

# Comments on Ireland's 16th National Report on the Implementation of the European Social Charter

Submitted by Community Action Network and Centre for  
Housing Law, Rights and Policy Research, NUI Galway

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Seán MacBride House, 48 Fleet Street, Dublin 2, D02 T883  
Tel: 01 474 3930 ▪ [info@canaction.ie](mailto:info@canaction.ie) ▪ [www.canaction.ie](http://www.canaction.ie)



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## **Introduction**

The government of Ireland submitted its 16<sup>th</sup> national report on the implementation of the European Social Charter ('the Government report') on 31 October 2018. The Government report covers the implementation of Article 7, 8, 16, 17, 19, 27 and 31 for the period from 1 January 2010 to 31 December 2017. According to Rules 21A of the European Committee of Social Rights ('the Committee'), trade unions, employer's organisations, NGOs and others are allowed to submit comments and other information related to national reports to assist the committee in examining the national report concerned.<sup>1</sup> Community Action Network and Centre for Housing Law, Rights and Policy Research, NUI Galway welcome this opportunity to comment on the Government report.

Community Action Network ('CAN') is a social justice NGO dedicated to working with communities to create a more equal, more just society that has the well-being of citizens at its heart. We work with people to assert their rights to participate fully as subjects of their own lives, to have their voices heard and to have their choices respected. We work within a human rights framework, and we seek to build leadership for positive social change and participative democracy. We strive to create vibrant communities that have the capacity to participate powerfully in society and to challenge the inequitable structures, policies and practices that prevent them from doing so. We actively seek opportunities to do this work in local, regional, all-island and international contexts.

The Centre for Housing Law, Rights and Policy Research ('CHLRP') is a research centre in National University of Ireland, Galway. It endeavours to create a space for a free and open discussion, combining research, resource development, advocacy and publications on housing law, rights and policy in Ireland, and internationally. It aims to

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<sup>1</sup> Council of Europe, Rules of the European Committee of Social Rights, Rules 21A: 'comments and other information relating to national reports submitted by trade unions, employers' organisations, NGOs and others in pursuance of Article 23§1 of the Charter as amended by the Turin Protocol shall be submitted to the Secretariat no later than 30 April of the year during which the Committee examines the national report concerned'.

contribute to the development of housing law, rights and policy through conferences, lectures, training, advocacy, publications and specialist research support. Current areas of research include mortgage market regulation and consumer protection, independent living for people with disabilities, housing rights in the EU Charter of Fundamental Rights, regulation of housing systems and implementation deficits in housing law and policy.

The aim of this report is not to comment on all topics covered by the Government report, but rather to present our views in particular to the protection of the right to housing, which is our area of expertise, as well as questions in which our organizations believe there is a particular need to complete the Government report on the implementation of Article 16 and 31 of the European Social Charter. This report is divided into two sections in relation to Article 16 and 31 respectively. Each section provides information additional to that provided in the Government report, which may be of assistance to the Committee.

### **I. Article 16 - The right of the family to social, legal and economic protection**

*“With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties under-take to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.”*

The Committee has reiterated that the right to housing for families is of central importance to the family and the exercising of rights including economic, social and cultural rights.<sup>2</sup> In recognising the right of the family to social, legal and economic protection, Article 16 imposes obligations on States to promote the provision of an

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<sup>2</sup> The Report to the Ministers of the Council of Europe of 22 June 2017 on the Decision on the Merits of Collective Complaint *International Human Rights Federation (FIDH) v Ireland*, Complaint No. 110/2014, para 105-106.

adequate supply of housing for families, take the needs of families into account in housing policies and ensure that existing housing be of an adequate standard and include essential services.<sup>3</sup>

The Government report presented observations in relation to the implementation of the right to housing for families protected under Article 16. However, the Government report omitted some important information:

1. The Government report does not refer to the collective complaint *FIDH v. Ireland* in which Ireland has been found in violation of Article 16;
2. The legal framework for the right to housing for families in Ireland is insufficient;
3. The Government report does not provide national statistics on the conditions of local authority housing stock;
4. Local authority housing tenants continue to live with inadequate housing standards, which are often lower than the legally defined standards for rented housing;
5. The Government has not fulfilled its obligation in providing adequate management and maintenance of local authority housing;
6. There are ineffective complaint mechanism and legal remedies for families living in local authority housing;
7. State published statistics on homelessness show a growing number of homeless families and children clearly in conflict with the obligations under Art 16 to ensure an adequate supply of housing for families.
8. There is insufficient legal protection for families threatened with loss of home by mortgage related eviction and indeed, private tenants whose landlords default on their loans.

Considering these omissions and constraints of the Government report, we respectfully request that the Committee return a finding of non-conformity with Article 16 of the European Social Charter.

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<sup>3</sup> Ibid., para 106.

## **1. Omission of the collective complaint *FIDH v. Ireland***

In July 2014 FIDH lodged the collective complaint (*International Human Rights Federation (FIDH) v Ireland*, Complaint No. 110/2014) to the Committee and alleged that the situation in Ireland had violated Article 11, 16, 17, 30 either alone, or in conjunction with Article E of the Charter on the grounds that: 1) legal, policy and administrative frameworks for housing in Ireland were insufficient; 2) the adequacy, habitability and suitability of some local authority housing in Ireland were inadequate; 3) regeneration programmes in key local authority estates do not respect rights set out in the Charter. On 17 March 2015, the Committee declared the complaint admissible. The Committee has made a decision on the complaint in May 2017 and found that Ireland has failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for not an insignificant number of families living in local authority housing, and therefore Ireland has violated Article 16.<sup>4</sup>

Ireland, as one of those States which has accepted the collective complaint protocol, is required to report on the follow-up action taken in response to the decisions of the Committee on collective complaints. The Committee of Ministers, in the Resolution on *FIDH v. Ireland* adopted on 31 January 2018,<sup>5</sup> has also clearly expressed that it ‘takes note of the commitment of the Irish Government to bring the situation into conformity with the Charter’ and ‘looks forward to Ireland reporting, at the time of the submission of the next report concerning the relevant provisions of the Revised European Social Charter, on any new developments regarding their implementation.’ Unfortunately, the Government report of 31 October 2018 remains silent on the collective complaint mentioned above, and does not address what measures have been done to address the violation of Article 16, in the Government report.

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<sup>4</sup> Ibid., para 113.

<sup>5</sup> Resolution CM/ResChS(2018)1 International Federation for *Human Rights (FIDH) v. Ireland* Collective Complaint No. 110/2014, adopted by the Committee of Ministers on 31 January 2018 at the 1305<sup>th</sup> meeting of the Ministers Deputies, available at: <https://rm.coe.int/0900001680784fa2>

## **2. Insufficient legal framework for the right to housing for families**

Under the reporting system, State parties are required to report on the general legal framework concerning the implementation of the Charter including collective agreements, national case-law, relevant decisions by courts or other judicial bodies and any laws or regulations.<sup>6</sup> In respect of the legal frameworks for the rights of the families, the Government report only refers to Article 41 of the Constitution of Ireland which does not cover the right to housing. While there are a number of legislative provisions which enable local authorities to provide housing for families from State funds, none of these equate with an enforceable right to adequate housing for families. There is no remedy for a family denied such housing against a local authority or State body. Currently, there is no sufficient legal framework to grant the right to housing for families in Ireland. Indeed, the UN Committee on Economic Social and Cultural Rights in UN Doc. E/C.12/IRL/CO/3 Concluding observations on the third periodic report of Ireland (2015) stated that:

The Committee is concerned at the overall difficult housing situation in the State party, which includes the:

- (a) Continuing gaps between availability and demand for social housing, which result in a long waiting list for social housing;
- (b) Increased costs of rental housing and reduced family incomes;
- (c) Ineffective social support programmes, such as the Rent Supplements and the Housing Assistance Payment, which do not reflect rent increases;
- (d) Increasing number of long-term mortgage arrears;
- (e) Growing number of families and children that are homeless or are at risk of being homeless as a result of the lack of social housing and the inadequate levels of rent supplement;

