

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

[Complaint No. 110/2014]

INTERNATIONAL FEDERATION FOR HUMAN RIGHTS (FIDH)

(Complainant)

V.

IRELAND

(Respondent)

REPLYING OBSERVATIONS OF THE RESPONDENT

26 February 2016

Introduction

1. The Respondent wishes to make a number of further observations in response to the most recent submissions made by the Complainant dated 26 November 2015 (“Response”). It endeavours to make these observations in the order that their subject-matter arises in the Complainant’s Response. For the avoidance of doubt, however, the Respondent reiterates each and every submission made in its previous submissions on the merits and an effort is made herein to avoid duplication of any points previously raised.

Preliminary Objections

2. With respect to the delineation between Article 16 and Article 31, the Complainant’s reliance (at paragraphs 2 and 4 of the Response) on the cases of *European Roma Rights Centre (ERRC) v Greece*¹, *European Roma Rights Centre (ERRC) v Bulgaria*² and *FIDH v Belgium*³ is misconceived. Firstly, neither the Decision on the Merits nor the Decision on Admissibility in *ERRC v Greece* contained any discussion of Article 31 (let alone consideration of a “functional overlap” between the two provisions). Furthermore, that case concerned an entirely dissimilar set of facts (namely, the treatment of a minority ethnic group, the insufficient number of permanent dwellings of an acceptable quality to meet the needs of the settled Roma, insufficiency of temporary camping sites and systemic evictions of Roma from sites or dwellings unlawfully occupied by Roma).

3. Secondly, as set out previously in the Respondent’s Submissions on the Merits, the Decision on Admissibility in *ERRC v Bulgaria* made clear that there exists a task of delineation between Article 16 and Article 31 which is case-specific and can only be properly assessed when examining the merits of the case. Furthermore, in *ERRC v Bulgaria*, the Committee confirmed that the two provisions are “*different in personal and material scope*”⁴ and that the overlap is only partial⁵ with respect to housing. In any event, *ERRC v Bulgaria* was not in any way analogous to the present case; it concerned the specific and discriminatory situation facing the Roma community and further

¹ Complaint No. 15/2003, Decision on the Merits

² Complaint No. 31/2005, Decision on the Merits

³ Complaint No. 62/2010, Decision on the Merits

⁴ Complaint No. 31/2005, Decision on the Merits, Paragraph 17

⁵ Complaint No. 31/2005, Decision on the Merits, Paragraph 17

involved allegations of problems with basic infrastructure (such as the provision of electricity). At paragraph 34 of that Decision, the Committee explained that Article 16:

“...guarantees adequate housing for the family, which means a dwelling which is structurally secure; possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity; is of suitable size considering the composition of the family in residence; and with secure tenure supported by law The temporary supply of shelter cannot be considered as adequate and individuals should be provided with adequate housing within a reasonable period.”

4. This is a threshold which the Respondent easily meets with respect to local authority tenants, even if the Complainant’s case was taken at its highest. This above case is not comparable to the present complaint.

5. Likewise, the case of *FIDH v. Belgium* is incomparable to the present complaint as it concerns the specific situation of the travelling community. In any event, the finding of the Committee with respect to the interplay between Article 16 and 31 was that: *“...It therefore falls to the Committee to ensure at the same time that obligations are not imposed on States stemming from provisions they did not intend to accept and that the essential core of accepted provisions is not amputated as a result of the fact it may contain obligations which may also result from unaccepted provisions (Mental Disability Advocacy Centre (MDAC) v. Bulgaria, Complaint No. 41/2007, decision on admissibility, 26 June 2007, §9)⁶.”*

6. It is striking that the Complainant has not taken the opportunity in its Response to explain the connection between the Complaints and “other Articles” of the Charter (see paragraph 4). With respect to Article E for instance, the Complainant has not set out what specific group has suffered discrimination; indeed there does not appear to be any allegation of discrimination. In this regard, it is noteworthy that the Complainant has clarified that it is not attempting to pursue a claim that the Charter is violated by reason of discrimination between private sector and local authority tenants.

7. This is particularly relevant to the Respondent’s concerns regarding the application of *FEANTSA v. France*⁷ as a precedent. If this Complaint concerns for instance the availability of statistics, the Respondent Government needs to understand the specific case to answer. In the instant case, the

⁶ Paragraph 45

⁷ Complaint No. 39/2006

Complaint appeared to concern a broad stroke criticism of social housing policy (It did not specifically concern for instance the living conditions of traveller families, families with disability or child poverty – all of which would require the Respondent drawing upon separate sets of data). In its submission on the merits, the Respondent accordingly set out its general social housing and framework policy. It is submitted, however, that this is precisely the type of generalised Complaint regarding which the responsibility of the State is not engaged by reason of its non-acceptance of Article 31 relates.

Condensation

8. Although the Complainant refers to a definition of “overcrowding” at paragraph 7, it is unclear what particular allegation is being made. The claim appears to concern dampness in local authority housing. In this regard, it might be noted that “damp” is moisture which penetrates the building from outside. The level of occupancy of a building will have no effect on the weather tightness of the structure. Condensation arises from moisture produced within the dwelling that evaporates into the atmosphere. Whilst the level of occupancy, together with other lifestyle arrangements, will have an impact on this, the maintenance of the effects of condensation are the responsibility of the tenant.

9. Regarding the survey carried out by St. Michael’s Regeneration Board in Tyrone Place, which is mentioned at paragraph 7, the Respondent notes that this is an anecdotal account across only a limited range of residents. It is unclear as to the selection criteria for respondents and whether the 47 respondents are a true statistical representation of the complex. The survey does not reference any scientific methodology involved in the determination of whether a unit experienced damp or not, nor does the survey make any reference to whether a medical professional was involved in the determination of respiratory problems and in making a specific connection between the dwelling and a specific alleged respiratory problem.

10. In addition, the survey does not indicate the actual temperature of the units, what temperature would be considered cold, or the amount of energy used to heat a unit measured and identified in this survey. Similarly a cost comparison was not carried out between Tyrone Place and other accommodation of a similar or newer vintage.

