



Housing Rights Must Be Respected and Promoted by EU Institutions for the benefit of EU Citizens

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THREE BRIEFING PAPERS



It is high time that we reconcile the social and the market in today's modern economy.¹

Ursula von der Leyen

President of the European Commission

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HOUSING IS ONE OF THE DEFINING ISSUES OF OUR TIME

Housing related EU institutional measures are central to the economic, social and environmental sustainability of the Union. After a decade, it is now time for the EU Charter of Fundamental Rights to be integrated into EU economic and financial governance and supervision arrangements. This would recognise that the EU cares about its citizens. It will enhance the legitimacy of Union actions, and generate wider support for the European Project.

Housing Rights must be respected and promoted by EU Institutions for the benefit of EU Citizens. This summary document, which is a synopsis of wider research, outlines how this can be achieved.

THREE BRIEFING PAPERS

These Briefing Papers, prepared after detailed consultations, (funded by Open Society Foundations) address topical areas of:

- (1) Housing and Housing Rights in the EU Charter of Fundamental Rights;**
- (2) EU Economic Governance and Financial Supervision;**
- (3) Integrating EU Charter Housing Rights into EU Economic Governance and Financial Supervision.**

The Briefings seek to demonstrate that, without in any way changing the competences and mandates of EU institutions, there is considerable scope for the Charter housing rights to be applied and promoted, as part of EU law.

WHAT THE BRIEFING PAPERS EXPLORE

1. Housing and Housing Rights

Access to adequate and affordable housing is becoming a key test of the economic, social and environmental sustainability of the European Union. It is also becoming a major political issue in many Member States. Indeed, the European Commission Semester Country-Specific Recommendations (2019) recognise that scarcity of adequate and affordable housing is a growing problem in several Member States².



It is now time to hold up a human rights mirror to the EU Institutions. That mirror is the Charter.

The lack of affordable housing in many European cities affects all sectors of society, but particularly impacts on poor and socially excluded people, as well as migrant workers.³ Over 80 million Europeans are overburdened by housing costs. One quarter of Europeans live in overcrowded housing. Homelessness is increasing rapidly across Europe, with harmful consequences, especially for socially excluded people, such as persons

with disabilities, migrants, some minority groups, and especially Europe's children. According to a report to the European Parliament in 2020, an estimated 700,000 people were homeless in the EU in 2019, with numbers rising across Europe.⁴ Latvia saw an increase of 389% between 2009 and 2017, and homelessness in Ireland increased by 203% between 2014 and 2018. Housing deprivation is at the heart of poverty and social exclusion, and closely linked to unemployment.

2. Governance and Financial Supervision

At the same time, unaffordable rents and house prices, boosted by international and corporate investment in “safe” assets, and ECB-driven low interest rates, are creating major risks for EU financial stability. In many ways, housing has again become the “wobbly pillar” of EU banking stability, despite the overhaul of the regulatory system since the crash of the 2007/8. The European Systemic Risk Board Report - Vulnerabilities in the EU residential real estate sector (2019) recognised that housing market dynamics and vulnerabilities are connected with various social and economic policies.⁵ Nineteen EU Member States exhibit ‘vulnerabilities’ in their housing systems.

3. EU Architecture

While housing policy and provision are largely viewed as Member State competences, a great many issues which affect access to, and enjoyment of, housing rights are impacted by the unique architecture of the Economic and Monetary Union. This combines a single monetary policy based on price stability or controlling inflation (although it does not include house prices in that calculation), with a range of fiscal and economic policies under the responsibility of Member States.⁶ There is EU coordination (rather than control) of Member States economic policies. However, the financial crisis changed everything, and an overarching EU institutional objective emerged after the *Pringle* case – that of protecting the financial stability of the euro area as a whole.⁷

Financial supervision involves centralised macro-prudential measures to protect EU financial stability, as well as micro-prudential measures to protect institutional lenders’ assets. Regulation on conduct of business between financial institutions and customers is regulated at Member State level, largely under EU rules. There is a recurring narrative about protecting the stability of the EU financial system, building resilience in banks, and countering ‘vulnerabilities’. But the EU regulatory framework is missing an essential focus – that of assessing the risk to EU citizens (not only as customers) both individually and collectively, from a human rights perspective.

Significantly, the European Commission, through the European Semester, and referring to the European Pillar of Social Rights, provides Member States with policy support, guidance and orientation on how to design efficient national policies aimed at ensuring citizens’ access to affordable and accessible social housing, by stressing housing supply shortage, dysfunctional housing markets, macroeconomic imbalances and insufficient stock of social housing.

4. The Human Rights Deficit

The many EU institutional and “technical” approaches to housing and housing “markets” do not respect, observe or promote Charter housing rights, as required in the Treaties. While all the institutions are accountable to the European Parliament, EBA, ECB, ESRB or European Commission reports on ‘housing market’ issues have yet to fully incorporate Charter housing rights, such as Article 7 on respect for the home, Article 33 on the rights of families to enjoy legal, economic and social protection – including access to adequate housing and Article 36 recognising and respecting access to Services of General Interest, which includes social housing. It is clear that EU regulatory actions and structures around economic governance and financial supervision, as well as in other areas, interact and impact with housing at Member State level, and in many areas are actually constitutive of national housing systems or ‘markets’, extending beyond EU social policy supports.