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<sup>6</sup> Form for the reports to be submitted in pursuance of the European Social Charter (revised) adopted by the Committee of Ministers on 26 March 2008. available at: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016804922f8>

(f) Lack of effective complaint mechanisms for local authority tenants on tenancy-related issues

The Committee is also concerned at the lack of culturally appropriate accommodation provided to Travellers and Roma and of adequate legal protection of Traveller families at risk of eviction (art.11). The Committee draws the State party's attention to its general comments No.4 (1991) on the right to adequate housing and No.7 (1997) on the right to adequate housing: forced evictions and recommends that the State party:

(a) Review policies with a view to making them more effective in responding to the real needs of the population, especially disadvantaged and marginalized individuals and groups;

(b) Step up its efforts to increase the number of social housing units so as to satisfy the high demand and to reduce the long waiting list;

(c) Consider introducing legislation on private rent and increasing rent supplement levels;

(d) Consider introducing banking regulations in order to strengthen protection for mortgage borrowers in arrears, including through the provision of an independent appeal system to assist such borrowers in negotiating, with legal and financial advice, an equitable arrangement with their lenders to address their arrears situations;

(e) Take all the measures necessary to meet the critical needs of those who are homeless or who are at risk of being homeless;

(f) Establish effective complaint mechanisms for local authority tenants on housing issues.....<sup>7</sup>

All these issues remain pertinent to the Committee in its examination of Ireland.

Aside from the weakness in regulating the property/housing system resulting in rising rents and unaffordable house prices for families on low to middle incomes, there is a

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<sup>7</sup> UN Doc. E/C.12/IRL/CO/3 Concluding observations on the third periodic report of Ireland

general failure to implement legislation or provide sufficient resources to manage and maintain local authority housing to an adequate standard. Although Appendix 1 of the Government report provides a set of activities and provisions in the housing sector, it omits the problem of the enforcement of the Housing (Miscellaneous Provisions) Act 2009, which places an obligation on each housing authority to make a housing service plan. The statutory position regarding Housing Services Plans is set out in sections 14 -18 of the Housing (Miscellaneous Provisions) Act 2009.<sup>8</sup> However, according to the Minister for Housing, Planning and Local Government, such provisions in the Housing Act 2009 have not yet been commenced and the Housing Services Plans are merely administrative measures.<sup>9</sup>

### **3. Lack of statistics on the conditions of local authority housing stock**

The Government report does not address the issues of the condition of local authority housing stock in its report to the Committee of 31 October 2018. Ireland has been found in violation of Article 16 by the Committee as there is a lack of statistics on the conditions of local authority housing stock as asserted in the collective complaint *FIDH v. Ireland*. The Government report remains silent in updating its efforts to collect the relevant data and information and it is clear from the Government report that no progress has been made on compiling national statistics, as required in the *FIDH v. Ireland* decision. .

The National Oversight and Audit Commission (NOAC) is a State funded and appointed body (it was erroneously presented as an independent body in Irish Government submission in the Collective Complaint *FIDH v Ireland*) which oversees

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<sup>8</sup> See Appendix 2.

<sup>9</sup> See Appendix 1: The response of the Minister for Housing, Planning and Local Government on the questions concerning the Housing Act 2009 and the Housing Services Plans. Parliamentary Question For Written Answer on: 19/02/2019; Question Number(s): 683 Question reference(s): 8385/19: Aengus Ó Snodaigh T.D.

certain aspects of the local government sector, since 2014.<sup>10</sup> It was to commence a thematic review during 2015 of the performance of the function of maintaining and managing local authority housing stock generally. Although statistics on the conditions of local authority housing stock are carried out at considerable intervals, the last one was in 2002 and there is still no national timetable for the refurbishment of local authority housing stock.

These issues have been identified by the Committee in the Collective Complaint *FIDH v Ireland*. Ireland also has acknowledged the Committee observation that statistics on the conditions of local authority housing stock are not comprehensive and up to date.<sup>11</sup> In response to the Committee, Ireland states that ‘as a first step in meeting this Rebuilding Ireland commitment, all local authorities who have not already done so, are to undertake a stock condition survey in respect of their social housing stock. This will be completed between Q4 2017 and Q4 2018. Such surveys across the stock of all the authorities will provide the basis for the adoption of preventative maintenance approaches to housing stock management as required under Rebuilding Ireland’.<sup>12</sup> Dublin City Council, immediately following the announcement of the result of *FIDH v Ireland*, began a process of condition surveys of housing stock in flats complexes. A report on progress on this work was presented to the Strategic Policy Committee on Housing on 10th January 2019. The officials leading the project explained that the over 200 flats complexes throughout the city were being surveyed in terms of their general condition, expenditure on maintenance, energy performance and the potential use of the sites. This work is to be completed by May 2019. The results would then be presented to the local government for consideration of how to prioritise complexes most in need

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<sup>10</sup> The National Oversight & Audit Commission is a statutory body established by Ministerial order under section 126B of the Local Government Act 2001, to oversee the local government sector. See <http://noac.ie/>

<sup>11</sup> Council of Europe, Appendix to the Resolution CM/ ResChs (2018)1 *FIDH v Ireland*, address by the Representative of Ireland at the meeting of the Rapporteur Group on Social and Health Questions (GR-SOC) of November 2017. *International Federation for Human Rights (FIDH) v Ireland*, Collective Complaint No. 110/2014, para 4.

<sup>12</sup> *Ibid.*, para 11.

of intervention. There would follow a 15 to 20-year plan to renovate, refurbish or demolish and rebuild complexes as required.

This initiative is very welcome in light of the findings of the Committee regarding *FIDH v. Ireland*. However key questions remain, both in this approach and in the national State approach.

### 3.1 Tenant participation

Tenant participation is important for families who live in local authority housing to enjoy the right to housing as a human right and have a right to effectively participate in policies and practices which would significantly affect their homes. CAN has encountered significant confusion among tenants regarding the future plans for their homes. There is a widespread belief in some communities that a decision has been made to demolish their homes when this is far from the case. No attempt has been made to clarify or explain the situation in a clear and accessible way to tenants at the local level.

Further, there are no plans to create a mechanism for involving residents in decision making regarding the future of their homes. In Dublin City, as is the case in all other local authority areas, there has been no attempt to establish support and resource an effective tenants' participation mechanism. Nor has there been any attempt to create such a mechanism at the national level to facilitate engagement with National Government.

### 3.2 Funding supports from Central Government

Secondly, it is unclear what levels of funding support are available, or are committed to improving local authority housing conditions by the Central Government. It would appear that the Dublin City Council initiative is not driven by Central Government but

is coming from the Local Authority management, especially by experienced and dedicated senior managers. While this is welcome, it should be expected, given the *FIDH v. Ireland* decision, that Central Government would have instructed all Local Authorities to initiate a programme such as that being undertaken by Dublin City Council. This raises questions as to whether the essential supports from Government will be put in place to allow the Dublin City Council initiative to be carried through.

### 3.3 The relationship between the long-term plan and short-term initiatives

On 10<sup>th</sup> January 2019, the question was raised by elected councillors at the Strategic Policy Committee of Dublin City Council as to how the long-term plan would relate to Local Authority actions to address pressing needs.<sup>13</sup> For example, if tenants are living with health-threatening mould in their homes, must they now wait ten years for the problem to be addressed as part of the bigger city-wide plan? Officials assured the meeting that this would not be the case. However, CAN associates have witnessed Local Authority officials at estate level tell residents that important work cannot be carried out at present until a decision about what attention their estate will get in the course of the larger initiative is made by senior management.

