

The right to adequate housing in the private sector: affordability crisis, rental evictions and the role of investment funds

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Housing Rights Watch



- Transnational network of lawyers, activists and academics
- FEANTSA: Homelessness deprives individuals of human rights, including the right to housing.
- Promoting housing rights in Europe
 - Disseminate knowledge
 - Monitor Case-law
 - Support Strategic Litigation
 - Develop links with human rights organizations
- Raise awareness about and fight criminalisation

Objectives of the Workshop

- Bringing together groups that do not often meet to address the legal issues around the table: students, academics, activists and lawyers.
- Finding ways to share the progress on the right to housing with social activists
- Discuss the legal issues in relation to private rented accommodation (in particular to prevent or suspend evictions):
 - Use of the proportionality assessment in the caselaw of the ECHR
 - Use of the interim measures before the Committee of Social a Committee on Economic, Social & Cultural Rights
- Reinforce the HRW network

THE OTHER EUROPE

COLD REALITY
FIGURES ON HOMELESSNESS

*NON-COMPARABLE



+71%

From 2010
to 2018

ENGLAND

82 310

Homeless households
in temporary
accommodation
(1 night in June 2018)

+160%

From 2015
to 2019

IRELAND

9 987

People in emergency
accommodation
(1 week in January 2019)

+20.5%

From 2014
to 2016

SPAIN

16,437

People per day on
average in emergency
shelters in 2016

+11%

From 2011
to 2016

THE NETHERLANDS

60,120

People in homeless
accommodation services
in 2016

+50%

From 2001
to 2012

FRANCE

143 000

Homeless people
(1 night in 2012)

-19%

From 2009
to 2017

FINLAND

6 615

Homeless people
(one night in
November 2017)