11. Contrary to the approach taken by St. Michael’s Regeneration Board, Dublin City Council carried out a comprehensive survey of Saint Teresa’s Garden’s during which an engineer using

moisture and humidity meters completed a damp assessment in over 80% of the occupied units. These professional examinations showed that just 3% of the housing stock showed current or previous signs of damp. This is a typical figure observed in Dublin City Council's older flats complexes. If damp is reported and the structure is subsequently considered to be defective, Dublin City Council carries out structural remediation. However, for cases of reported damp which upon investigation, are shown as a result of the effects of condensation, repairs will be the responsibility of the tenant.

12. On occasions, local authorities have identified washing machines (the installation for which is the responsibility of the tenant) incorrectly plumbed into the drainage system in a manner which allow smells from the system to bypass the trap. The survey cited by the Complainant does not conclude if the plumbing under the control of the tenant was installed correctly or not, nor has the survey identified the source of reported smells. In the twelve months preceding the survey, Dublin City Council only received one complaint of a smell from the system from the residents of Tyrone Place.

13. With respect to the report of Mr. Scott (cited at paragraph 7), the following points might be noted:

- Regarding Mr. Scott's observations on roof drainage, his inspection was carried out at the same time that Dublin City Council was carrying out a full re-covering of the asphalted roof area. The roof concerns have accordingly been addressed. Between February 2014 and May 2015, there have been two reported roof leaks arising from snags in the reroofing. Both of these leaks were addressed.
- With regard to questions of drainage, Dublin City Council carried out jetting of all waste water stacks in the complex in September 2013. Although individual complaints about stack blockage had not arisen, a local residents group indicated to Dublin City Council that it believed chokes were occurring and the City Council responded by carrying out a second complete jetting of the drainage system in December 2015.

- Mr. Scott states at paragraph 7.7 of his Report that “*the observations suggest that condensation is the cause of much of the manifestation of dampness.*” Repairs due to the effects of condensation are the responsibility of the tenant, as set out in the Tenant’s Handbook.

- Dublin City Council views structural dampness as a serious complaint. When a complaint of dampness is logged, the Council carries out an investigation as to whether the problem is from an external source of moisture, or from condensation. Should the structure be deemed to be deficient to allow moisture to penetrate into a dwelling, the Council carries out remedial repairs. With respect to external sources of damp, it is noted that Mr. Scott’s report indicates **“There is no evidence noted of significant penetrations.”**

- While the Report references the Building Regulations (for instance in relation to fuel and energy conservation), in fact Tyrone Place was built before these Regulations were brought into force.

- Dublin City Council has a daily caretaking presence onsite which regularly carries out “powerwashing” to clean all areas of the complex.

14. In relation to paragraph 9 of the Response, it is striking that the Complainant has not taken the opportunity to set out any specific allegations which engage either Article 17 or Article E of the Charter. The Respondent is still not aware of the precise case to answer; indeed, for the purposes of the Article E claim, it remains entirely unclear what group the Complainant considers to have experienced discrimination. In this regard, the Respondent notes the Complainant’s clarification at paragraph 10 of the Response that it does not set out private rented sector tenants as a comparator. However, the Complainant does not provide any clarity as to how it considers this matter to fall within the personal scope of Article E.

Maintenance and management of local authority housing in Ireland

15. Under the Housing Acts 1966 to 2009, responsibility for the enforcement of the regulations prescribing minimum standards for rented accommodation rests with the relevant housing authority. The current minimum standards for rental accommodation are prescribed in the Housing (Standards for Rented Houses) Regulations 2008, as amended by the Housing (Standards for Rented Houses) (Amendment) Regulations 2009, made under section 18 of the Housing (Miscellaneous Provisions)

Act 1992.⁸ These regulations specify requirements in relation to a range of matters, such as structural repair, sanitary facilities, heating, ventilation, natural light, safety of gas and electrical supply.

16. With very limited exemptions, these regulations apply to local authority and voluntary housing units as well as private rented residential accommodation. Local authorities carry out inspections on a portion of all rented accommodation within their functional areas annually. Since 2005, over €28 million has been allocated to housing authorities for inspection purposes. Over 167,000 inspections have been carried out in that period.

17. The Housing Assistance Payment (HAP) scheme, Rental Accommodation Scheme (RAS) and Social Housing Current Expenditure Programme (SHCEP) provide social housing support by securing properties in the private rental sector, with different contractual arrangements applying under each of the schemes. Different property inspections regimes are also utilised for each scheme, appropriate to the nature of the contractual undertaking involved and the housing authorities' role in same. In every case, dwellings provided for social housing purposes must meet statutory minimum standards for the private rented sector.

18. In the case of HAP, the housing authority must be satisfied that a dwelling supported under HAP complies with the statutory standards for private rental accommodation, furthermore the inspection process must be implemented by the housing authority within a statutorily defined period (8 months of tenancy first arising). In the case of accommodation made available under the SHCEP or RAS scheme, a full survey of the property is undertaken to assess the standard of the unit. Any upgrading identified must be completed by the lessor in advance of the property being leased by the housing authority or approved housing body and subsequently tenanted.

19. In relation to paragraph 12 of the Response, the Respondent has already outlined the legal and policy framework regarding the duties of local authorities. It has also outlined throughout the Complaint the close monitoring and inspection of local authority housing on an ongoing basis. The Respondent does not accept that there has been a failure to inspect local authority housing.

⁸ Available at: <http://www.irishstatutebook.ie/eli/2008/si/534/made/en/print> and <http://www.irishstatutebook.ie/eli/2009/si/462/made/en/print.All> legislation may be consulted on www.irishstatutebook.ie.

18. The Respondent agrees with the Complainant that the guidance documents, while not legally binding, are useful in “developing the essence of human rights standards in the context of implementation of rights.” It is, however, difficult to understand why the Complainant considers such guidance documents not to promote rights under the Charter.

19. The matter of regeneration is dealt with in general terms at paragraphs 34-35 of the observations on the merits because it addressed more comprehensively at a later stage. Part III of the observations on the merits simply attempts to set out the background to the maintenance and management of local authority housing.

20. Section 126B of the Local Government Act 2001⁹ stipulates that the National Oversight and Audit Commission (NOAC) and its members are independent in the performance of their functions. NOAC is accordingly independent of the Department of the Environment, Community and Local Government in the performance of its functions.