### 3.4 No progress outside of Dublin City Council Flat/Apartment Complexes

During 2018, CAN undertook a survey of 13 local authority areas and received 96 responses from social housing tenants. The response to the question: ‘Has your housing condition been assessed in the last five years’ was: 71% said it had not been, 10.6% said it had and 18% said they did not know.<sup>14</sup> The Representative of Ireland at the meeting of the Rapporteur Group on Social and Health Questions (GR-SOC) of 28 November 2017, responding to the outcome of *FIDH v. Ireland*, said that ‘regeneration works

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<sup>13</sup> See Dublin City Council Webcasting and the discussion starts at 30 minutes into the video, available at: [https://dublincity.public-i.tv/core/portal/webcast\\_interactive/393609](https://dublincity.public-i.tv/core/portal/webcast_interactive/393609)

<sup>14</sup> CAN online survey of 13 local authority areas and 96 responses from social housing tenants. It was conducted in the first 6 months of 2018 and the findings of survey has not been published as a report.

consisting of major refurbishment and renewal in Dundalk'. Adequate refurbishment of the stock has taken place in, for example, Aisling Park, where poor housing conditions persist. The only recent intervention has been to build new houses on the green space near the old homes.

It is unclear that, even in the Dublin City Council area, effective housing condition surveys have been carried out on social housing outside of the flats' complexes. In December 2018, letters which were photocopied in black and white and hand-delivered caused concern among tenants that they were fake and being used by unauthorised persons to gain entry to homes. The letters indicated a 15-minute survey would be carried out by a contractor.<sup>15</sup> The unprofessional manner of the communication and the short period being allowed for a condition survey suggest that this initiative is not a serious attempt to meet the requirements of a stock condition survey.

In conclusion, we raise the following concerns regarding stock taking and condition assessments:

- That the State has not followed through on its commitment under its own Rebuilding Ireland policy, and in line with the findings of *FIDH v. Ireland* to initiate a condition survey of local authority housing in every area by Q4 2018.
- The State shows no intention of initiating routine stock condition surveys for local authority housing.
- It is to be welcomed that Dublin City Council has initiated a serious programme to assess housing conditions and provide remedies. However, it is unclear how much this will be supported by the Central Government. It is also unclear how serious the commitment is to stock condition surveys outside of flats complexes in Dublin.

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<sup>15</sup> See Catherine Devine, New Irish News, 'Council forced to clarify after letter asking people to allow contractors into homes sparks 'frenzy'', available at: <https://www.independent.ie/irish-news/council-forced-to-clarify-after-letter-asking-people-to-allow-contractors-into-homes-sparks-frenzy-37593848.html>

- There is no evidence that Ireland is considering a policy of facilitating meaningful tenant participation in addressing the problems for families in local authority housing. In Dublin, where the need for participation is most urgent given the estate renewal programme underway for flat/apartment complexes, there are no plans to facilitate tenant participation, notwithstanding the widespread concerns of tenants about the future of their homes.

#### **4. Inadequate housing standards for local authority housing tenants**

The right to housing for families encompasses housing of an adequate standard and access to essential services. The Government report omits the issue of a number of local authority tenants reside in poor housing conditions. In the collective complaint *FIDH v. Ireland*, FIDH has provided a range of evidence which demonstrates that a number of local authority tenants reside in poor housing conditions amounting to housing that is inadequate in nature. Direct evidence of tenants but also evidence from architects and engineers indicate problems with mould, dampness, sewage invasions etc. The CAN survey of 13 local authority housing with 96 participants in 2018 also revealed that:

- 76% of respondents report mould growth in their homes
- 48% report being told that condensation and mould growth is their sole responsibility
- 35% report sewage invasion in their homes
- 36% report pests such as rats and mice
- 21% report that a medical practitioner told them their health is adversely affected by their housing conditions
- 49% have concerns about safety in the event of a fire
- 37% report water ingress
- 70% report that their homes are cold or hard to heat
- 35% report overcrowded conditions

- 51% report distress caused by anti-social behaviour
- 77% report that maintenance issues are not addressed
- 15% report being told that their maintenance issues are not going to be addressed because they are in arrears
- 46% report that Council maintenance staff do not show up when expected
- 36% report being taken off the maintenance list even though their issue was not resolved
- 77% were not informed of how their maintenance issue was to be addressed
- 75% reported that maintenance was of poor quality.<sup>16</sup>

Some of these issues deserve further elaboration:

#### 4.1 Condensation and mould

Local authorities in Ireland generally hold an official policy that the tenant has sole responsibility for damage arising from condensation and mould. For example, Dublin City Council Housing and Residential Services Tenant Handbook states that tenants are responsible for carrying out repairs due to condensation'.<sup>17</sup> However, condensation and mould causes damage, not only to property, such as clothing and furniture, but also serious damage to health. It is entirely unreasonable to hold tenants solely responsible for this, as building design and property management and standards should be of a standard that allows occupants to enjoy a modern standard of living. However, to claim that local authority tenants are responsible for condensation is to ignore the obligations on local authorities as landlord. Clearly, there are insufficient or inadequate ventilation systems in these homes.

Statutory Instrument No. 17/2017 - Housing (Standards for Rented Houses) Regulations 2017, setting out the legally binding standards for rented housing, came

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<sup>16</sup> CAN online survey of 13 local authority areas and 96 responses from social housing tenants. It was conducted in the first 6 months of 2018 and the findings of survey has not been published as a report.

<sup>17</sup> Dublin City Council, Housing and Residential Services Tenant Handbook, Page 22, available at: <http://www.dublincity.ie/tenant-handbook>

into operation on 1 July 2017. The standards are clear.<sup>18</sup> Regulation 8 states:

8. (1) Every room used, or intended for use, by the tenant of the house as a habitable room shall have adequate ventilation.

(2) All means of ventilation shall be maintained in good repair and working order.

(3) Adequate ventilation shall be provided for the removal of water vapour from every kitchen and bathroom.

BUT, in relation to laundry and facilities for drying clothes, Regulation 7 generally and 7(h) in particular, creates a lower standard for local authority tenants than other tenants. In fact, in apartment blocks, there is no obligation **AT ALL** on local authorities to provide a dryer or any facilities for the drying of clothes. This is clearly unfair, and forces local authority tenants to spend more on drying facilities, where there is no garden or communal space, as is the case in many Dublin City apartment blocks. The exception made for local authority tenants in this legislation shows the second class citizenship which is bestowed on these tenants. No representative organisation of such tenants was consulted at all in the passing of this legislation, as there is no national association of local authority tenants in Ireland.

*Food Preparation*

*and Storage and*

*Laundry*

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<sup>18</sup> These Regulations require landlords of rented houses (including flats and maisonettes), with some exceptions, to ensure that such houses meet certain minimum standards. The standards relate to, inter alia, structural condition, provision of sanitary facilities, food preparation, storage and laundry, availability of adequate heating, lighting and ventilation, safety of oil, electricity and gas installations, fire safety and refuse facilities. The Regulations come into operation generally on 1 July 2017. The Regulations replace the Housing (Standards for Rented Houses) Regulations 2008 and the Housing (Standards for Rented Houses) (Amendment) Regulations 2009.

7. (1) Notwithstanding paragraph (4), paragraphs (2) and (3) shall not apply where the house is let or available for letting by a housing authority under the Housing Acts 1966 to 2014 or by a housing body approved under [Section 6](#) of the [Housing \(Miscellaneous Provisions\) Act 1992](#) .

(2) Subject to paragraph (1), there shall be provided, within the same habitable area of the house, for the exclusive use of the house:

(a) 4ring hob with oven and grill,

(b) Suitable facilities for the effective and safe removal of fumes to the external air by means of a cooker hood or extractor fan,

(c) Fridge and freezer or fridge-freezer,

(d) Microwave oven,

(e) Sink, with a piped supply of potable cold water taken direct from the service pipe supplying water from the public main or other source to the building containing the house and a facility for the piped supply of hot water, and an adequate draining area,

(f) Suitable and adequate number of kitchen presses for food storage purposes,

(g) Washing machine, or access to a communal washing machine facility within the curtilage of the building, and

(h) Where the house does not contain a garden or yard for the exclusive use of that house, a dryer (vented or recirculation type) or access to a communal dryer facility.

