

Housing Rights in Europe Conference
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“Housing rights of vulnerable people in Europe:
the need to secure adequate housing without discrimination”

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In recent months a number of Roma families in several European countries have been evicted by force from their homes. In most cases the decisions were taken by local authorities. The tenants were not given adequate notice or offered a real alternative. It is clear that several of these evictions violated European and international standards on housing rights, including the right to security of tenure.

The Roma and Travellers are still disproportionately represented among the homeless and those living in sub-standard housing. Roma ghettos and shanty towns can still be found on our continent today.

Poor housing conditions are in fact a major cause of Roma exclusion in our societies. It is important that we refute the old “argument” that Roma people are nomads and therefore do not want or need proper housing. Their social and spatial exclusion today is intimately linked to Europe’s shameful history of discrimination and severe repression of the Roma.

There are also other minorities who are subjected to discrimination on the housing market in Europe. Migrants, refugees and asylum-seekers often live in housing well below average standards in terms of space, quality and access to basic facilities. They are sometimes discriminated on the private housing market – and excluded from accommodation because they are foreigners.

Research from the EU Monitoring Centre against Racism and Xenophobia in Vienna demonstrates that migrants often pay too much for the quality of housing offered. The choice of place of residence and housing can be severely restricted to asylum seekers due to registration requirements.

Non-documented migrants are particularly vulnerable as their irregular status can be exploited by ruthless landlords. It is often forgotten that many international human rights standards do apply to non-documented migrants as well. Their housing rights should be protected.

Persons with disabilities have particular needs to which housing conditions should be adjusted. Are buildings accessible to people in wheelchairs? Are elevators equipped with signs which can be read by people who are blind? Can hearing aids be installed in the apartments?

There is now a trend in several European countries that the old institutions for persons with mental disabilities are closed down - but are alternatives offered which provide accessible and secure housing at affordable cost?

In the midst of the most affluent societies in Europe there are still homeless people. They are the poorest of the poor; they do not even have a bed of their own. Some of them may be alcoholics, drug addicts or mentally confused, but they are all human beings. Admittedly, it is not easy to remedy this problem, but a society which ignores or even accepts this social misery has lost its sense of compassion.

The right to adequate housing is a social right – as are the right to health, to education and to a decent work. These rights are not always recognised by everyone as human rights. The US administration still regards them as “ambitions” rather than as rights and has refused to ratify the International Covenant on Economic, Social and Cultural Rights.

In Europe, however, the approach is different and these rights have been codified in a special treaty: the Social Charter, which was revised ten years ago and has been ratified by most members of the Council of Europe.

The concrete substance of housing rights in the Charter includes:

- access to adequate and affordable housing;
- reduction of homelessness; housing policy targeted at all disadvantaged categories;
- procedures to limit forced eviction to ensure security of tenure;
- equal access for non-nationals to social housing and housing benefits;
- Housing construction and housing benefits related to family needs.

A major dimension of the protection of this right is: equal treatment or prevention of discrimination.

Realization of economic and social rights requires not only that the authorities themselves respect the obligations which follow from the human rights standards, but that initiatives also are taken to protect individuals from abuses from others, including private corporations and individuals. Indeed, it is stipulated that they are obliged to take positive action to provide for the enjoyment of the rights.

To guarantee such rights there is a need of a certain level of budgetary input and a government prepared to do something more than just watching the effects of the market forces. This has made them an area of political controversy.

However, ever since President Franklin D. Roosevelt in his famous speech 1941 on the four freedoms used the term “Freedom from Want” there have been constructive efforts to formulate certain economic and social rights which would apply to everyone. And adequate standard of housing has been defined as one such right within the UN as well as the Council of Europe.

This can also be seen as a response to the objection that such rights are difficult to translate into law and therefore not “justiciable”. The Revised Social Charter is an international treaty and thereby part of international law. Its collective complaints mechanism holds great potential as an effective instrument in this respect for vulnerable groups. Already it has found many European countries at fault with their housing obligations.

An additional protocol to The European Convention on Human Rights, Protocol No 12, stipulates a general prohibition of discrimination. This also means that the European Court on Human Rights in Strasbourg can deal with cases of unequal treatment in relation to adequate housing in those countries which have ratified the protocol.

Significant is also the EU Directive on Equal Treatment which recommends member states to take concrete action, including to legislate, against discrimination. Many countries already have specific laws of such nature.

Much of the housing market is of course private - but the governments are still responsible for the respect of the rights as defined in the international standards. They are obliged to formulate laws and instructions which will ensure that the rights indeed are respected in the housing market.

It is also important to remember that the norms also apply to local authorities. The fact that an abusive decision is taken on local level does not absolve the central government from responsibility under its international obligations. The state should exercise oversight and, if necessary, regulate local action.

Even if there have been developments at international and national level in defining the human rights dimension of housing policies, there are in reality great problems in this area. The situation of the Roma and of migrants in several European countries has exposed the problem.

A minimum program for a rights-based housing policy must include these points:

- National laws should spell out housing rights and who are responsible for their implementation at different levels. Minimum standards for adequate housing and emergency accommodation should be clearly defined.
- Non-discrimination legislation should include housing rights both in the public and private markets.

- Proactive measures are needed to support those disadvantaged. As long as they relate to a reasonable objective, they are justified to bring about a level playing field for vulnerable groups of people who have suffered discrimination.
- Effective remedies to violations of housing rights and discrimination should be available to everyone. Legal advice and aid is particularly important for vulnerable groups. They need to be informed about their rights and how to exercise them. Low-threshold complaints bodies can be very useful to counter discrimination.

For the implementation of these measures there is a need of extra-judicial mechanisms to monitor and report on the real situation. In this, the Ombudsmen and similar national human rights institutions are absolutely essential.

It is my intention as the Council of Europe Commissioner for Human Rights to cooperate closely with them in order to protect housing rights of those vulnerable.