

How to use European human rights jurisprudence and monitoring to facilitate the implementation of the Social Rights Pillar?

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HOUSING
RIGHTS
WATCH

Housing Rights Watch



- Transnational network of lawyers, activists and academics
- 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 // fight criminalisation

Social Rights in the EU

EUROPEAN PILLAR OF SOCIAL RIGHTS

Right to housing and assistance for the homeless, **principle 19** :

- 1. Access to social housing or housing assistance of good quality shall be provided for those in need.*
- 2. Vulnerable people have the right to appropriate assistance and protection against forced eviction.*
- 3. Adequate shelter and services shall be provided to the homeless in order to promote their social inclusion.*

CHARTER OF FUNDAMENTAL RIGHTS.

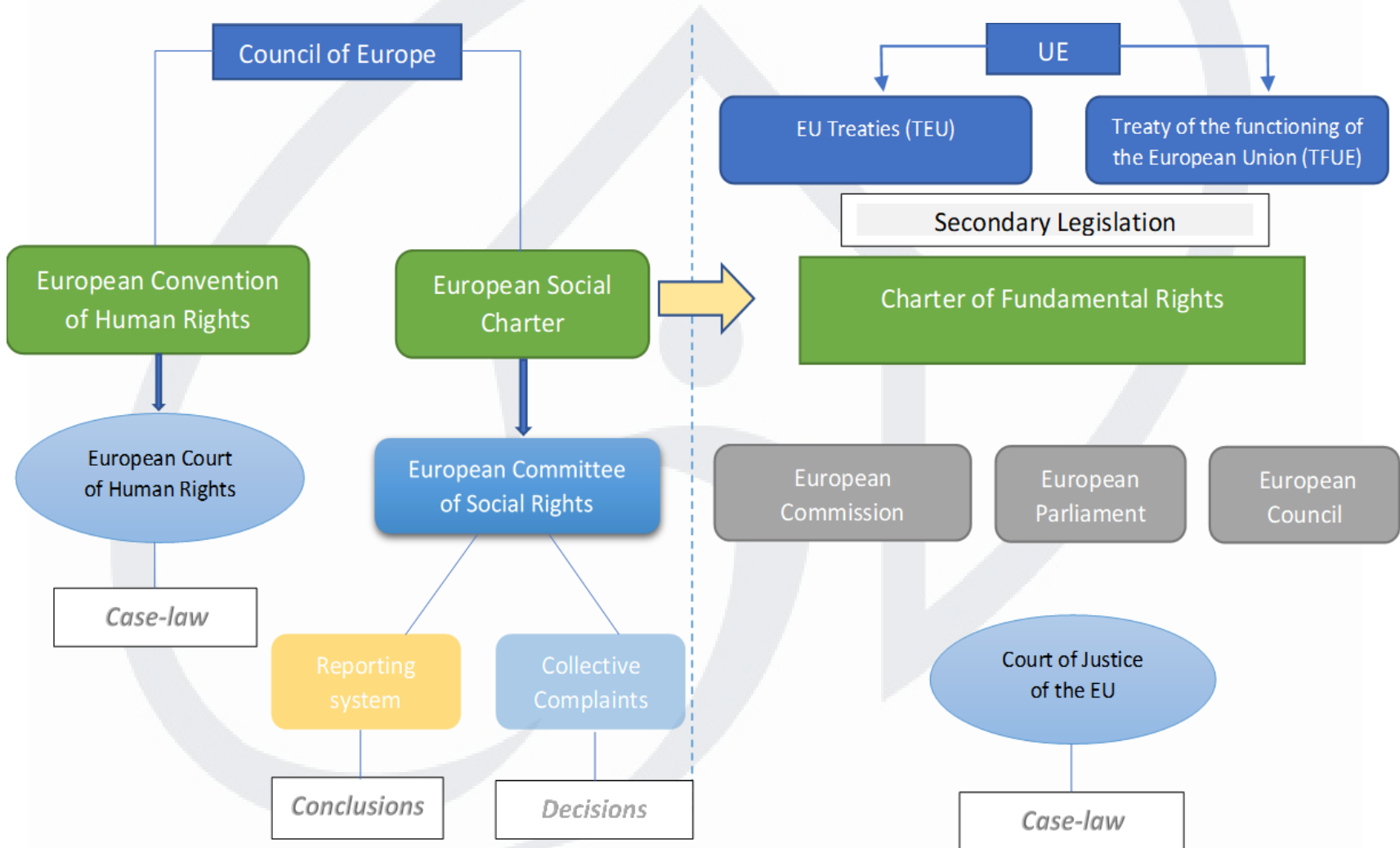
Right to housing assistance, **Art.34.3**:

*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 procedures laid down by Community law and national laws and practices.*

Effectiveness of social rights

- Complementarity of European mechanisms
 - Charter of Fundamental Rights follows the model of the European Social Charter
 - Feedback between caselaw of CJEU and ECHR and ECSR
- Pillar of Social Rights is based on Charter of Fundamental Rights that in turn is based on Revised Social Charter
- 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.