21. As part of a study being undertaken by NOAC into the maintenance and management by local authorities of their housing stock, NOAC commissioned a customer satisfaction survey among local authority tenants (interviews conducted in October and November 2015). The purpose of the survey was to gather data on the experience of local authority tenants and to measure their satisfaction with the way in which their local authority maintains and manages the housing it provides to them.

22. The following points from the report¹⁰ might be noted:

- Almost 9 in 10 tenants are satisfied with their local neighbourhood.
- Those who have been living in their current Council home for a longer period of time (11+ years) and those not living in a Council estate have higher strength of satisfaction with the local neighbourhood.
- 4 in 5 tenants are satisfied with the structural condition of their home.

⁹ Available at: <http://www.irishstatutebook.ie/eli/2014/act/1/section/61/enacted/en/html#sec61>

¹⁰ <http://noac.ie/wp-content/uploads/2015/12/Tenant-Survey-BA-for-NOAC.pdf>

- Satisfaction with the structural condition is higher among those living in smaller local authorities than those in newer homes (less than 10 years).
- More tenants believe the level of anti-social behaviour has decreased, rather than increased.

Legal Policy and Administrative Framework

23. In relation to paragraph 20 of the Response, the Respondent reiterates that its consideration of the criteria in *Autism Europe v France* in the context of Irish housing law and policy is without prejudice to its position that it is not obliged to demonstrate fulfilment of these criteria in the context of the achievement of the objectives of Article 31 of the Charter.

23. The Development Plan and social housing assessments are very much relevant to monitoring and determining housing needs. Similarly, the production of the Social Housing Strategy 2020 is directly relevant to the progressive achievement of a complex objective. Manifest commitments to investment in social housing and data gathering are also part of the broader picture of the endeavours of the State to respond to housing needs with quality accommodation. It is noteworthy that the Complainant alleges that the applicable criteria are a reasonable time frame, measurable progress and financing consistent with the maximum use of available resources, yet fails to accept any such examples as relevant to the present Complaint unless they directly relate to specific alleged difficulties faced by families living in local authority housing presently.

24. In response to paragraph 27, the Respondent considers that it has fulfilled its obligations and given practical effect to the rights under the Charter.

Conditions of Housing

25. In response to paragraph 28 of the Response, paragraph 57 of the observations on the merits contains simply an attempt to distil the Complaint. The Respondent does not “accept that the Complaint is not based on Article 31 of the Charter.”

26. At paragraph 37 of the Response, the Complainant has impugned the “failure” of the Respondent to respond to the specific instances of families and children in local authority housing facing substandard housing. The Respondent does not accept that there has been such a failure.

Although the Respondent has strong objections to both the admissibility of the Complaint and probative nature of some of the claims, it has endeavoured to respond to each allegation raised insofar as has been possible. It has specifically addressed each case study as raised. This is despite the fact that many of the allegations are premised on hearsay and anecdotal accounts. They are often vague, without context and do not refer to specified time periods. Individual accounts such as those contained in the Complaint cannot be taken as representative of the situation of Irish social housing provision, nor do they in any way constitute evidence sufficient to impugn the Respondent's legal and systemic approach to the matters concerned. Furthermore, the Collective Complaints Procedure does not accommodate the testing of evidence. Rather, it is submitted that the Procedure is designed to address systemic issue which the Government has attempted to do in its submissions.

27. With regard to paragraph 38 of the Response, the Complainant appears to have misunderstood the submissions of the Respondent. The Respondent does not suggest that local authorities are “not responsible for State obligations on human rights.”

28. It is submitted that the guidance documents to which paragraphs 39 and 40 of the Response refer, promote the obligation of the State to provide appropriate social units.

29. The Complainant has alleged that the Respondent has failed to displace the evidence of specific instances of local authority housing being substandard. As set out above, the Respondent endeavours to address each allegation as raised. It is submitted, however, such a large housing stock, of varying age, will inevitably have maintenance issues. Accordingly, it is appropriate that the Respondent has concentrated on producing evidence of the systemic approach to local authority housing provision and maintenance. For instance, the improvements set out in paragraphs 66 and 67 of the observations on the merits will operate to counter fuel poverty.

30. The Complainant is dismissive of the various initiatives undertaken by the Government, including the Social Housing Strategy (see paragraph 44 of the Response), on the basis that it does not directly address the difficulties outlined in the Complaint. The problem with this position is that the Complaint relates only to a small number of issues in a very large housing stock. As of the end of 2014, there were 152,773 units of social housing available across Ireland. Any discrete issues arising such as those alleged in the Complaint, are addressed by local authorities on a case by case basis.

31. At paragraph 45, the Complainant states that the State has not engaged with the specific instances highlighted in the Complaint whereas the State in fact has addressed each of the “Case Studies” raised in turn.

32. In relation to paragraph 47, the Respondent fully refutes the suggestion that the local authority failed to address the difficulties faced by tenants in respect of waste-water. On the contrary, Dublin City Council carried out a jetting programme of the grey water stacks in Dolphin House in 2011. In the three months after the jetting programme was completed there was an 80% reduction in logged complaints.

33. In relation to paragraph 48 of the Response, the Respondent submits that the content of the ‘Homebond’ leaflet remains relevant to the cause and treatment of condensation and its effects. The mechanism of condensation has not changed within the past twenty years. Reference to a car is made for demonstrative purposes only as condensation in a car is an occurrence with which most people have experience. Using this common experience, the booklet references how ventilation, heat and air movement solve condensation in a car and how similar principles can be applied to a building.

34. As the maintenance of the effects of condensation is a tenant’s responsibility, when a maintenance complaint is investigated and determined to be due to the effects of condensation, tenants are advised to treat and ventilate the affected areas.

35. Repairs due to structural dampness must be carried out by the local authority in accordance with Regulation 5 of the Housing (Standards for Rented Houses) Regulations 2008 (as amended). The issue of condensation, however, is the responsibility of the tenant. Support has nevertheless been provided to tenants in the form of professional advice as to how to deal with condensation which causes damp (see below). The technical guidance to the Irish Building Regulations 1997 - 2014, parts F & L apply to new buildings and do not apply retrospectively to older buildings whether they are publicly or privately owned. Typically, each Technical Guidance Document explains that “*Building Regulations do not apply to buildings constructed prior to 1 June, 1992.*”

36. The Respondent wholly refutes the allegation that residents are moved into “units that are prone to extensive damp and mould” simply because they are older buildings. Prior to a family moving

into a new home, Dublin City Council carries out extensive upgrade works to the unit, including the installation of insulation on exterior walls and mechanical ventilation. The units are also replastered and repainted where necessary. Should mould due to condensation have been present previously, the mould and affected plaster are removed prior to works. The upgrade of the thermal envelope and introduction of mechanical ventilation shows an ever increasing level of support to tenants to mitigate and reduce the causes and effects of condensation.

