she was neither working nor seeking employment.

In the second case, a mother and daughter complained that their benefit payments had been stopped on the basis that their right to residence had expired six months after the beginning of a period of unemployment[8], following a series of short-term jobs.

Neither of these two recent decisions constitutes a turnaround of the European Court of Justice's case law. They specify the room for manoeuvre that EU Member States have when it comes to regulating European citizens' access to social services[9]. There are numerous factors, depending

8 Directive 2004/38 on the rights of citizens of the Union and their family members to move and reside freely within the territory of the Member States specifies that anyone affected by involuntary employment retains the status of worker for at least six months (Art. 7(3)c).

on the nature of the service required (contributory or not) and the status of the citizen (worker, jobseeker or totally inactive), as regards the unreasonable burden he or she may represent for the host State. **The question of whether economically inactive European citizens lacking sufficient funds to sustain themselves have the right to stay is central to these violations of equal treatment provisions.**

The basic scheme is set out here[10]:

- during the three first months of residence, the Member States are not obliged to grant entitlement to social assistance;
- between three months and five years, economically inactive individuals must have sufficient resources to sustain themselves and this is assessed on a case-by-case basis. The Directive seeks to prevent people from using the social protection system of the host State as a means of living. The intention of exercising one's freedom of movement «for the sole purpose of accessing social welfare» is accordingly sanctioned;
- from five years of continued and permanent residence, the citizen acquires permanent residency rights affording him or her equality of treatment on a full par with nationals of that country.

The question arises as to whether these decisions could have an impact on a number of rights in relation to social welfare and in particular the right to housing. If not, then social assistance for housing would not be subject to residence conditions. Moreover, the European Union Charter of Fundamental Rights and the European Social Charter appear to be at odds on this issue. Two recent decisions handed down by the European Committee for Social Rights in relation to the situation in the Netherlands explicitly confirm this[11]: «The Committee observes (...) that the scope of the Charter is broader and requires that necessary emergency social assistance be granted also to those who do not, or no longer, fulfil the criteria of entitlement to assistance specified in the above instruments. The Charter requires that emergency social assistance be granted without any conditions to nationals of those States Parties to the Charter which are not Member States of the Union. The provision of emergency assistance cannot be made conditional upon the willingness of the persons concerned to co-operate in the organisation of their own expulsion.»

9 Migrants and emergency welfare: explanation of recent European and international case law, Marc Uhry, Housing Right Watch, September 2015

10 For details, see : Les citoyens européens : 10 situations de droits sociaux et de droit au séjour [European Citizens: 10 situations relating to social rights and residence rights], available in French at: http://www.gisti.org/IMG/pdf/tableau_ue_v21_23_septembre_2013_.pdf.

11 CEC v Netherlands, Collective Complaint no.90/2013; FEANTSA v Netherlands, Collective Complaint 86/2012.

DISCRIMINATION

DISCRIMINATION LINKED TO THE INSTALLATION OF ELECTRICITY METERS AT AN INACCESSIBLE HEIGHT IN A DISTRICT DENSELY POPULATED BY ROMA[12]

CJEU, C-83/14, 16 JULY 2015

In Bulgaria, a woman who ran a grocery store in a district principally inhabited by persons of Roma origin filed a complaint against a company that had installed electricity meters at a height of six or seven metres, meaning she could not monitor consumption. The company was seeking to prevent damage to meters and unlawful connections in these neighbourhoods. However, in other districts, the company placed the meters at a height of 1.70m, usually inside or on the façade of the properties. The claimant believed this practice to be discriminatory as it was exclusively motivated by the ethnic origin of the majority of the district's inhabitants.

To determine the existence of discrimination, several circumstances of the case were considered:

- the installation of electricity meters at such a height only occurred in urban districts that were heavily populated by Bulgarians of Roma origin;
- the company had asserted a number of times in the past that it believed the damage and unlawful connections to be principally due to persons of Roma origin;
- the company could not produce any proof of damage or tampering with the meters, merely stating that this was common knowledge;
- the practice affected all the inhabitants of the district concerned without distinction and continued for 25 years after it had first started.

The unfavourable treatment was recognised on account of how **difficult and even impossible it was for the district's inhabitants to consult their meters and the practice's offensive and stigmatising nature.**

The fact that the claimant was not herself of Roma origin did not render her complaint any less valid in so far as she too was subjected to this unfavourable treatment and did not in itself rule out the fact that the contested practice was imposed as a consequence of the ethnic origin shared by most of that district's inhabitants.

The company alleged that it was seeking to avoid fraud, protect inhabitants from electrical risks and ensure the quality and security of the electricity network. While the Court considered those aims to be legitimate, the practice did not appear to be justified in an objective sense as the company could not prove any current damage or unlawful connections (it was basing its allegations on past events).

The practice seemed justified as it effectively permitted the company to combat unlawful behaviour. However, it did not appear to be necessary as other less restrictive measures would equally have permitted the problem to be resolved (other companies favoured different techniques and installed the meters at a normal height). It appeared moreover to have had a disproportionate effect on the inhabitants.

12 CJEU, Press Release no. 85/15.

RIGHT TO A FAIR TRIAL

VIOLATION OF ARTICLE 6 OF THE ECHR BY THE FRENCH STATE FOR NOT ENFORCING THE LEGAL DECISIONS ORDERING THE PRÉFET TO HOUSE CLAIMANTS UNDER THE ENFORCEABLE RIGHT TO HOUSING ACT

ECHR, TH V FRANCE NO. 65829/12, 9 APRIL 2015

A woman residing with her daughter and brother in substandard dwelling was earmarked as a priority for urgent re-housing by the Paris Mediation Commission in February 2010. Having not received an offer of housing from the *Préfet* six months later, the applicant appealed to the administrative court which ordered the State to re-house her within one month, imposing a penalty payment of EUR 700 per month of delay. However three-and-a-half years later the order had still not been enforced. An application was lodged with the European Court citing Article 6 of the European Convention on Human Rights, by virtue of which it is recognised that the right to enforce a legal decision constitutes an element of the right to a fair trial.