(3) All facilities under Regulation 7(2) shall be maintained in a safe condition and in good working order and good repair.

In Ireland, without a garden or yard to dry washed clothes or the use of a dryer, or a communal drier, households are forced to dry clothes in their homes. This is statutory provision effectively local authority tenants to dry their washed clothes on their homes, a situation which creates condensation. It is the poor standards of housing amenities provided by the State bodies which is at the base of many of these issues. This information is provided to show that the provision of inadequate housing for local authority tenants is institutionalised within the State system in Ireland, constituting a continuing violation of Article 16 for a section of the population.

In June 2017, a motion by councillors in Dublin City Council at the behest of CAN that this sole responsibility for condensation on the tenant should be dropped, was unanimously accepted. The unjust nature of the sole responsibility policy has been publicly accepted by officials on a number of occasions recently. At the Strategic Policy Committee on Housing on 7<sup>th</sup> March 2019, officials presenting a report of the work of the Condensation Committee acknowledged that the policy was ‘unfair’. Yet the sole responsibility policy on tenants remains in tenant handbooks and on public notices in Dublin City Council, despite the fact that the handbooks were reprinted since the policy was changed.<sup>19</sup> Also, the policy has not, to our knowledge, been addressed in other Councils around Ireland.

In Dublin, ventilators and mould reducing products are being trialled in flat/apartment complexes around the city, and this is welcome. However, during CAN’s engagement currently with residents in Pearse House complex in the city, (where extensive condensation and mould creates extremely difficult living conditions for many tenants)

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<sup>19</sup> Dublin City Council, Housing and Residential Services Tenant Handbook, Page 20, available at: <http://www.dublincity.ie/tenant-handbook>

a number of residents expressed levels of dissatisfaction with the project. They report that ventilators were too noisy to use or were generating cold air in the rooms. They also did not understand that this initiative was a trial. They had not been told that they would be asked for feedback on how the products were performing.

#### 4.2 Overcrowding

Recent media reports revealed that there are as many as 2,000 people in overcrowded conditions in Dublin City Council<sup>20</sup>. CAN has observed this over many years, and we are currently coming across up to 7 children and 2 adults in two-bedroom flats in some complexes. In some cases, one of the two bedrooms is also a shower room, causing children to sleep in rooms with multiple causes for condensation and health-threatening mould. Our online survey found that 35% of the 96 respondents from 13 Local Authority housing schemes complained of overcrowding.<sup>21</sup>

#### 4.3 Regeneration programmes

Moreover, many of the local authority estates were some time back ear-marked for regeneration, amounting to Government recognition that they were in poor condition. However, as a result of the economic crisis in Ireland, the original regeneration programmes were delayed or halted, with a deterioration of conditions in some cases. Although in recent years new regeneration programmes have subsequently been developed, not all of these have been completed, and there is no national plan for regeneration and no national tenant participation mechanism. In addition, the noise of regeneration work also affects the families who live in local authority housing

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<sup>20</sup> See Lois Kapila, 'Hundreds of Council Homes are Overcrowded, While Others Are Underused, Figures Show', available at: <https://dublininquirer.com/2019/01/16/hundreds-of-council-homes-are-overcrowded-while-others-are-underused-figures-show>; Aisling Kenny, 'Concern at level of overcrowding in Dublin social housing units', available at, <https://www.rte.ie/news/regional/2019/0125/1025418-social-housing-dublin/>.

<sup>21</sup> CAN online survey of 13 local authority areas and 96 responses from social housing tenants. It was conducted in the first 6 months of 2018 and the findings of survey has not been published as a report.

negatively. As a result, certain local authority tenants remain living in substandard housing conditions.

Some of the issues mentioned above have been noted by the Committee in the collective complaint *FIDH v. Ireland*, and thus the Committee found that the Irish Government has failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for not an insignificant number of families living in local authority housing and therefore holds that there is a violation of Article 16. However, little progress has been made by the Government, and there are still a large number of families living in substandard local authority housing conditions. In Balgaddy in the South Dublin Council area for example, where there are many homes constructed to a very poor standard during the economic boom, consideration has only been given earlier this year to moving families from the flats ‘suffering from exceptional maintenance issues’ to the ‘next available suitable property’.<sup>22</sup> This consideration comes well over a year after the decision on the Collective Complaint *FIDH v. Ireland*. Further, families affected are unclear as to where they will be temporarily rehoused. A new build close to the site will not be ready for at least two years. No consultation on this plan has been made with residents affected.

## **5. Inadequate management and maintenance of local authority housing**

The right to adequate housing for families living in local authority housing, requires the government to take seriously their responsibilities for management and maintenance and make the relevant cost reasonable and transparent, and the relevant information accessible. However, the Irish government has not fulfilled its obligation in these respects:

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<sup>22</sup> Circular from South Dublin County Council to Area Committee Members in February 2019.

## 5.1 Unsatisfied management and maintenance issues for tenants

In the CAN survey, 75% of local authority tenants reported that management and maintenance the work carried out on their homes was of poor quality.<sup>23</sup> Poor responses to maintenance issues is also a consistent issue for local authority tenants. Tenants report having to wait for long periods for basic repairs including repairs to electrics, boilers, broken windows and doors. Tenants often give up on the landlord attending to issues, and pay out for repairs from their own resources. One issue that is particularly frustrating for tenants is the absence of any suitable appointment system for attending to repairs. The Council staff person will not make a definite appointment and then drop in a card saying they missed the tenant. After long waits of weeks or even months for service, the tenant must then face another long wait. In Glenshane in South Dublin Council, tenants who had repairs categorised as level 5 – the most serious level, were told that they could not be put on the lists for repairs as they were in arrears.<sup>24</sup> Assessments of housing stock and some remedial work begun following resident actions in 2017 in Glenshane were not completed.

## 5.2. A systemic violation of rights to housing of an adequate standard

The National Oversight and Audit Commission (NOAC) is a State funded and appointed body which oversees certain aspects of the local government sector, since 2014.<sup>25</sup> It provides valuable information in its monitoring reports, particularly in its report in 2017 on this issue of expenditure by local authorities on management and

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<sup>23</sup> CAN online survey of 13 local authority areas and 96 responses from social housing tenants. It was conducted in the first 6 months of 2018 and the findings of survey has not been published as a report.

<sup>24</sup> See for example, Dominic McGrath, 'An 11-year wait for windows: How Dublin tenants are left waiting years for repairs', available at: <https://www.thejournal.ie/dublin-city-council-residents-delays-houses-4248136-Sep2018/>.

<sup>25</sup> The National Oversight & Audit Commission is a statutory body established by Ministerial order under section 126B of the Local Government Act 2001, to oversee the local government sector. See <http://noac.ie/>

maintenance of its housing stock.<sup>26</sup> This shows that local authorities made a surplus from local authority rents, despite the poor quality housing provided in many cases. According to the statistics in Table 1 (from the NOAC Report), the average rent received per dwelling was 159% of the average expenditure on maintaining and improving dwellings in 2014. For 12 local authorities rent received in 2014 was more than twice the expenditure on maintenance and improvement, and in one case, it was almost three times the expenditure. Dublin City and Leitrim local authorities most closely matched rental income to expenditure at 116% and 117% respectively.<sup>27</sup>

**Table 1: Local Authority Housing Rent received relative to Maintenance and Improvement Expenditure 2014<sup>28</sup>**

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<sup>26</sup> National Oversight and Audit Commission, ‘A Review of the Management and Maintenance of Local Authority Housing’, NOAC Report No. 12 – May 2017, Section 2.3, available at: <http://noac.ie/wp-content/uploads/2017/05/NOAC-Management-and-Maintenance.pdf>.

<sup>27</sup> Ibid., Section 3.8.

<sup>28</sup> Ibid., Appendix J.