37. The survey of St. Teresa's Garden's involved inspecting every unit using moisture meters, humidity meters and temperature probes to determine the cause of any manifestations that may be attributed to damp. It established that on the whole, 97% of units did not have problems with damp. In the 45% of cases which had manifestations of the effects of condensation, professional advice was given to the residents as to how to manage, treat and alleviate the causes and effects of condensation in their home. In the cases where roof leaks were found or where previous roof leaks were found, these were immediately addressed.

38. A national association representing local authority tenants does not exist in Ireland, however the engagement of tenants with their local authority is encouraged in addressing housing difficulties. This engagement can happen through direct contact with area housing officers and/or Local Authority Housing sections, through involvement with local community groups or with residents associations. Accordingly, it is not reasonable to say that the lack of a national representative local authority tenants association in Ireland undermines the ability of tenants to address the difficulties they are facing in respect of housing. The approach of housing authorities has always been to encourage and to fully support participation at a local authority level. This is now underpinned by the Local Government Reform Act of 2014¹¹, which provides for a framework for public

¹¹ Available at: <http://www.irishstatutebook.ie/eli/2014/act/1/enacted/en/html>. The Local Government Reform Act 2014 enhanced the powers of local authorities to take all appropriate steps to consult with and promote effective participation of local communities in local government. One of the principal implementing provisions is the adoption by each local authority, in accordance with Guidelines from the Department of the Environment, Community and Local Government, of a framework for public participation in local government. This sets out the mechanisms by which citizens and communities will be encouraged and supported to participate in and influence the decision-making processes of the local authority. This means that for the first time, participation of citizens in local government is being underpinned by legislation, reflecting a commitment to open and inclusive local policy-making with enhanced transparency and accountability, and to building civic capacity.

participation in local government structures and processes, including public participation in strategic policy committees, including on housing issues.

39. Good practice guidelines in housing management have been made available to local authorities which identify the participation of tenants in the management of local authority estates as a key aspect of achieving good practice in housing management – see *Managing in Partnership: Enabling Tenant Participation in Housing Estate Management*.¹²

Difference of treatment between private renters and local authority tenants

40. The Respondent notes that the Complainant is not pursuing a claim based on differences in the framework for private renters and that for local authority tenants. In its observations on the merits, the Respondent has comprehensively explained why approaches differ.

41. At paragraph 62 of the Response, the Complainant misconstrues the points made at paragraph 86 of the observations on the merits. The Respondent has never suggested that the difficulties faced by local authority tenants are less serious. The point being made is that the private renter does not have the benefit of his/her private landlord being subject to the statutory maintenance and control functions applicable to local authorities under the Housing legislation.

Monitoring progress, Participation and Regeneration

42. It is clear from the Response that the Complainant's claims regarding monitoring progress, participation and regeneration, greatly overlap. The misunderstanding of procedures adopted in Limerick's regeneration scheme is noteworthy. Limerick is a good example of a formal and informal participative approach which is monitored, and where many of the obligations of participation are located in a statutory framework (namely the Planning Acts).

¹²

<http://www.environ.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/Housing/FileDownload%2C2448%2Cen.pdf>. An example of a Residents Association Handbook can be found at: <http://www.fingalcoco.ie/community-and-leisure/community-development-and-activities/residents-associations/>

43. In relation to the allegations at paragraph 66 of the Response, the Respondent refutes the claim that there is “no monitoring of residents participation in the Regeneration process.”

44. Limerick City and County Council actively engages with residents of the regeneration areas. Currently, the residents’ committees of the four regeneration areas meet once monthly. The Community Consultative Forum, which is made up of representatives from each of the regeneration areas meets bi-monthly. There are also weekly ‘drop-in clinics’ with representatives of Limerick City and County Council which are monitored and recorded. In addition, the Office of Regeneration area offices operate an ‘open door’ policy whereby residents can drop into the Southside office at Roxboro and the Northside office at Watch House Cross to discuss any issue with the regeneration team outside of the formal weekly drop-in clinics.

45. The following processes outline how Residents’ participation in the regeneration process is monitored and recorded at the plan-making (making the Limerick Regeneration Framework Implementation Plan¹³ – hereafter “LRFIP”) and Part 8 Planning Application stage:

46. Appendix 2 of the LRFIP outlines the ‘Statement of Community Involvement’. This document sets out the programme, method and outcome of community involvement in the preparation process for the draft Limerick Regeneration Framework Plan from June 2012 to March 2013. The Statement of Community Involvement begins with a review of the different tiers of planning policy on community involvement, and sets out Limerick Regeneration’s strategy in involving residents and community representatives. Each of the public information and consultation sessions for Southill, Ballinacurra Weston, Moyross and St. Mary’s Park are described in detail, clearly identifying the purpose, organisation, content and outcome of each. Key issues which emerge within each of the regeneration areas are highlighted and an explanation by the Office of Regeneration is given as to how the final development of the LRFIP has evolved in light of the comments received.

47. In order to provide opportunities for community involvement, specific types of consultation methods were considered. As a general approach to engaging with the residents, information and documents were provided in accessible locations, at convenient times and in a visually

¹³ The final version of the plan is available at: <http://www.limerick.ie/council/limerick-regeneration-framework-implementation-plan>

understandable format. Public meetings and drop-in clinics were used as a means of providing information, monitoring and enabling feedback.

48. Following the launch of the draft LRFIP in September 2013, the formal consultation public display period relating to the draft LRFIP commenced on 1 November 2013 and finished on 5 December 2013. The formal consultation strategy included the following measures:

- Two Press notices released;
- Draft LRFIP made available for physical viewing at Council offices, libraries and area offices;
- Draft LRFIP made available for online viewing at Limerick City Council and Limerick County Council websites and the Official Guide to Limerick.

