

<http://www.housingrightswatch.org/news/webinar-advocacy-and-strategic-litigation-housing-rights-europe>



Decisions of the United Nations Committee on Economic, Social and Cultural Rights

Protection, guarantee and defense of the Human Right to

Adequate Housing.



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Advocay Team



UNITED NATIONS TOOLS

Office of the High
Commissioner for Human
Rights

<http://www.ohchr.org/SP/Pages/WelcomePage.aspx>

Universal Periodic Review
<http://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>

Treaty Bodies

<http://www.ohchr.org/EN/HRBodies/Pages/TreatyBodies.aspx>

Human Rights Council

<http://www.ohchr.org/SP/HRBodies/HRC/Pages/HRCIndex.aspx>

Special Procedures (tematic/countries)

<http://spinternet.ohchr.org/Layouts/SpecialProceduresInternet/ViewAllCountryMandates.aspx?Type=TM&Lang=Sp>

International tools to claim for Human Right to decent and adequate housing:

- **International Covenants (ESCR):**



- Optional Protocol
- Periodic Report: every four years

- **UPR:**

- UPR Spain 2015 and 2020



- **Special Procedures:**



- **Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context**
- Reports
- Emergency procedure

The right to housing contained in the International Covenant on Economic, Social and Cultural Rights: developed in the General Observations of the Committee

The ESCR Committee has developed the content of the right to housing in Article 11 (adequate standard of living) of its Covenant in **two general comments**:

-General Comment No. 4: where the conditions that make up the **"adequate" character** of the house are specified.

- What is adequate housing?
- Relationship with other human rights
- Duties for States

-General Comment No. 7: duty to avoid **forced evictions without adequate protection**.



The Optional Protocol to
the International Covenant
on Economic, Social and
Cultural Rights



Since 2013!!!!!!

Article 2 Communications: Communications may be submitted by or on behalf of individuals or groups of individuals, under the jurisdiction of a State Party, **claiming to be victims of a violation of any of the economic, social and cultural rights set forth in the Covenant by that State Party.** Where a communication is submitted on behalf of individuals or groups of individuals, this shall be with their consent unless the author can justify acting on their behalf without such consent.

Article 5 Interim measures: 1. At any time after the receipt of a communication and before a determination on the merits has been reached, the Committee may transmit to the State Party concerned for its urgent consideration a request that the State Party take such interim measures as may be necessary in **exceptional circumstances to avoid possible irreparable damage to the victim or victims of the alleged violations.** 2. Where the Committee exercises its discretion under paragraph 1 of the present article, this does not imply a determination on admissibility or on the merits of the communication.



Cáritas



The Optional Protocol to
the International Covenant
on Economic, Social and
Cultural Rights



1st Decision

Human right to adequate housing!

Article 11 ESCRC

E/C.12/55/D/2/2014

[https://juris.ohchr.org/Search/Details/
2010](https://juris.ohchr.org/Search/Details/2010)

Foreclosure without personal
notification.



2nd Decision

Human right to adequate housing!

Article 11 ESCRC

E/C.12/61/D/5/2015

[https://juris.ohchr.org/Search/Details/24
07](https://juris.ohchr.org/Search/Details/2407)

**Communication from Mohamed Ben
Djazia.**

Evicted in Madrid with his family and
without a residential alternative.



3rd Decision

Human right to adequate housing!

Article 11 ESCRC

E/C.12/66/D/37/2018

[https://tbinternet.ohchr.org/_layouts/15/tr
eatybodyexternal/Download.aspx?symbolno
=E/C.12/66/D/37/2018&Lang=en](https://tbinternet.ohchr.org/_layouts/15/tr eatybodyexternal/Download.aspx?symbolno =E/C.12/66/D/37/2018&Lang=en)

**Communication from Maribel Viviana
López Albán**

Evicted in Madrid with her six children,
from an occupied house (squatter) without
a qualifying title and without a residential
alternative.



4rd Decision

Human right to adequate housing!

Article 11 ESCRC

E/C.12/67/D/52/2018

<https://undocs.org/es/E/C.12/67/D/52/2>

[018](#)

Communication from Rosario Gómez-Limón Pardo

Rental eviction in Madrid without alternative accommodation

**and 135 PENDING
CASES....
about adequate housing
and against Spain**

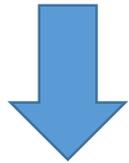
There are now (September 14, 2020):

- **138 Pending cases**
- **1 from Belgium (Adequate Housing)**
- **1 from Argentina, 1 from France about other ESCR.**

2017



Monitoring Group to follow up ESCR Committee decisions against Spain



Entities and lawyers from law firms, human rights NGO, social action, social platforms and victims.



Legal analysis



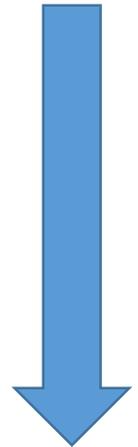
Advocacy



Advocacy Communications Strategy



Training and awareness



Participation in other networks: PlatDESC Spain and ESCR-Net



And why in Spain can we present communications and request precautionary measures if Article 3 of the OP-ICESCR **asks us to have exhausted the internal route?**

- Because in that same article it is also contemplated that said condition will not be applied, when the processing of these appeals *is unjustifiably prolonged*.