Local Authority	Dwellings	Maintenance/ Improvement of LA Housing	Maintenance Cost per Unit	Rent received 2014	Rent per Unit	Rent as % of Maintenance Cost
Carlow	1533	1,871,674	1,220.92	5,134,202	3,349	274%
Cavan	1989	1,956,572	983.70	4,694,732	2,360	240%
Clare	2301	3,215,928	1,397.62	5,989,228	2,603	186%
Cork City	8830	15,698,077	1,777.81	19,326,449	2,189	123%
Cork County	7169	10,393,861	1,449.83	16,214,496	2,262	156%
Donegal	4825	4,712,742	976.73	10,948,697	2,269	232%
Dublin City	25404	61,049,759	2,403.16	71,077,232	2,798	116%
Dún Laoghaire- Rathdown	4421	8,721,468	1,972.74	12,870,522	2,911	148%
Fingal	4532	10,417,201	2,298.59	17,900,684	3,950	172%
South Dublin	9008	14,495,753	1,609.21	21,430,247	2,379	148%
Galway City	2232	6,072,238	2,720.54	7,354,930	3,295	121%
Galway County	2394	3,882,597	1,621.80	6,511,035	2,720	168%
Kerry	4038	5,786,624	1,433.04	10,725,419	2,656	185%
Kildare	3639	6,416,582	1,763.28	9,471,409	2,603	148%
Kilkenny	2160	3,204,627	1,483.62	6,915,884	3,202	216%
Laois	2023	2,879,441	1,423.35	5,308,408	2,624	184%
Leitrim	932	1,597,148	1,713.68	1,873,515	2,010	117%
Limerick	5189	7,290,250	1,404.94	13,747,486	2,649	189%
Longford	1913	2,017,502	1,054.63	4,929,761	2,577	244%
Louth	3934	6,397,352	1,626.17	9,312,774	2,367	146%
Mayo	2040	2,779,851	1,362.67	5,732,093	2,810	206%
Meath	3100	5,395,796	1,740.58	8,493,755	2,740	157%
Monaghan	1392	2,061,910	1,481.26	3,729,063	2,679	181%
Offaly	1792	2,097,789	1,170.64	4,933,842	2,753	235%
Roscommon	1323	1,767,653	1,336.09	3,968,719	3,000	225%
Sligo	2112	2,741,868	1,298.23	4,652,873	2,203	170%
Tipperary	4710	6,156,146	1,307.04	12,520,209	2,658	203%
Waterford	5008	6,215,981	1,241.21	11,378,362	2,272	183%
Westmeath	1788	1,861,112	1,040.89	5,543,287	3,100	298%
Wexford	4212	5,164,152	1,226.06	13,612,360	3,232	264%
Wicklow	4660	5,020,922	1,077.45	11,721,111	2,515	233%
<b>Totals</b>	<b>130,603</b>	<b>219,340,576</b>	<b>1,679.45</b>	<b>48,022,784</b>	<b>2,665</b>	<b>159%</b>

The key point about this data is that it shows that adequate finance is available to carry out management and maintenance, and yet substandard housing is provided by local authorities.

## **6. Ineffective complaint mechanism and legal remedies for families living in local authority housing in relation to inadequate housing**

There is a lack of effective complaint mechanism and legal remedies for the right of housing for families living in local authority housing in Ireland. While local authorities

carry out a range of limited inspections of private rented properties, there are no such inspections of local authority housing, and the general Standards for Rented Houses Regulations (2017) are not applied to local authority tenancies. Furthermore, the special dispute resolution machinery outside the courts, which has been established by the Residential Tenancies Act 2004, is not applicable to local authority housing tenants.

The Irish Government response to the Collective Complaint *FIDH v. Ireland* stated that the complaints of local authority tenants are initially dealt with by the Manager of the Service involved, and then a complaint can be made to the Authority's Customer Services Officer. It states that if matters still have not been resolved, local authority tenants can bring the matter to the Ombudsman or the Courts.

However, this information is not complete. There is a misconception as to the powers of the Ombudsman in Ireland which are non-binding, and have no legal effect. Unlike many European countries, the Ombudsman in Ireland only has the power to make a recommendation in cases of maladministration, and while there are indeed many such complaints from local authority tenants there is no enforceable remedy available – the Ombudsman cannot order an authority to ensure that housing provided meets the legally defined standards, although it can 'recommend' this.<sup>29</sup> While complaints concerning the right to housing of families living in authority housing can be made to the Ombudsman, and where findings are made, these are not legally binding and enforceable. In addition, taking legal actions before the Court can only be taken on the basis of tort liability - ie personal loss as a result of poor condition. These actions are not affordable to the families living in local authority housing, and there is no legal aid for such actions. There is no procedure for a tenant to take a court action to require compliance with the Standards for Rented Housing Regulations in Ireland. Also, CAN has found consistently that tenants are unaware of complaint procedures that do exist, and in any

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<sup>29</sup> The Office of the Irish Ombudsman, 'Information', available at: [https://www.citizensinformation.ie/en/government\\_in\\_ireland/national\\_government/standards\\_and\\_accountability/office\\_of\\_the\\_ombudsman.html#11f4da](https://www.citizensinformation.ie/en/government_in_ireland/national_government/standards_and_accountability/office_of_the_ombudsman.html#11f4da)

case, these cannot lead to any systemic compliance actions.

## 7. Homelessness and inadequate supply of housing for families.

One of the main requirements of Article 16 of the European Social Charter is the provision of an adequate supply for housing for families. However, in Ireland, there is a growing failure by the State to ensure compliance with this obligation.

The Assessment of Social Housing in 2016, showed that those who were homeless, living in an institution, emergency accommodation or hostel increased from 2808 in 2011, to 5401 in 2016. The overall numbers of households in need of social housing support increased from 89 872 to 91 600.<sup>30</sup> The relevant statistics are in Table 2 below.

**Table 2: Local Authority Assessments of Housing Need and Homelessness**

	2011	2013	2016
Homeless	2,348	2,499	5,159
Travellers	1,824	1,632	1,778
Unfit accommodation	1,708	647	2,304
Overcrowded accommodation	4,594	2,896	3,517
Involuntary Sharing	8,534	9,587	11,476
Institutional Care/Homeless	538	2,808	5,401
Medical/Compassionate Reasons	9,548	2,909	2,096
Older persons	2,266	1,844	2,327
Disabled/Handicapped	1,315	3,938	5,753
Unable to Afford	65,643	66,983 <sup>31</sup>	60,396

<sup>30</sup> The Housing Agency, *Summary of Social Housing Assessments 2016 Key Findings*. The Social Housing (Assessment) (Amendment) (No.2) Regulations 2011, allow for a borrower whose mortgage has been deemed unsustainable under the Mortgage Arrears Resolution Procedure be assessed for social housing.

<sup>31</sup> From 2013, new guidelines were applied to this category, 'dependent on rent supplement', and

Unsustainable mortgage	* <sup>32</sup>	154	657
Total	98,318 <sup>33</sup>	89,872*	91,600*

According to Assessments of Housing Need and Homelessness some in 71,858 households were assessed as qualified for housing support as of 11 June 2018.<sup>34</sup> Households which have been allocated temporary accommodation in the private rented sector under the various ‘schemes’ are no longer counted on the assessments as in need on long term social housing, and thus the reduction in total figures cannot be seen as any major improvement in housing provision. There has been almost no provision of new social housing by the State over the past decade, and the response has been to arrange with private landlords to house these families – a situation with poor security of tenure, as landlords may evict for a variety of reasons, and there is no defence for the tenant.

Indeed, there has been a rapid increase in recent years of families becoming homelessness since 2014, when State data was first collated nationally. The following Table published by the State Department of Housing, Planning and Local Government shows the trends of increasing family and child homelessness arising mainly from ‘evictions’ from rented housing.<sup>35</sup>

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‘unsuitable accommodation due to particular household circumstances’, the latter, ‘populated by households not in receipt of rent supplement, but with a difficulty in affording private accommodation.’

<sup>32</sup> The data was not collected in 2011.