49. Interested parties were asked to express their views on the Draft LRFIP by making a written submission to the Office of Regeneration, Limerick City Council, City Hall, Limerick or by emailing a submission to LRFIP@limerick.ie up until 5 December 2013. In addition to the above, a summary information booklet for each of the four regeneration areas was delivered to each house within each regeneration area to ensure maximum dissemination of information.

50. In January 2014, the Manager's Report on the public consultation process was undertaken following publication of the draft Limerick Regeneration Framework Implementation Plan (including an Environmental Report and Natura Impact Report). The purpose of this report is to inform members of the Council of the consultation process outcome in relation to the draft plan, and to seek approval for a number of amendments, in response to issues raised.

51. The Manager's Report outlined the formal public consultation process, setting out the next steps that are necessary to allow for the variation of the Limerick City Development Plan 2010-2016. It also provided a list of submissions received, a summary of the main issues raised in each submission, together with the Manager's Response and Recommendation.

52. Also highlighted in the Manager's Report were the proposed amendments to text, maps and figures in the draft LRFIP, based on the recommendations put forward during the public consultation process.

53. On 24 February 2014, the elected members of Limerick City Council considered and approved:

- (a) The City and County Manager's Report on the public consultation process undertaken in respect of the Limerick Regeneration Framework Implementation Plan;
- (b) The draft Limerick Regeneration Framework Implementation Plan (which included relevant sections on public participation such as the Statement of Community Involvement in the making of the plan);
- (c) The commencement of the legislative process to allow for the variation of the Limerick City Development Plan 2010 – 2016.

54. In relation to item (c) the variation process has been approved to proceed by the elected members as stated above and will commence in collaboration with the Planning Authority in its review of the Development Plan. Furthermore, in relation to section 2.2 of the Statement of Community Involvement, it is an explicit aim of the statutory Limerick City Development Plan to “ensure public participation through the statutory process governing its preparation.”

55. As adopted in the LRFIP (February 2014), the Limerick Regeneration programme aims to deliver 593 new-build replacement homes. In relation to Part 8 planning applications for housing schemes (ie where the developer is the local authority), the local authority undertakes informal pre-planning consultation with the residents’ committees for each of the 4 regeneration areas prior to lodgement of a Part 8 Planning Application. Such meetings are minuted to document how residents and key stakeholders have been involved and show how their views have influenced progress of the scheme before an application is lodged. Informal pre-planning meetings are effective as they are able to build consensus, focussing on the needs of the local community, but not to the exclusion of other interested parties.

56. There is a further opportunity for consultation on Part 8 planning applications under the statutory provisions of Part 8 of the Planning and Development Regulations (as amended)¹⁴ once the application is lodged to the Planning Authority. The application is placed on public display for 6 weeks and submissions and observations are invited from the general public for a further 2 weeks.

¹⁴ A consolidated version (unofficial) is available at: <http://www.environ.ie/sites/default/files/migrated-files/en/Legislation/DevelopmentandHousing/Planning/FileDownload%2C32879%2Cen.pdf>.

57. A Planner's Report is prepared which contains a full list of submissions received, a summary of the main issues raised in each submission, together with a response and recommendation by the Local Authority. The making of a decision on a Part 8 planning application is a reserved function of the local authority; therefore the planner's report is presented to the elected members in facilitating a determination.

58. At paragraph 66, the Complainant has also alleged that community safety is not monitored in reports produced by Limerick City and County Council. In this regard, it should be noted that the monitoring programmed is designed to achieve the holistic improvement of regeneration areas by improving outcomes across seven key themes. There are three "place-related" themes, namely: (1) Housing and Physical Environment, (2) Crime and Community Safety and (3) Community. There are also four "people-related" themes, namely: (4) Employment and Enterprise, (5) Health, (6) Families and Youth and Risk and (7) Education. One year on from the formal adoption of the LRFIP in February 2014, a Monitoring Report was prepared in February 2015 and issued to the Department of the Environment, Community and Local Government on the activities relating to (1) Housing and the Physical Environment as data was readily available for analysis.

59. At that stage (one year on from the adoption of the plan), it was not yet possible to provide an evaluation of the scale of area wide change relating to Crime and Community Safety, Community, Employment and Enterprise, Health, Families and Youth at Risk and Education until data was analysed first from outputs from Social Intervention Grants and an overarching assessment was commenced. Monitoring data relating to outputs from social intervention grants is currently being finalised and due for completion in 2016.

60. An overarching assessment will then commence and data will be collated to analyse key linkages between outcomes relating to Housing and Physical Environment, Crime and Community Safety, Community; Employment and Enterprise, Health, Families and Youth at Risk and Education. This data will feed into the overall Monitoring Framework, an overarching evaluation measuring the impact of investment to date across all themes. This will commence in 2016 with a Household Survey and a Programme wide analysis. A full evaluation of outputs will also incorporate data from the forthcoming 2016 Census data.

61. In relation to paragraphs 67 and 68, the Respondent submits that all case studies have been addressed in the response insofar as is possible in the context and within the limitations of the Collective Complaints Procedure.

Dolphin House

62. In response to the allegations made at paragraph 69, the Respondent submits that significant progress in relation to Dolphin House was made in 2015 with demolition commencing on 2 blocks. Tenders for the construction of new build units will be ready in the first quarter of 2016. All regenerations projects are complex with the tenant's needs a key consideration in their phasing and advancement, which can give rise to delays.

St. Teresa's Gardens

63. St. Teresa's Gardens is one of the main regeneration projects of Dublin City. Given its funding history and many complexities, it has encountered delays. In order to commence demolition of blocks, the tenants therein have to be moved out and relocated. The local authority needs to work with these tenants, especially where there is reluctance to move to alternative accommodation and this investment in sustaining tenant goodwill can, of necessity, take time. Dublin City Council works with the Regeneration Board, the community and individual tenants in all these endeavours. Demolition of two of the blocks at Saint Teresa's Gardens started on site in February 2016.

Liberty House (re-named Peadar Kearney House)

64. There have been no reports made to the voluntary housing agency responsible for management of Liberty House relating to damp, mould, sewage problems, fire safety or poor energy efficiency since June 2014 (when the agency took over management). Building Energy Rating Certificates have been prepared which are in the "B" range, meaning that the accommodation is highly energy efficient.