THERE IS NO REQUIREMENT TO PRESENT evidence that national-level procedures have been unreasonably lengthy or clearly ineffective. The Committee already knows the situation in Spain about the **absence of an effective domestic remedy**.

More Info: **LA PAH KIT**

<https://afectadosporlahipoteca.com/2018/01/17/documentos-utiles-para-paralizacion-urgente-de-desalojos/>



ESSENTIAL KEYS

- **Not having a decent and adequate** alternative housing.
- Have applied for **public housing**
- Social reports that establish the **situation of vulnerability** (social, economic ...).
- **Having previously alleged the violation of the Human Right to housing** and that the court has rejected it (request for suspension of the eviction).





Sending the communication and request for interim measures (if applicable)

INTERIM MEASURES

<https://www.ohchr.org/en/hrbodies/cescr/pages/cescrindex.aspx>
Guidelines

Admission + granting

Notification for the Permanent Mission of Spain in Geneva

Information to the Ministry of Justice

Notification to applicants

Information to the Ministry of Urban Agenda

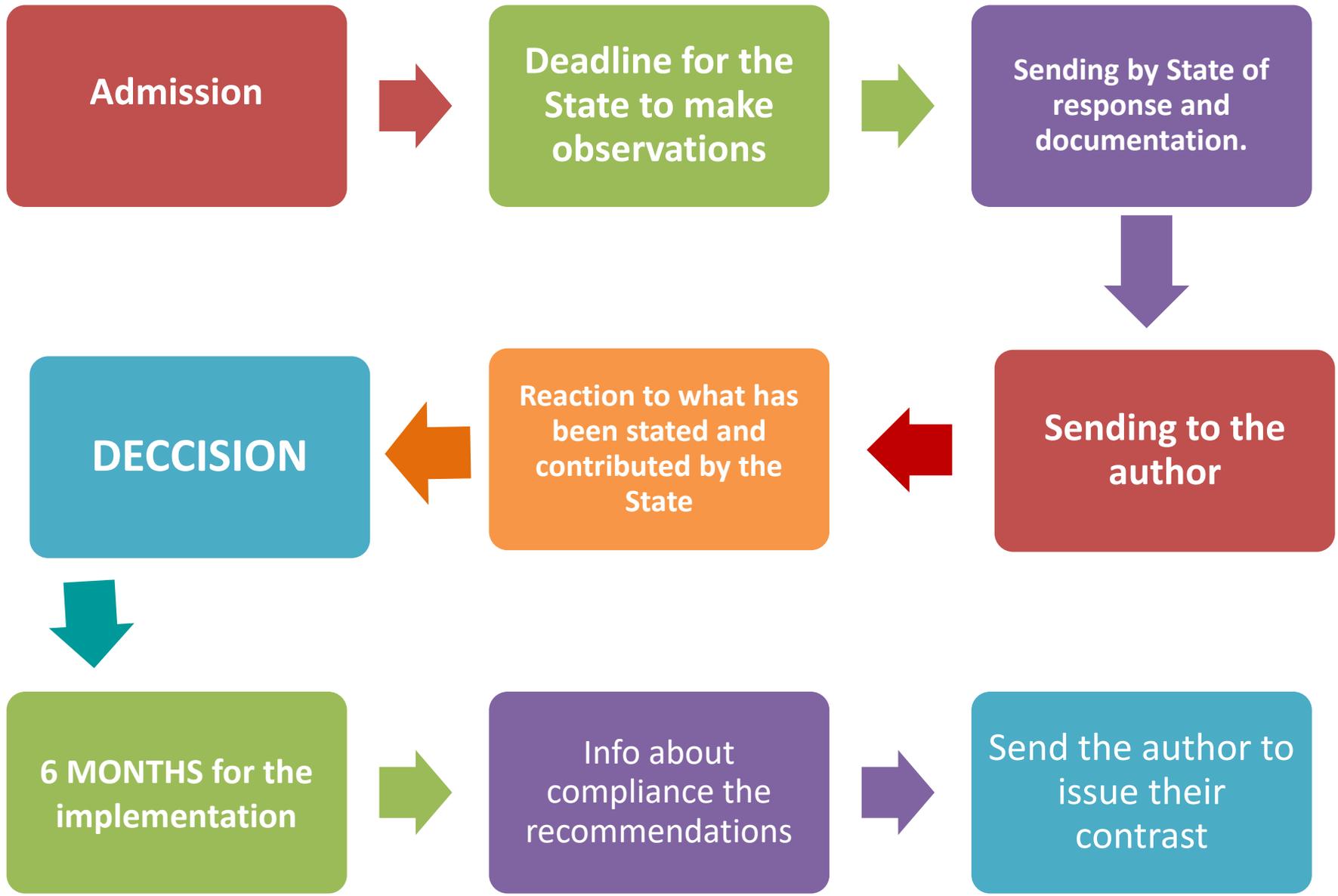
Judicial action

EVICTIION SUSPENSION

EVICTIION

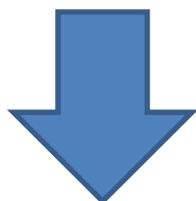


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What happens if the convicted State does not implement the recommendations?



RECOMMENDATIONS IN RESPECT OF THE AUTHORS: victim's claim for patrimonial loss.



UNSR Adequate Housing Reports

GENERAL RECOMMENDATIONS: PUBLIC POLICIES AND REGULATIONS

UPR

ESCR PERIODIC REPORTS