<sup>33</sup> The 2011 Assessment was a snap shot of those registered with housing authorities as in housing need at that time, but authorities were not required to reassess applicants for that Assessment to confirm that those on the list were still seeking and in need of social housing support. For 2013, those in Rental Accommodation Scheme rented housing were not counted and in 2016 those in accommodation provided under the Housing Assistance Payment (HAP) scheme, Rental Accommodation Scheme (RAS), Social Housing Current Expenditure Programme (SHCEP) were not included. For 2013 and 2016, there seems to be some overlap between ‘main need for social housing support’ and ‘breakdown of accommodation requirements’. In line with earlier years the total figures would have resulted in 95,897 for 2013, and 100,864 in 2016.

<sup>34</sup> See Housing Agency, ‘Summary of Social Housing Assessments 2018’, available at: [https://www.housing.gov.ie/sites/default/files/publications/files/summary\\_of\\_social\\_housing\\_assessments\\_2018\\_-\\_key\\_findings.pdf](https://www.housing.gov.ie/sites/default/files/publications/files/summary_of_social_housing_assessments_2018_-_key_findings.pdf).

<sup>35</sup> Department of Housing, Planning and Local Government, ‘Data on homelessness’, available at: <http://www.housing.gov.ie/housing/homelessness/other/homelessness-data>

	<b>July 2014</b>	<b>July 2015</b>	<b>July 2016</b>	<b>July 2017</b>
Adults	2,509	3,285	4,177	5,187
Children	749	1,383	2,348	2,973
Families	344	657	1,030	1,429

The State published figures for homeless households reached a new high over 10,000 in February 2019, shown in the following table.<sup>36</sup>

<b>Region</b>	<b>Total Families</b>	<b>Total adults</b>	<b>(of which) single parent families</b>	<b>Total dependants</b>
<b>Dublin</b>	1288	1825	751	2806
<b>Mid-East</b>	43	61	25	121
<b>Midlands</b>	35	51	19	98
<b>Mid-West</b>	71	98	44	136
<b>North-East</b>	20	27	13	49
<b>North-West</b>	11	20	2	26
<b>South-East</b>	38	51	25	64
<b>South-West</b>	122	162	82	283
<b>West</b>	79	114	44	201
<b>TOTAL</b>	<b>1707</b>	<b>2409</b>	<b>1005</b>	<b>3784</b>

Focus Ireland has tracked this increase, and has examined the reasons why so many families are losing their homes.<sup>37</sup> According to Focus Ireland research and analysis, the overwhelming number of families becoming homeless had their last stable home in the private rented sector, and the crisis in this sector is the immediate cause of their homelessness, landlords selling up or being repossessed, shortage of properties to rent, scarcity of properties accepting rent supplement and a high rent. Most of the families becoming homeless had never experienced homelessness before, and never thought this

<sup>36</sup> Department of Housing, Planning & Local Government, 'Homelessness Report February 2019' available at: [https://www.housing.gov.ie/sites/default/files/publications/files/homeless\\_report\\_-\\_february\\_2019.pdf](https://www.housing.gov.ie/sites/default/files/publications/files/homeless_report_-_february_2019.pdf).

<sup>37</sup> See Focus Ireland, 'Housing - Insights into Family Homelessness', available at: <https://www.focusireland.ie/resource-hub/research/>.

could happen to them. Thousands of more families are struggling on very low incomes or social welfare, and many are falling into serious housing difficulties as rents continue to rise. Some families are becoming homeless as State support payments fail to cover the rent. They fall into arrears and end up losing their home.

*“From our front-line work, Focus Ireland know that the single largest cause of homelessness is now property being taken out of the rental market, either by the landlord selling up, or using the property for their own family. Other families can’t find anywhere to rent as payments are too low and many landlords do not accept rent supplement...”<sup>38</sup>*

The Committee must examine this position in relation to State obligations under Article 16 of the European Social Charter.

## **8. Insufficient legal protection for persons threatened by eviction**

There are some 27,000 mortgage accounts in arrears over two years, and Central Bank of Ireland research shows that those in long-term mortgage arrears are more likely to be single parent (women) borrowers with three or more children; have lower net incomes (most rely on state supports); have higher mortgage debt service ratios (monthly repayment over monthly income); and have experienced shocks to the debt service ratio since taking out the mortgage.<sup>39</sup> The Central Bank of Ireland – a State body supervises all mortgage lenders in Ireland, collates and publishes records on mortgage arrears and repossessions by lenders. There is a public sector duty under the Irish Human Rights and Equality Commission Act 2014 on such bodies to carry out their functions in line with human rights obligations. Yet, while data and reports are

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<sup>38</sup> See Focus Ireland, ‘About Homelessness’, available at: <https://www.focusireland.ie/resource-hub/about-homelessness/>.

<sup>39</sup> Kelly, R and McCann, F (2015): ‘Households in long-term mortgage arrears: lessons from economic research’, Central Bank of Ireland, Economic Letter Series, Vol 2015, No 11, 2, available at: <https://centralbank.ie/docs/default-source/publications/economic-letters/economic-letter---vol-2015-no-11.pdf?sfvrsn=10>.

regularly published, together with public commentary by its senior staff, on the numbers of homes ‘voluntarily surrendered’ or repossessed, this State body does not show any regard for the homelessness created by these actions, and does not make any efforts to record the fate of household members evicted by its supervised entities, including the numbers of children so evicted. There are no figures available on the numbers of possession orders executed by supervised lenders for mortgage arrears, although at least 100 households were repossessed by Irish mortgage lenders due to being overcharged on their mortgages.<sup>40</sup> Borrowers who took out tracker mortgages (linked to the ECB rate), were overcharged by many years, which resulted in arrears and subsequent repossession in some cases.

An even more egregious situations exists in relation to evictions from private rented housing where Central Bank of Ireland supervised lenders are responsible for the eviction of hundreds of families with children, by requiring investor properties to be sold, and again the Central Bank avoids any responsibility for even recording these evictions or the fate of the occupants. There are also many illegal evictions from the private rented sector and the penalties for this weak, and do not act as a deterrent.<sup>41</sup>

A study on 99 court lists of almost 2,400 mortgage possession cases in December 2017 and January 2018 indicates that 70% home loan debtors had no recorded legal representation in court, although lenders enforcing the security of the mortgage are always represented.<sup>42</sup> The lived experiences of Irish people in mortgage distress and at

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<sup>40</sup> *The Irish Times* 29 September 2017.

<sup>41</sup> See Kenna, P., Nasarre-Aznar, S., Sparkes, P. & Schmid, C.U. (2018) *Loss of Homes and Evictions across Europe – A Comparative Legal and Policy Examination* (Cheltenham, Edward Elgar), chapter 5 Evictions in Ireland; A European Commission study in 2016 of the legislative and regulatory framework across EU Member States showed that statistics on evictions were not being consistently collated did not record or publish statistics on evictions. National courts did not consistently apply human rights protections. See Kenna, P., Benjaminsen, L., Busch-Geertsema, V. and Nasarre-Aznar, S. *Pilot Project – Promoting Protection of the Right to Housing – Homelessness Prevention in the Context of Evictions* (VT/2013/056). Final report (2016). European Union: European Commission, Directorate-General Employment, Social Affairs and Inclusion.

<sup>42</sup> Dr. Padraic Kenna: Access to Justice and the ECB – A Study of ECB Directly Supervised and other Mortgage Possession Cases in Ireland (2018). CHLRP available at: <http://www.nuigalway.ie/chlrp/news/european-central-bank-undermining-human-rights-in-ireland---new-report.html>

risk of losing their homes is a picture of shame, silence, stress, lack of legal representation, rejections in court and a failure by state supports systems to support them adequately.

The Community Action Network Report ‘House Hold: Life in Mortgage Distress (2018)<sup>43</sup> found that the majority of homes at risk of possession are long-standing family homes, with 56% of people in their homes for over 10 years and a further 36% for 20 years. Just under half (49%) of these homes have one or more children living with them and just under a quarter (23%) have one or more persons with a disability. A significant number (17.5%) purchased the home with a spouse or partner who is no longer in the home – an indication of the many difficulties that people are often living with through mortgage distress. Two thirds (66%) said that if they lost their homes, they could afford to rent any housing in the private rented market.