65. Furthermore, in a Tenant satisfaction Survey undertaken in September 2015, some 32 of the tenants completed a postal satisfaction survey form with 100% of these stating that they were satisfied with the quality of their home and the conditions of their property. They expressed a general satisfaction rating of 98%. The lower rate of satisfaction of 92% related to satisfaction with

the neighbourhood. In this regard, tenants have expressed concerns over antisocial behaviour in the streets around the scheme. A good satisfaction rating was recorded regarding energy quality and efficiency of the units.

66. Regarding claims of social exclusion raised in the Complaint, there is a very good mix within the scheme of young families and older tenants and at least over 30% of the tenants are in employment. There is an active Tenants' Committee which organises social activities for the children and engages with the voluntary housing agency.

Limerick

67. The Respondent refutes entirely the assertions made at paragraph 75 of the Response. The major regeneration programme being undertaken by Limerick City and County Council, for example, has addressed substandard housing conditions, social exclusion and poverty faced by households living in local authority housing in several of the largest local authority estates in the country, and has also included those households that are private tenanted occupants within the regeneration areas.

68. Continuing with the example of Limerick, a comprehensive monitoring framework was also established with key performance indicators highlighted as well as target timeframes established with an overarching objective to narrow the gap between better off and deprived communities. There is a commitment by the Office of Regeneration that monitoring of the programme is carried out on an annual basis with an overall area-wide evaluation study to commence in 2016. As set out above, one Monitoring report for "Housing and the Physical Environment" has been produced (February 2015) since the adoption of the LRFIP in February 2014. The next update is due in February 2016. This is in addition to a report on the Monitoring Data relating to outputs from Social Intervention Grants and an overarching assessment to commence in 2016.

69. Similar approaches have been followed in the case of other major regeneration projects at Ballymun and St Michael's Estate in Dublin City.

70. The Respondent rejects the contention that it has failed to ensure meaningful participation in the formation and enforcement housing policies which directly affect tenants as alleged at paragraphs 78 and 79 of the Response. The participation processes outlined above in relation to regeneration in Limerick are a positive example of tenant participation in regeneration scheme to

both local-authority tenanted homes and privately occupied homes as well as other key stakeholders in the regeneration area.

Regeneration

71. Most of the criticisms of regeneration projects have already been addressed above and in the observations on the merits. In the light of the Response, there a number of additional comments which the Respondent wishes to make:

72. In relation to paragraph 87 of the Response, it is acknowledged that the Regeneration process in Sligo has been protracted. As set out above, complex issues arise from regeneration which can take considerable time to resolve. Despite delays, the Regeneration Project in Sligo has worked closely with the community, and has sought to address the most urgent housing and social issues as a priority and in a timely fashion. These ‘early win’ initiatives were undertaken while the overall Regeneration masterplan was in the process of being developed and agreed. “Early win” housing projects have included:

- Window and door replacement to improve energy efficiency and to improve thermal comfort levels (2011, 2012 and 2013);
- Addressing vacant properties as a priority to minimise the risk of dereliction, to provide much needed housing opportunity and to improve perceptions of the area(series of projects each year from 2007 to 2015, and ongoing);
- Street enhancements addressing urgent accessibility issues identified by local residents’ associations (2013-15);
- Attic Insulation (jointly funded by the Department of the Environment and the Sustainable Energy Authority of Ireland) to both social and private houses (200 total), working with local residents to address urgent energy issues in housing (2012 ;)
- Investment in Social initiatives where a series of projects were undertaken between 2007 and 2015, including the establishment and support of Cranmore Community Co-Op. Other projects have comprised Education initiatives, Employment initiatives and Training initiatives to address needs of a disadvantaged community.

73. In relation to paragraphs 88 to 91 of the Response, it is submitted that the information provided herein and in its previous submissions demonstrate that if the Respondent is required to fulfil the

criteria of *Autism Europe v. France* with respect to its regeneration commitments, such criteria have been fulfilled.

74. In the light of information provided above in relation to regeneration processes, it is abundantly clear that the allegation of an absence of resident participation at paragraph 92 of the Response, cannot be maintained. It is entirely incorrect to state that the Government affords no “right” to participation. Limerick City and County Council, for example, actively engages with residents of the regeneration areas on a regular basis (Community Consultative Forum (2-monthly), Drop-in clinics (weekly), and an ‘open door’ policy (Monday-Friday) at the northside and southside regeneration area offices. In addition to this approach, the statutory legal consultation requirements of the plan-making and planning application process is adhered to.

75. Furthermore, there are other manifest examples of public participation. In the Dublin City Council area, for example, Area Housing Managers and Project Estate Officers are based in area offices throughout the city. These staff are centrally involved in all regeneration projects and facilitate and attend resident and community meetings throughout the lifecycle of regeneration projects, from conception and planning through to completion and occupation of all regeneration schemes. They are also a source of liaison and contact with Dublin City Council tenants and the wider local community in relation to any local issues that come to the fore. Dublin City Council’s Community Development Officers also meet regularly with individuals and community groups and typically will provide support to residents in the formation of new associations and in the running of established resident associations and community groups generally.

There are also the following areas of activity:

- Public Participation Networks (PPN)¹⁵ have been recently established (nationally) to provide a mechanism by which registered groups can nominate representatives to Local Community

¹⁵ Public Participation Networks (PPNs) are at various stages of set up in each local authority area and, once established, will enable the public to take an active formal role in relevant policy making and oversight committees of the Local Authority. PPNs are set up on the basis of Guidelines from the Minister for the Environment, Community and Local Government, which are based on the *Working Group Report on Citizen Engagement with Local Government* to the Minister for the Environment, Community and Local Government (February 2014).¹⁵ All interested groups may access local government through the PPN processes in regard to their issues. Civil Society Organisations when joining the PPN opt to be a part of one of three electoral colleges within the PPN:

- Community and Voluntary
- Social Inclusion
- Environment

To join the Environment Electoral College an organisation’s primary objectives and activities must be environmental (i.e. ecological) protection and/or environmental sustainability. Membership of this Electoral College will be validated

Development Committees (LCDC) and also, in Dublin City Council's case, to City Council's Strategic Policy Committees and also to Joint Policing Committees etc. The PPN (Dublin City) has provided community groups an opportunity to engage with the Local Authority; during 2015 we have employed various forms of media to encourage such engagement.