But the overall framing of economic governance and financial supervision as purely technical issues reveals a deficit in the democratic and human rights oversight. It is weakening the legitimacy of EU institutional action, amid perceived prioritisation of corporate interests over EU citizens’ rights. This is leading to further disillusionment about the benefits of the EU for many citizens. All EU policies must address the availability and affordability of housing, not just to ensure financial stability, but to respect and promote EU human rights. EU-inspired prudential regulatory measures must be framed more widely, to take into account appropriate housing options for the whole EU population, rather than just those with the highest incomes.



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5. The Binding Obligations of the Charter

The EU Charter of Fundamental Rights is now ten years old. While the Charter does not create stand-alone housing rights, it does create binding obligations on EU institutions, acting within their competences and mandates, to respect and promote the housing rights of people in Europe. Drawing on established human rights, such as the Council of Europe’s European Social Charter, these require an adequate supply of affordable housing, and access to housing as a Service of General Economic Interest, for those in need. Charter obligations on EU institutions to respect and promote housing rights can provide legitimacy for more people-centred institutional and policy measures, which impact on elements of national housing systems. Respecting and promoting the housing rights in the EU Charter can advance balanced housing systems, offering choice, flexibility, security, affordability and adequacy in housing across Europe. At the same time, a sufficient supply of social and affordable housing can smooth out the cyclical nature of the property ‘market’ and lessen the impact of property bubbles, which destabilise economies. It also protects the housing rights of those at risk of losing their homes.

6. Common Objectives between Regulators, EU Agencies and Housing Right Advocates

The social consequences of the financial crash demonstrated how the financial services industry can undermine established human rights. Significantly, housing rights advocates, EU legislators, regulators, supervisors and policy makers share many common objectives, often unacknowledged. These include ensuring broad financial and banking stability, effective supervision of lending institutions, prevention of macroeconomic imbalances through house price bubbles, ensuring sustainability of public finances for housing and mortgage systems, and combatting money laundering – often expressed in housing/land speculation in European cities. For instance, it is entirely appropriate that the ECB, as part of its recently announced strategic review, should examine how it can properly integrate Charter housing rights into monetary policy objectives and actions. Equally, Charter housing rights could be integrated fully into the European Semester.

7. Housing: Thinking Beyond Financial Markets

Stability is about balance. Housing must be viewed by EU institutions as more than a segment of globalised financial markets. Stability, vulnerabilities, risks and resilience apply to households as well as banks.

It is now time to hold up a human rights mirror to the EU Institutions. That mirror is the Charter. Today, there is an urgent need to apply Charter housing rights. Citizens civil society organisations, housing rights advocates, public representatives (especially MEPs) and policy makers can engage with EU institutions to ensure that Charter housing rights are not just respected but promoted, as required by Union law. EU housing rights must be properly integrated into the EU economic governance and financial supervision architecture. These Briefings and Summaries offer some information on how this might be achieved, for the benefit of EU citizens, and to enhance the legitimacy of the actions of EU institutions.

For more information:

Download the Briefings at www.nuigalway.ie/chlrp

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¹ See Ursula von der Leyen (2019) 'A Union that strives for more – My agenda for Europe', p. 9, https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf.

² COM(2019) 500 final p. 14.

³ It is important to point out that some Member States have addressed these issues, such as Germany, where despite strong recent growth in some cities, Germany’s real house prices are, on average, no higher than they were in 1980. See *The Economist*, 16 January 2020. 'Home Ownership is the West's biggest economic-policy mistake.'

⁴ <https://www.europarl.europa.eu/news/en/agenda/briefing/2020-01-13/11/housing-urgent-action-needed-to-address-homelessness-in-europe>

⁵ ESRB (September 2019) *Vulnerabilities in the EU residential real estate sector* report, p. 10. https://www.esrb.europa.eu/pub/pdf/reports/esrb.report190923_vulnerabilities_eea_countries~a4864b42bf.en.pdf

⁶ See European Commission (2020) – *Economic governance review*, COM(2020)55 final, p. 2

⁷ See Tuominen, T., 'Mechanisms of financial stabilisation' in Fabbrini, F and Ventoruzzo, M. (2019) *Research Handbook on EU Economic Law* (Cheltenham: Edward Elgar) p. 100.

⁸ Kenna, P. et al. (2016) *Pilot Project – Promoting Protection of the Right to Housing – Homelessness Prevention in the Context of Evictions*, Final Report, (European Commission, DG Employment, Social Affairs and Inclusion).

⁹ <https://www.ecb.europa.eu/press/pr/date/2020/html/ecb.pr200123~3b8d9fc08d.en.html>