CAN’s report on the lived experiences of people in mortgage distress also found over 70% of people had not consulted a solicitor, and over 80% had not retained a solicitor to represent them in court, largely because they could not afford to, but also through lack of trust in the legal system. Over 90% had not applied to legal aid for a solicitor, most because they have been told that they are not eligible. People involved in the research described courts as being intimidating, difficult to understand, daunting and largely intolerant of unrepresented plaintiffs and lay litigants.<sup>44</sup>

There are significant questions in relation to access to justice for many families that are engaged in a very complex legal arena, and for the most part without legal assistance or representation and obliged to pay the costs of the lenders’ actions. In Ireland, the State Abhaile Scheme offers vouchers to borrowers at risk of home loss for free legal

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<sup>43</sup> See Community Action Network (CAN), ‘House Hold: Life in Mortgage Distress (2018)’. This report is about the lived experiences of people in mortgage distress and at risk of losing their homes, based on information gathered at a series of eight public information sessions held in 2018 and a survey. Available at:

<http://abusivelending.org/sites/default/files/Life%20in%20Mortgage%20Distress%20Report.pdf>.

<sup>44</sup> Ibid.

advice from a solicitor, or a consultation with a Personal Insolvency Practitioner. However, the one or two consultations with a solicitor that are available do not constitute a legal representation, and are deemed to be totally inadequate by the vast majority of people, who are left without representation to face a lender with a full-blown legal team. The statutory systems put in place to support people in mortgage distress are not working for many of them. Nearly 60% said that they have not participated in the Money Advice and Budgeting Service (MABS). Over 90% said that they had not requested a consultation with a solicitor through the Abhaile scheme. The participants cited a lack of trust that the services can realistically help them.<sup>45</sup>

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<sup>45</sup> Ibid.

## **II. Article 31-The right to housing**

1. *“With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: to promote access to housing of an adequate standard;”*
2. *“With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: to prevent and reduce homelessness with a view to its gradual elimination;”*
3. *“With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: to make the price of housing accessible to those without adequate resources.*

In respect of Article 31 which generally protected the right to housing, the Government report did not update relevant information, as Ireland has not accepted Article 31. However, according to the reporting system of the European Social Charter, the Committee examines the situation of non-accepted provisions of the Revised Charter every 5 years after the ratification, aiming to achieve full acceptance of all the social rights embodied in the Charter.<sup>46</sup> Irish Government was invited by the Committee to submit reports concerning non-accepted provisions in 2005, 2010 and 2015 respectively, but no information was provided by the Irish Government. Irish Government has not fulfilled its reporting obligation under the European Social Charter.<sup>47</sup> The next examination of the provisions not accepted by Ireland will take place in 2020, and we respectfully recommend the Committee to urge Irish Government to submit its report on non-acceptance provisions and consider to accept Article 31 eventually.

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<sup>46</sup> Decision of the Committee of Ministers, ‘Implementation of Article 22 of the Social Charter (non-accepted provisions) (CM(2002)184)’, adopted on 11 December 2002 at the 821st meeting of the Ministers' deputies.

<sup>47</sup> European Committee of Social Rights, ‘Third Report on Non-accepted Provisions of the European Social Charter, Ireland’, 6 May 2016.

## **Appendix**

### **Appendix 1. Parliamentary Question: Written Answer on : 19/02/2019**

**Question Number(s): 683 Question Reference(s): 8385/19. Department: Housing, Planning and Local Government. Asked by: Aengus Ó Snodaigh T.D.**

#### **QUESTION**

To ask the Minister for Housing; Planning and Local Government if housing service plans (details supplied) have been agreed; and if not, the timeframe for the compiling of the plans by each local authority. (Details Supplied) in line with the Report to the Ministers of Council of Europe of June 22nd 2017 containing the Decision on the Merits of the Collective International Human Rights Federation v Ireland Complaint no.110/2014 and in line with the provisions of the Housing (Miscellaneous Provisions) Act 2009 there is an obligation on each housing authority to make a housing service plan and that the Housing Agency has been put on a statutory footing to assist and facilitate local authorities with their housing functions,

#### **REPLY**

The statutory position regarding Housing Services Plans is set out in sections 14 -18 of the Housing (Miscellaneous Provisions) Act 2009. These provisions have not yet been commenced.

Section 14 requires that each housing authority make a Housing Services Plan setting out the objectives, which the housing authority considers to be reasonable and necessary for the provision of housing services having regard to the requirements of the housing strategy or strategies relating to housing supports for its administrative area.

Housing Services are defined as, among other things:

- social housing support;
- affordable housing;
- the granting of shared ownership leases under section 3 of the Act of 1992;
- the sale, or consent to the sale, of a dwelling under section 90(1)(b) of the Principal Act to a person other than another housing authority;
- loans made under section 11 of the Act of 1992 or section 25(1) of the Housing (Traveller accommodation) Act 1998;
- grants for works of improvement or adaptation to houses under section 5 of the Act of 1992;
- grants and other assistance for the provision of new houses or improvement works to houses under section 6 of the Housing (Miscellaneous Provisions) Act 1979;
- services provided to homeless persons under section 10 of the Act of 1988;
- the provision of sites under section 57 of the Principal Act; and
- the management, maintenance and refurbishment of any dwelling, building or land of which the housing authority is the owner or which is under its management and control.

The provisions allow for the making of a Housing Services Plan in draft form first, its circulation to the Minister and other bodies (including Approved Housing Bodies (AHBs) and the [HSE](#)) for comments, the preparation of a report for the elected members by the Chief Executive and the adoption of the Plan by the members, with or without modification.

The main priority in recent years has been to deliver on the Government's Rebuilding Ireland Action Plan for Housing and Homelessness, and it has not been necessary to commence the provisions of the 2009 Act referred to in order

to achieve the delivery of the associated significantly increased and enhanced housing services by local authorities and AHBs. This is demonstrated by the level of social housing delivery achieved in 2018, exceeding the national target for the year by 6%.

Under section 94 of the Planning and Development Act 2000, each planning authority is required to include a housing strategy in its Development Plan, for the purpose of ensuring that the proper planning and sustainable development of the area provides for the housing of the existing and future population of the area in the manner set out in the strategy. All authorities have complied with this requirement.

A housing strategy takes into account a number of matters including:

- the existing need and the likely future need for social and affordable housing,
- the need to ensure that housing is available for persons who have different levels of income,
- the need to ensure that a mixture of house types and sizes is developed to reasonably match the requirements of the different categories of households, including the special requirements of elderly persons and persons with disabilities, and
- the need to counteract undue segregation in housing between persons of different social backgrounds.

It is also required to include an estimate of the amount of social and affordable housing required in the area of the development plan during the period of the plan.

**Appendix 2. Housing (Miscellaneous Provisions) Act 2009, Chapter 2 - Housing Services Plan**

Obligation to make housing services plan.

14.— (1) Each housing authority shall make a plan (in this Act referred to as a “housing services plan”) setting out the objectives which the housing authority considers to be reasonable and necessary for the provision of housing services having regard to the requirements of the housing strategy or strategies relating to housing supports for its administrative area.

(2) A housing services plan shall be in writing and shall specify how the housing authority proposes to provide housing services.

(3) Subject to subsection (5), a housing authority shall adopt a housing services plan not later than 6 months after the date on which the current development plan is made.

(4) A housing services plan shall relate to the remaining period of the housing authority’s current development plan.

(5) (a) The Minister may direct a housing authority or housing authorities to make a housing services plan relating to the remaining period of the development plan in operation, on the coming into operation of this section, in respect of the administrative area concerned and this Chapter shall apply to the preparation and making of such a plan.

(b) A housing authority shall comply with any direction given to it under paragraph (a).

(6) The preparation, making, adoption or variation of a housing services plan, or draft plan, as the case may be, is a reserved function.