- Dublin City's LCDC is also required to develop a Local Economic and Community Plan as part of the above process; public consultations in this regard were held during 2015.
- Regeneration Boards in the Dublin City area are comprised of a mix of local councillors and staff; community groups; local residents (representing tenants) and in some cases, T.D.s (members of the Irish Parliament) and representatives of Government Departments. This ensures that tenant representatives can engage with the regeneration process for their community and also have direct access to local politicians and local authority staff.

76. Another example is that of regeneration occurring in Sligo. The latest reports of the Cranmore Regeneration Project document the engagement which has taken place throughout the development of the Masterplan to date. In September 2015, over 400 people attended a public consultation event held over 3 days within a marquee on the housing estate. 309 questionnaires were returned on that occasion. Accordingly, individuals from just over 50% of households within the Cranmore estate attended the Masterplan Consultation. Residents were also supported by the work of the Independent Community Liaison person employed through the Housing Agency and supported by the Department¹⁶.

by the Environmental Pillar at a national level. To join the Social Inclusion Electoral College an organisation's primary objectives and activities must focus on social inclusion/ social justice/ equality. Community organisations whose primary objectives are other than those listed above will be members of the Community and Voluntary Electoral College. Membership of the PPN is an open and inclusive process. Other than the Environment College, it is open to any persons in the local authority area to form and register as an organisation or group.

The PPN will be the main link through which the local authority connects with citizens and civil society organisations, but without prejudice to other consultation processes (statutory or non-statutory). With effect from 1 June 2014, where community representation is to be provided on appropriate committees of the Local Authority, such as Strategic Policy Committees (SPC) dealing with, for example, housing and or social housing and the Local Community Development Committees (LCDC), it must be sourced through the PPN. Membership of the LCDC includes 2 nominees from the Community and Voluntary Electoral College, 2 nominees from the Social Inclusion Electoral College and one from the Environment Electoral College. The number of groups registered in each local authority area varies from 90 in some areas to over 400 in others, the average number of groups being 280.

¹⁶ See page 7 of the Stage 4 Overview report for consultation engagement

77. Support for residents by Community Groups and Agencies in Sligo also belie the contention at paragraph 93 that the interests of tenants are not represented in light of the fact that there is no national tenants association. Community Groups and Agencies consulted as part of the development of the Cranmore Regeneration Plan in Sligo include:

- Cranmore Community Co-Op (local voluntary collective representing local residents (both social and private) and their associations);
- Sligo Family Resource Centre and;
- Abbeyquarter Community Centre.

78. In relation to paragraphs 95 to 97 of the Response, the Respondent respectfully refers to submissions made in relation to Limerick Regeneration above regarding resident participation. Furthermore, as part of the adoption of the Limerick Regeneration Framework Implementation Plan, a number of agencies relating to children and families were consulted at the plan making stage to inform the social, economic and physical framework plans. These submissions are detailed and the responses of Limerick City and County Council documented as part of the Manager's Report on the draft Limerick Regeneration Framework Implementation Plan.

79. In relation to comments on the Social Inclusion and Community Activation Programme (SICAP) at paragraph 100 of the Response, the new programme has been designed based on, inter alia, the main findings of a mid-term review of the predecessor programme (the Local Community Development Programme) and a stakeholder consultation process. In particular, the main issues considered for the new Programme include:

- The need to focus on fewer outcomes in line with local needs and national priorities, in particular in line with Government policy priorities on the more effective delivery of local and community-focussed funding (for example, through the establishment of Local Community Development Committees (LCDCs) in each Local Authority area to oversee and co-ordinate spend).
- The Programme must continue to engage with the most difficult to reach (including Travellers and Migrants) in the most disadvantaged areas.
- There needs to be a focus on youth and interventions to address youth unemployment, for the harder to reach youth.

- The Programme needs to effectively contribute to enhanced citizen engagement in line with national policy.
- The Programme will add value to public services by ensuring it fills important local gaps in provision and by preparing disadvantaged people to take up mainstream services.

81. The SICAP target groups are:

- Children and Families from Disadvantaged Areas
- Lone Parents
- New Communities (including Refugees/Asylum Seekers)
- People living in Disadvantaged Communities
- People with Disabilities
- Roma
- The Unemployed (including those not on the Live Register)
- Travellers
- Young Unemployed People from Disadvantaged areas (including those not in education, employment or training ‘NEET’)
- Low income workers/families

82. SICAP has been designed and funded to impact on the following key areas:

- Engagement with the most hard to reach in the most disadvantaged areas
- Focus on youth interventions to address youth unemployment
- Preparing and supporting disadvantaged people to take up mainstream services
- Contribute to citizen engagement in line with national policy

83. Its performance is monitored on the basis of achieving those objectives and a rigorous data monitoring and reporting system supports the programme. Furthermore, SICAP is a major, targeted, programme aiming to combat disadvantage and to support both local development and community development. The principles, approaches and mechanisms of the programme aim to offer local areas significant ability to tackle a very wide range of issues.

84. It is a necessary part of any government programme that public funds deliver clear, verifiable outcomes. In that regard, the Department intends undertaking an independent evaluation of the full programme in 2016.

85. In accordance the ‘Public Spending Code’¹⁷, and in line with legal advice, good practice internationally and in order to ensure optimum delivery of services to clients, SICAP was subject to a public procurement process. The process was a competitive one that was open to Local Development Companies, other not-for-profit community groups, commercial firms and national organisations that could provide the services to be tendered for to deliver the new Programme. A small number of Local Development Companies who delivered the predecessor programme (LCDP), including Rathmines Pembroke Community Partnership Company, failed to secure SICAP contracts. In all such cases, supports were put in place including both technical and financial, to the companies, via Pobal¹⁸, to facilitate an orderly closure of LCDP. The SICAP contract for the area concerned was secured by Canals Partnership, with a budget that is commensurate with the deprivation and population levels of that area and significantly higher than its predecessor LCDP budget to deliver a targeted programme for the most disadvantaged communities.

86. It is submitted that local authority tenants, like all people living in a community, have both rights and responsibilities. It is common for local communities to work together to keep estates clean and to help maintain common areas. This engages people in actively caring for the environment in which they live and can give them a sense of ownership and pride.