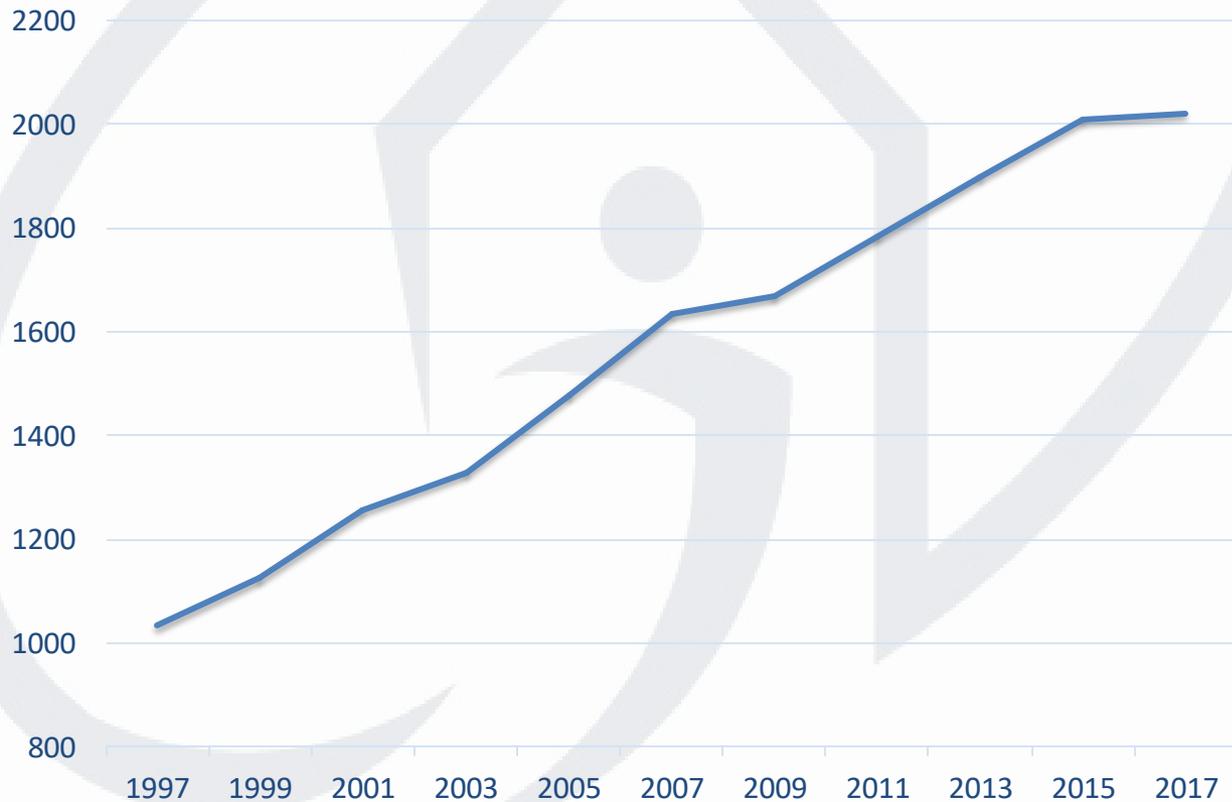


Être humain !

EUROPEAN HOUSING EXCLUSION INDEX 2019

Housing expenditure: growing out of control

Evolution of households' expenditure allocated to housing, water, electricity, gas and other fuels (EU, in billion €)



Être humain!

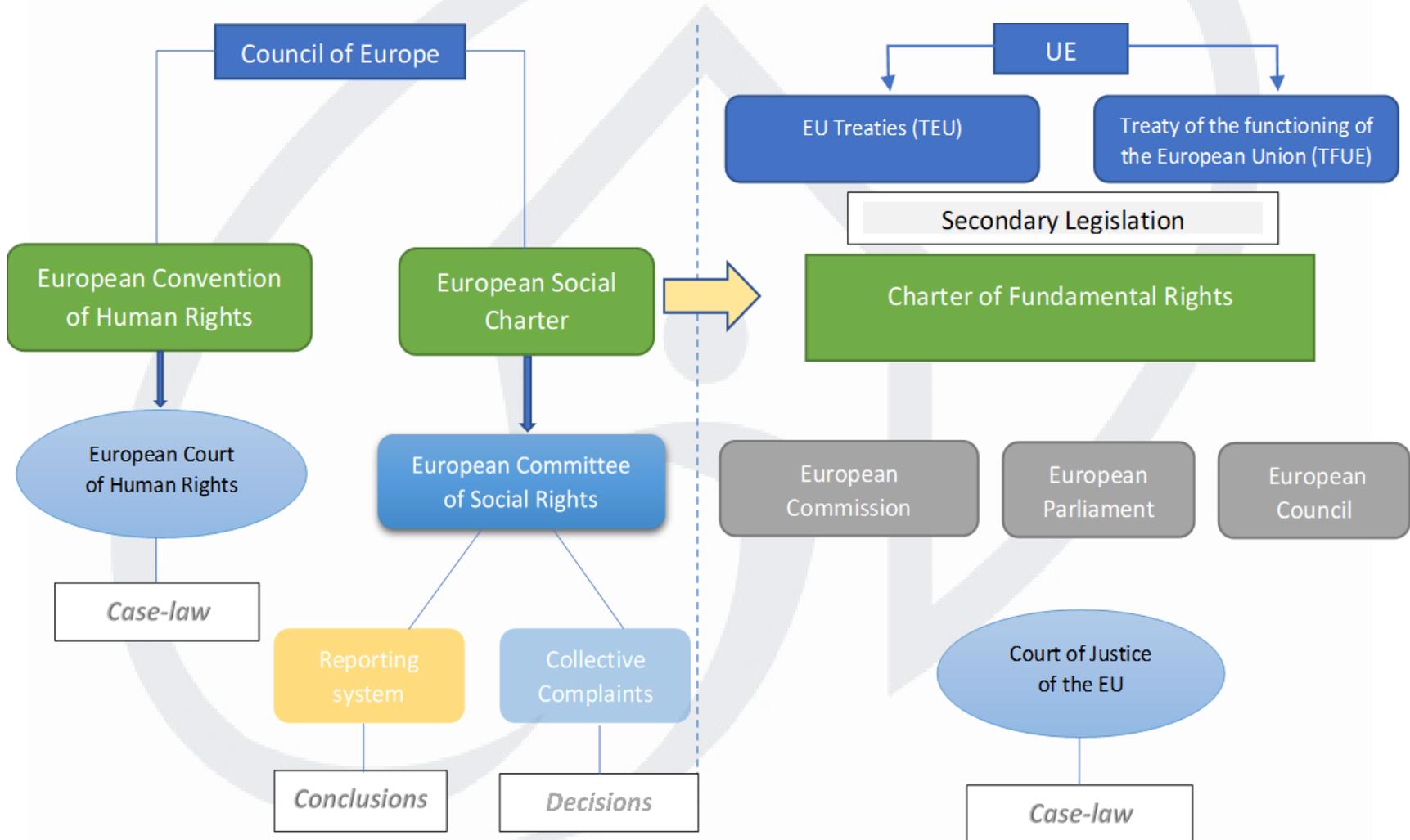
European mechanisms to defend housing rights