Content of housing services plan

15.— (1) In making a housing services plan, a housing authority shall, in particular,

have regard to the following:

- (a) the development plan or plans for its administrative area;
- (b) any summary or summaries of social housing assessments prepared under section 21;
- (c) the demand for affordable housing in its administrative area;
- (d) the accommodation programme or programmes adopted for its administrative area in accordance with section 7 of the Housing (Traveller Accommodation) Act 1998 ;
- (e) the homelessness action plan adopted in accordance with Chapter 6 in respect of its administrative area;
- (f) the need to ensure that housing services are delivered in a manner which promotes sustainable communities, including but not necessarily limited to the need to—
  - (i) counteract undue segregation in housing between persons of different social backgrounds, and
  - (ii) ensure that a mixture of dwelling types and sizes and of classes of tenure is provided to reasonably match the different types of housing support required in its administrative area;
- (g) its anti-social behaviour strategy (if any) under section 35 ;
- (h) any directions given by the Minister under subsection (2);
- (i) the matters specified in section 69 of the Local Government Act 2001 to which local authorities are required to have regard in performing their functions.

(2) (a) The Minister may direct a housing authority to include in its housing services plan such information as he or she considers necessary, including, but not necessarily limited to, information on, and priorities relating to, each of the following:

- (i) the provision of appropriate housing supports;
- (ii) proposed measures to ensure that housing supports are delivered in a manner which promotes sustainable communities;
- (iii) the quality, standards and condition of housing owned by the housing authority, and priorities for refurbishment;

(iv) plans for the regeneration of the administrative area concerned or any part of it;  
(v) the policies of the housing authority relating to the management and maintenance of dwellings or sites owned or controlled by it.

(b) A housing authority shall comply with any direction given to it under paragraph (a).

(3) A housing services plan shall include the summary or summaries, prepared under section 21 , of the social housing assessments carried out in respect of the administrative area concerned.

#### Preparation of draft plan and making of plan

16.— (1) A housing authority shall prepare a draft of the housing services plan and shall send a copy of the draft housing services plan to—

(a) the Minister,

(b) every local authority whose administrative area adjoins, or is contained in, the administrative area of the authority preparing the draft plan,

(c) the Health Service Executive,

(d) approved bodies engaged in the provision of accommodation or shelter in the administrative area concerned,

(e) the homelessness consultative forum in its administrative area, or joint homelessness consultative forum, as the case may be,

(f) any local traveller accommodation consultative committee in the administrative area concerned appointed under section 21 of the Housing (Traveller Accommodation) Act 1998 , and

(g) such local community bodies in the administrative area concerned and any other person, as the housing authority considers appropriate.

(2) Written submissions or observations with respect to the draft housing services plan may be made by the persons specified in subsection (1) to the housing authority within 8 weeks from the date on which the draft plan is sent under subsection (1).

(3) Where the Minister considers that any draft housing services plan fails to adequately take account of any of the matters specified in section 15 (1), the Minister may, within the period specified in subsection (2), for stated reasons, direct the housing authority concerned to take specified measures to ensure that the housing services plan, when made, takes adequate account of those matters and the housing authority shall comply with any such direction.

(4) Not later than 4 weeks after the end of the period specified in subsection (2), the manager shall prepare and submit to the housing authority a report on—

- (a) any submissions or observations made under subsection (2),
- (b) the directions (if any) of the Minister under subsection (3) and the stated reasons for those directions, and
- (c) any aspect of the draft housing services plan (other than aspects of the draft plan the subject of any ministerial direction under subsection (3)) that, in his or her opinion, fails to adequately take account of any of the matters specified in section 15 (1).

(5) The housing authority shall, having taken account of the directions of the Minister (if any) under subsection (3) and the manager's report under subsection (4), adopt the housing services plan, with or without modification, within 6 weeks after the submission of the manager's report.

(6) The housing authority shall—

- (a) give a copy of the housing services plan to the Minister as soon as practicable after it is adopted,
- (b) make the housing services plan available for inspection on request by any person, without charge, at its offices and such other places as it considers appropriate, during normal office hours,

(c) on request by any person, provide a copy of the housing services plan at a price not exceeding the reasonable cost of reproduction, and

(d) publish and maintain a copy of the housing services plan on the Internet for the period of the plan.

Variation of housing services plan.

17.— (1) Where the manager considers that there has been a change in any of the matters specified in section 15 (1) that significantly affects the housing services plan, including any adjustment of a housing strategy pursuant to section 95 (3) of the Planning and Development Act 2000 , the manager shall submit a report on the matter to the members of the housing authority and, where the manager considers it necessary and appropriate, he or she may recommend that the housing services plan be varied accordingly and the housing authority may, having taken account of any such recommendations, as it considers appropriate, decide to vary the plan or part or parts thereof accordingly.

(2) Where the Minister considers that there has been a change in circumstances that significantly affects all or any part or parts of one or more than one housing services plan, he or she may give a direction requiring the housing authority or authorities concerned to vary the plan or plans or part or parts thereof accordingly and the housing authority or authorities, as the case may be, shall comply with any such direction.

(3) Section 16 applies to the variation of a plan as it applies to the preparation and adoption of a plan, with any necessary modifications.

Housing action programme.

18.— (1) The manager shall, from time to time, in such form and for such period as the Minister may direct, prepare a programme (in this Act referred to as a “housing action programme”) for implementation of the housing services plan.

(2) A housing action programme shall—

(a) take account of the financial resources available for the period to which the programme relates, and

(b) include such matters as the Minister may specify in a direction given under subsection (1), including (except in the case of the first housing action programme) a review of progress made in the implementation of the housing services plan during the period of the previous housing action programme.

(3) The manager shall provide a copy of the housing action programme to the Minister, the members of the housing authority and the members of any borough council or town council situated in the administrative area of the housing authority.

**Appendix 3. Recommendations on prevention of evictions from European Commission Research (2016) - Promoting protection of the right to housing - Homelessness prevention in the context of evictions VT/2013/056**

<https://aran.library.nuigalway.ie/bitstream/handle/10379/5847/KE-02-16-339-EN-N%282%29.pdf?sequence=1&isAllowed=y>

**Recommendations**

On the basis of this research and analysis, a number of recommendations are suggested to promote protection of the right to housing and homelessness prevention in the context of evictions.

**Promotion of housing rights**

- Promoting protection of the right to housing through defining eviction-related standards from the internationally accepted housing rights instruments and integrating these into national and EU social protection and human rights policies;
- Creating a legal obligation on courts and other agencies involved in evictions to promptly inform housing and social care agencies;
- Ensuring respect of the right to legal aid, advocacy and representation in cases of evictions;
- Better integrating housing consumers into national and EU consumer protection policy;
- Promoting and disseminating information on eviction-related housing rights and putting into place enforcement procedures.

**Housing and housing policy**

- Developing effective secondary eviction prevention measures, including making available accessible eviction prevention services, mediation and information on households at risk;

- Ensuring rapid rehousing, with intensive social support for evicted and homeless people with complex support needs, promoting the Housing First approach;
- Ensuring that low-income and vulnerable households have an adequate income or social benefit to access adequate housing, even after an eviction;
- Ensuring a sufficient stock of affordable/social housing and a continuum of housing tenures, with access for those on low incomes and those who are vulnerable;
- Restricting the use of short-term tenancies to special circumstances, such as housing for students and highly mobile workers;
- Assessing the impact of anti-eviction measures on the efficiency of the mortgage and housing markets.

### **Responsible lending and ‘freshstart’**

- Securing a second opportunity or ‘fresh start’ for over-indebted borrowers;
- Promoting responsible mortgage lending;
- Increasing general information/education about the risks of over-indebtedness and defaulting on housing-related payments.

### **Research**

- Improving the monitoring of evictions;
- Promoting research into the personal factors leading to evictions;
- Researching the weaknesses in legal protection and countering illegal eviction;
- Improving the basis for the EU-SILC question on housing evictions (as a reason for ‘change of dwelling’).