87. On a more general note, a *Framework Policy for Local and Community Development in Ireland*,¹⁹ which was approved recently by Government, was published in January 2016. The Framework Policy underscores the Government’s commitment to supporting communities in

¹⁷ <http://publicspendingcode.per.gov.ie/wp-content/uploads/2012/09/The-VFm-Code-except-D-03-Print-Version.pdf>

¹⁸ On behalf of a number of Government Departments, including the Department of Social Protection, Department of Children and Youth Affairs, Department of the Environment, Community and Local Government, Pobal, a not for profit company that manages programmes on behalf of the Irish Government and the EU that includes the management of a range of programmes including the Community Services Programme which supports community businesses to provide local services and create employment opportunities for disadvantaged people. It provides funding support to community companies and co-operatives. It focuses on communities where public and private sector services are lacking, either through geographical or social isolation or because demand levels are not sufficient. The Programme also enables the benefit of other public investment to be realised (as in the case of investment in community centres and resources).

¹⁹ http://www.environ.ie/sites/default/files/publications/files/our_communities_-_a_framework_policy_for_local_and_community_development_in_ireland_2015.pdf

Ireland. The Government acknowledges the local and community development sectors' strong contributions to Ireland's social and economic development in recent decades and, in doing so, stressed the importance of a collaborative and inclusive partnership approach with the sector. The meaningful participation of communities, in partnership with local government and other local development agencies, in identifying their own needs and agreeing actions to address those needs will be a crucial factor in the sustainability of our communities into the future.

88. A public consultation on the draft Policy was held from January to April in 2015. In total, 73 submissions were received. The Framework Policy will be implemented on a cross-government basis and will seek to secure a joined-up, collaborative and participative approach to local and community development at local level. The development and implementation of policies, programmes and other interventions will be carried out by central and local government in line with the Framework Policy's five core objectives. An Inter-Departmental Group will oversee and monitor the implementation of the Framework Policy, developing an implementation plan in the coming months to advance the measures associated with each of the five core objectives of the Framework Policy.

89. Local authority tenants would have a strong history of involvement in their local communities, either through community groups and/or residents associations and through engagement with State-supported initiatives (such as community policing initiatives to address anti-social behaviour; supports for the elderly; community childcare facilities etc).

90. A number of issues are also raised at paragraph 100 of the Response regarding the consultation of tenants groups in Dundalk, County Louth. These are addressed as follows –

- Participative Structures: Louth County Council considered that the initial structure of the Estate Management group was not delivering the optimum engagement nor dealing with the wider issues relating to Cox's Demesne. Accordingly, a new approach was presented to local groups by the Council with a clear line for reporting issues directly to the Council units responsible. This approach also allows residents to follow up the progress of the issues they have raised. It is not correct that no action has been taken on local flooding. Improvement works have been carried out to address flooding on footpaths and road surfaces in certain areas. Other areas require larger works to be carried out which are being considered beyond the Regeneration programme given the scale of works.

- Volunteers Programme: There are positive social reasons to work together with local communities keeping estates clean. The Council is not abdicating responsibility and, for example, has a contract with a company for the cleaning of the Cox's area on a regular basis. Furthermore, if illegal dumping is reported to the Council, an investigation by the Litter Warden ensues. Louth County Council also ensures the cutting of the grass in the Cox's area. It has been the experience of local authorities that pride in a locality can be engendered by having local residents involved in small scale tidy ups. This has proven successful over the years and is an important tool for allowing local residents to take pride and ownership of their estate.

- Tenants Group: Louth County Council underwent a long and extensive consultation process with local residents /stakeholders over a period of 3-4 years in order to agree the location and extent of the pilot project for the Regeneration Scheme. All residents within the Cox's Demesne area were invited to attend meetings and to put forward their views on what was being proposed. As is not uncommon in such endeavours, there was a relatively small turn out on each of the nights / days when the plans were being discussed. It is not reasonable to state that the Regeneration underway is a failure or piecemeal. The works undertaken to date include: (a) Small Works Programme - €1.2m (Cox's estate wide works); (b) Phase I - Energy Efficiency Improvement Works - €4m (Cox's estate wide works to public and private house owners); (c) Phase II A – Aisling Park Pilot Project - €2.5m (Aisling park area of Cox's Demesne); (d) Phase II B – Aisling Park New Build (estimated €1.6m); (e) Phase II C – Sheltered Housing for Senior Citizens (estimated €1.8m) and (f) Phase II D – Community Building (estimated €640,000). The works undertaken in the “Small Works Programme” and “Phase I – Energy Efficiency Improvement Works” have resulted in many of the local residents reducing their heating costs and in improvements to the standard of living in their properties. It is incorrect, in this context, to state that local needs are not being addressed.

- Housing Office: Under the recent Local Government Reform Act, the main housing administration function has been relocated to Drogheda, but in the Louth County Council offices at the Town Hall and County Hall located in Dundalk, there are public services desks where residents can make representations. If meetings are required with local authority officials, such meetings can be arranged in County Hall. Furthermore, phone-calls to the main reception at County Hall can be re-directed to relevant staff members based in Dundalk or Drogheda. With regard to maintenance requests for LA housing estates in Dundalk (which includes Cox's Demesne) there are still staff members based in the Town Hall and County Hall who deal with these issues.

91. The Regeneration process in Sligo is highly participative in that it engages fully with both local authority tenants and private householders. The Consultation process is documented in the Stage 2, 3 and 4 Reports, which are available online²⁰. There are also clear mechanisms and procedures for monitoring progress with respect to the Sligo regeneration. Stage 1 and Stage 2 Masterplan Reports provide a bench mark of the levels of disadvantage, housing issues and physical environment needs in the Cranmore and East City area. It is intended that the progress of the Regeneration Project will be evaluated periodically against these benchmarks established in 2012 and 2013. An audit has also been undertaken on the Sports initiative supported under the social plan (January 2015). The Regeneration Project Manager also now reports to the Regeneration Steering Group on a bi-annual basis on work-plans and progress to date. This Steering Group membership includes local resident representatives, local elected representatives, and representatives from a wide range of local social and economic agencies

92. Finally, for the information of the Committee, a report outlining Ireland's Social Housing Output for 2015 is appended (**Appendix I**). This further bolsters its position that progress is monitored.

Conclusion

93. In light of the foregoing, it is submitted that there has been no violation of the Charter.

²⁰ <http://www.sligococo.ie/Services/CranmoreRegeneration/Masterplan/>