- **Revised Social Charter** Art. 31 and Art. 16
- **Charter of Fundamental Rights** follows the model of the European Social Charter
 - Feedback between caselaw of CJEU and ECHR and ECSR
 - Based on Revised Social Charter
- HRW: Use existing **Binding obligations** in case law as benchmarks/ monitoring indicators to assess progress on the right to housing.
- The interpretative reference for relevant EU law rights must come mainly from ESC rights, clarified by the Council of Europe.

Right to Housing in the EU: Charter of Fundamental rights

- Charter of Fundamental Rights:
 - Applies to the Institutions of the European Union, and its member states
 - Article 34 recognises and respects the right to social and housing assistance
- FEANTSA's work in this area:
 - Pillar of Social Rights, principle 19. (Non binding policy tool)
 - Monitor progress on the right to housing
 - Social Scoreboard-European Semester

European case-law



Housing-related Binding Obligations from European and International Law

- FEANTSA/ Abbe Pierre Foundation
- Minimum standards public authorities have to respect to effectively implement the right to housing
- Collective work: expert group HRW, academics, PHD researchers
- **Lobby tool** to aid NGOs, lawyers and other organisations to use International and European law to combat homelessness and social exclusion.
- Dynamic tool, will be updated soon.

HOUSING-RELATED BINDING OBLIGATIONS ON STATES

Housing-related Binding Obligations from European and International Law

- Rulings of European Court of Human rights (ECHR)
- Rulings of Court of Justice of the EU (CJEU)
- **Collective Complaints Decisions**
 - European Committee of Social Rights (ECSR)
- **Reporting System Conclusions**
 - European Committee of Social Rights (ECSR)

HOUSING-RELATED BINDING OBLIGATIONS ON STATES

Evictions

| | | | |
|--|--|--|--|
| Keep down the number of evictions | States must put in place measures designed to restrict the number of evictions | European Committee of Social Rights | ECSR Conclusions on Sweden, 2003 |
| Protective legal framework | The laws and regulations that regulate evictions must provide sufficient protection for the rights of people | European Committee of Social Rights | ERRC v. Greece, 2004 |
| No eviction without final court decision | The State must put in place a system that allows effective protection of consumers against the risks of eviction from their mortgaged housing until a final court decision has been reached. | Court of Justice of the European Union | Mohamed Aziz v. Catalonia, 14 March 2013, C415/11. |
| Principle of proportionality | Particular attention must be paid to consequences of an eviction before deciding whether it is appropriate to proceed, in particular when it could cause homelessness. | European Court of Human Rights | Winterstein and Others v. France, no. 27013/07 |

HOUSING-RELATED BINDING OBLIGATIONS ON STATES

To measure progress: indicators

| Obligations | Indicator |
|---|---|
| Social housing must particularly target the most vulnerable households. | % percentage of social housing targeting the most vulnerable groups (including the homeless) in the last year |
| There should be a proportionality assessment before a forced eviction, especially when it can cause homelessness | The measure exists in the legal framework at national level and is implemented in practice in a reference period Number of evictions made without proportionality assessment (increase/ reduction) |
| No eviction must take place if the public authority has not looked for alternative methods for rehousing (...) | Number of people left homeless because of an eviction without alternative accommodation in the last year (increase/reduction) |
| There can be no restrictions on access to emergency social services | The law does not include criteria requiring local connection or residence permits Increase / decrease persons accessing emergency services without restrictions |