The Court considered that since only the States are competent to decide on the means to enforce legal decisions[13], it was its duty to examine whether these were suitable and sufficient.

The government cited the very difficult housing situation in the Parisian region: the *Préfet* could only make around 1,300 dwellings available per year, while the number of households identified as a priority for re-housing amounted to 18,000[14]. For the government, the penalty payment performed a perfectly incentivising role - with the threat of having to pay pushing the State to act – even if the penalty was paid into a state fund (the urban development fund up to 2011 and then the FNAVDL (Urban Development Fund towards and into Housing)[15] an association which, in its own words, strives to relieve social housing shortages and ensure the full and effective enforcement of legal decisions relating to the DALO (Enforceable Right to Housing)).

The Court noted that in its opinion dated 2 July 2000, the French Council of State had concluded that the 'DALO appeal' was fully compatible with the requirements of the European Convention on Human Rights, even though the penalty payment was not paid out to the claimant. It also observed that the findings of a parliamentary report conducted as part of the enforcement monitoring of the DALO law, reports by the DALO Monitoring Committee and the 2013 assessment conducted by the DRIHL (France's Regional and Interdepartmental Directorate for Housing and Lodgement) showed disappointing results and a very uneven application of DALO.

In the hope that the legal decision enforcing the State to house the claimant would result in a final and binding judgement, **the penalty payment,** which had no compensatory function and was not paid out to the beneficiary of the ruling, was settled and paid by the State. **It did not, therefore, have any compensatory function, for the failure of the *Préfet* to comply with the obligation imposed on it by the French State.**

The ECHR confirmed the performance requirement recognised by the administrative courts since 2008: the shortage of available housing was not a valid justification for the failure to act on the part of the French authorities within the meaning of well-established case law in accordance with which a State may not use the lack of funds or other resources as a pretext not to honour a legal decision.

Accordingly, by failing to implement the necessary measures to house the claimant, her daughter and brother over several years, the French State had violated Article 6 of the Convention. As the claimant was not seeking compensation, the Court did not rule on damages.

13 By way of example, the French police are made available to property owners to enforce eviction or evacuation orders.

14 As a reminder: 59,502 households in all of France.

15 Fonds national d'accompagnement vers et dans le logement.

CHAP. 3
E.U. LEGISLATION
RELATING TO HOUSING

HOUSING EXCLUSION IN EUROPE:
THE KEY STATISTICS

203,171,221

100% **NUMBER OF HOUSEHOLDS IN THE EUROPEAN UNION**

22,348,834

HOUSING COST OVERBURDEN
(MORE THAN 40 % OF DISPOSABLE INCOME SPENT ON HOUSING)

11%

35,148,621

17.3% **OVERCROWDED HOUSING**

10,564,903

SEVERE HOUSING DEPRIVATION

5.2%

! **NUMBER UNKNOWN**
HOMELESS

24,177,375

DIFFICULTY ACCESSING PUBLIC TRANSPORT

11.9%

6,501,479

3.2% **RENT OR MORTGAGE ARREARS**

21,942,491

DIFFICULTY MAINTAINING ADEQUATE HOUSEHOLD TEMPERATURE

10.8%

11,174,417

5.5% **AT RISK OF HAVING TO MOVE HOUSE IN THE NEXT SIX MONTHS DUE TO HOUSING COSTS**

%

POURCENTAGE OF THE EUROPEAN POPULATION

A HOUSEHOLD CONSTITUTES ALL THE INHABITANTS OF THE SAME DWELLING. THE POPULATION OF EUROPE IS 508.1 MILLION PEOPLE FOR 203.2 HOUSEHOLDS, SO 2.5 PEOPLE ON AVERAGE PER HOUSEHOLD. BUT IT WOULD BE RASH TO EXTRAPOLATE HOUSING DIFFICULTIES BY NUMBER OF PEOPLE ON THE BASIS OF THIS AVERAGE. THE FIGURES CANNOT BE SIMPLY ADDED TOGETHER BECAUSE A SINGLE HOUSEHOLD MAY BE AFFECTED BY SEVERAL HOUSING DIFFICULTIES.

SOURCE: EUROSTAT

Photo credits:
Peredniankina, Javi Indy, Twin Design, Sarah Jane Taylor (Shutterstock), Fatykhov (Fotolia)

TENS OF MILLIONS OF PEOPLE IN EUROPE ARE EXPERIENCING HOUSING EXCLUSION

Who are they? How did they end up there? What do we know about homelessness? What does European legislation and case law have to say about the right to housing?

These are the questions addressed in this Overview of Housing Exclusion in Europe, which reveals a rise in the number of homeless people in the majority of countries, the impact of the crisis on home ownership, the particular difficulties experienced by central and southern European countries, the differences in how countries manage evictions and more.

Some problems are local and so the responses should also be local. However, certain issues are emerging at a European level, some instruments exist at European level, and some solutions can only be found at European level. First and foremost, we can learn from each other: how Austria has succeeded in abolishing rental evictions, how Scotland manages to guarantee housing, how Finland has reformed its emergency accommodation services for much greater effectiveness.

From our shared problems, we can build common tools that will provide solutions: a regulatory framework, financial resources, stakeholder training, and citizen mobilisation. Greater understanding of the issues and knowledge-sharing are necessary to better adapt the future tools to needs. We hope that this document represents the first step towards future solutions: the European contribution to combating housing exclusion.