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 implementing 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 periodically

**HOUSING-RELATED BINDING
OBLIGATIONS ON STATES**

Housing-related Binding Obligations from European and International Law

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

HOUSING-RELATED BINDING OBLIGATIONS ON STATES

Housing-related Binding Obligations from European and International Law

- Shaping of public policy and its evaluation
- Adequate quality housing / healthy environment
- Affordable housing
- Appeal and legal recourse to ensure the right to housing
- Statutory Protection of the home
- Evictions
- Homelessness
- Unfair terms
- Shelter/ emergency accommodation
- Roma and Travellers
- Foreign Nationals

**HOUSING-RELATED BINDING
OBLIGATIONS ON STATES**

Affordable Housing

Affordable cost for those on lowest income	The State must not only ensure that the average cost of housing corresponds to average income, it must also make sure the burden on the most disadvantaged households is compatible with their resources	European Committee of Social Rights	FEANTSA v. Slovenia, 2008
Sufficient quantity of housing	The State must take the necessary measures to ensure the construction of sufficient housing, especially social housing.	European Committee of Social Rights	ECSR Conclusions on Sweden, 2003
Vulnerable households as priority group for social housing	Social housing must particularly target the most vulnerable households.	European Committee of Social Rights	FEANTSA v. France, 2007
Reasonable waiting periods for social housing (and possibility of appeal)	The State must take measures to reduce too long waiting times and put in place an appeals procedure in case of excessive waiting times	European Committee of Social Rights	FEANTSA v. France, 2007

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

Homelessness

Definition	Homelessness is defined as not having access to adequate housing,	European Committee of Social Rights	ECSR Conclusions on Italy, 2003
Prevention	No eviction must take place if the public authority has not looked for alternative methods for rehousing (...)	European Court of Human Rights	Yordanova and Others v. Bulgaria, no. 25446/06
Principle of proportionality	Particular attention must be paid to the consequences of an eviction; notably whether an eviction could cause the persons affected to become homeless.	European Court of Human Rights	Winterstein and Others v. France, no. 27013/07
Specific measures for vulnerable groups	States must act to make sure vulnerable people are not deprived of shelter (in addition to policies to promote access to social housing for low-income groups)	European Committee of Social Rights	ECSR Conclusions on Lithuania, 2005

HOUSING-RELATED BINDING OBLIGATIONS ON STATES

Emergency Accommodation

Eligibility for emergency accommodation	There can be no restrictions on access to emergency social services (no criteria requiring local connection or residence permits).	European Committee of Social Rights	FEANTSA v. Netherlands, 2014
Regulation of emergency shelter	The capacity of shelter must be sufficient to meet needs	European Committee of Social Rights	FEANTSA v. France, 2007
Minimum quality criteria for emergency support	Services providing temporary responses to emergency situations must respect safety, health and hygiene standards and must have essential comfort facilities such as access to running water and sufficient heating and lighting.	European Committee of Social Rights	DCI v. Netherlands, 2009
Emergency accommodation services must preserve dignity	Living conditions in emergency structures must respect people's dignity	European Committee of Social Rights	FEANTSA v. France, 2007

HOUSING-RELATED BINDING OBLIGATIONS ON STATES

Effectiveness of social rights

- IN FEANTSA v. France, the ECSR pointed out that housing and social rights measures taken **must be practical and effective**, rather than purely theoretical. States must:
 - a) Adopt the **necessary legal, financial and operational means** of ensuring steady progress towards **achieving the goals** laid down by the Charter;
 - b) Maintain **meaningful statistics** on needs, resources and results;
 - c) Undertake **regular reviews of the impact** of the strategies adopted;
 - d) Establish a **timetable** and not defer indefinitely the deadline for achieving the objectives of each stage;
 - e) Pay close attention to the **impact of the policies adopted on each of the categories of persons concerned**, particularly the most vulnerable.

Structure-process-outcome framework*

Structural	Legal, policy and institutional framework	Commitment	Commitment to international human rights law Legislation in place Policies, strategies, action plans, guidelines, adopted Institutional framework Complaint and support mechanisms exist	Duty bearers
Process	Policy implementation, effectiveness of complaints and support systems	Effort	Budgetary allocations Implementation of policies, strategies action plans, guidelines, etc Effectiveness of complaint and support mechanisms	Duty bearers
Outcome	Situation on the ground – rights realised in practice	Results	Actual awareness of rights Actual impact of policies and other measures Actual occurrence of violations	Rights holders

Some possible 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, specially when it can cause homelessness	The measure exists in the legal framework at national level The measure 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 as a consequence 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