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RAP/RCha/IRL/20(2023)

## **EUROPEAN SOCIAL CHARTER**

Comments submitted by  
Community action Network (CAN) and the Centre for  
Housing Law, Rights and Policy (CHLRP) concerning  
the 20th National Report on the implementation of the  
European Social Charter

Follow-up to Collective Complaints

Comments registered by the Secretariat

On 14 June 2023

**REPORT FOR FINDINGS 2023**

## Community Action Network/Centre for Housing Law, Rights and Policy University of Galway: 12 June 2023.

**Comments on the Report submitted by The Government of Ireland (19/12/2022) in response 20<sup>th</sup> National Report on the Implementation of the European Social Charter by the European Committee of Social Rights. Follow-up to Collective Complaints No 83/2012, 100/2013, 110/2014, and 132/2016. <https://rm.coe.int/rap-rcha-irl-20-2023/1680aa08f0> This Response addresses only Collective Complaint 110/2014 *FIDH v Ireland*.**

The Report of the Government of Ireland of 19/12/2022 in response to the 20<sup>th</sup> National report on the Implementation of the European Social Charter does not indicate that the Government of Ireland is taking the Collective Complaint process at all seriously. The Decision of 12<sup>th</sup> May 2017 is now five years old, and in that time there has been no serious attempt to address either the Article 16 issues where violations were found, or the process for addressing the application of the European Social Charter. The situation remains in non-conformity.

As the Irish Government Response (19/12/2022) states the ECSR found a violation of Article 16 (right of the family to social, legal and economic protection), in its decision on the merits of 12th May 2017.

In its decision of the 12th May 2017, the European Committee of Social Rights (ECSR) found that Ireland was in violation of Article 16 of the Charter on the following grounds:

- A. a significant number of local authority tenants reside in poor housing conditions amounting to housing that is inadequate in nature.
- B. persistent conditions like sewage invasions, contaminated water, dampness and mould went “to the core of what adequate housing means”.
- C. Although many local authority estates were ear-marked for regeneration in 2002, a significant number of regeneration programmes adopted by the Government for local authority had not been completed.
- D. Finally, despite a large number of people remaining in substandard housing conditions, no complete statistics on the condition of local authority housing had been collected since 2002 by the Irish authorities. No national timetable existed for the refurbishment of local authority housing stock.

In its 2021 findings, the ECSR has stated that the situation has not been brought into conformity with Article 16 of the Charter and has found the following:

- A. As regards the fact that a significant number of local authority tenants reside in poor housing conditions amounting to housing that is inadequate in nature.

The Committee had previously found that Ireland has made progress in the adoption of measures to ensure an adequate standard of living in local authority housing. However, despite this progress there were still substantial limitations in providing adequate accommodation to a large number of families, who continue living in substandard local authority housing conditions. The situation is still not in conformity.

B. As regards persistent conditions like sewage invasions, contaminated water, dampness and mould went “to the core of what adequate housing means”.

The Committee further notes unsatisfactory management and maintenance issues in housing conditions for tenants, who do not often have safe houses. Tenants report long waiting periods for basic repairs and poor housing conditions for number of local authority households. The Commission identified evidence provided by tenants, architects and engineers on persistent issues with mould, dampness and sewage invasions, rat infestations, etc.

C. Concerning the fact that a significant number of regeneration programmes adopted by the Government for local authority had not been completed.

and

D. As regards the lack of complete statistics and of a national timetable. As indicated in the comments provided by the Irish Human Rights and Equality Commission and by CAN, the Government report does not state any specific progress since the last report submitted in 2020.

The only updated information appears in the appendix and states that programs and projects continue to be implemented and there are regeneration programs and construction of new sites and houses.

However, the legal framework for the right to housing for families in Ireland is still insufficient, local authority housing tenants continue to live with inadequate housing standards and there are no national statistics on the conditions of local authority housing stock.”

While the Response from the Government of Ireland(19/12/2022) refers to the Decision on the Merits in this Report at least, it makes no attempt to address the human rights aspect of the Decision, or indeed the human rights norms on adequate housing. Indeed, the ECSR in setting out the content and scope of states' housing obligations, draws not just on the European Social Charter but also the UN jurisprudence and, in particular, the decisions of the UN Committee on Economic, Social and Cultural Rights relating to the right to housing as an element of the right to an adequate standard of living under Article 11 of the [International Covenant on Economic, Social and Cultural Rights \(ICESCR\)](#). Thus, the human rights basis for this Decision lies both in the European Social Charter and ICESCR. Para 118 of the Decision on the Merits of FIDH v Ireland states:

118. The Committee [ECSR] has repeatedly held that the right to housing for families encompasses housing of an adequate standard and access to essential services (see §106 above). In this respect the Committee takes into account General Comment No 4 of the UN Committee of Economic, Social, and Cultural Rights Committee which provides that “Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well” and that “An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking,

heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services”.

The Irish Government has also failed to take seriously the clear pathways for the application of Social Charter Rights where these may be expensive and complex - at para 119 of the Decision in 2017.

...States Parties should:

- a. adopt the necessary legal, financial and operational means of ensuring steady progress towards achieving the goals laid down by the Charter;
- b. maintain meaningful statistics on needs, resources and results;
- c. undertake regular reviews of the impact of the strategies adopted;
- d. establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage;
- e. pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable (European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, § 54).

Indeed, in the Decision FEANTSA v France 39/2006 the ECSR provided clear guidance to States on the application of the Charter:

57. In connection with means of ensuring steady progress towards achieving the goals laid down by the Charter, the Committee wishes to emphasise that implementation of the Charter requires state parties not merely to take legal action but also to make available the resources and introduce the operational procedures necessary to give full effect to the rights specified therein (Autisme Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, §53).

58. When one of the rights in question is exceptionally complex and particularly expensive to implement, states party must take steps to achieve the objectives of the Charter within a reasonable time, with measurable progress and making maximum use of available resources (Autisme Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, §53).

59. The requirement to maintain statistics is particularly important in the case of the right to housing because of the range of policy responses involved, the interaction between them and the unwanted side-effects that may occur as a result of this complexity. However, statistics are only useful if resources made available and results achieved or progress made can be compared with identified needs.

... 62. In connection with timetabling – with which other regulatory bodies of international instruments are also very concerned – it is essential for reasonable deadlines to be set that take account not only of administrative constraints but also of the needs of groups that fall into the urgent category. At all events, achievement of the goals that the authorities have set themselves cannot be deferred indefinitely.

Thus, the ECSR has recognized that implementing social rights involves a clear set of procedures over time, with a commitment to achieve the goals set out in the ESC right, with measurable progress, and making use of maximum available resources. There is no evidence that the Irish State has accepted these obligations or has adopted this approach to meeting its obligations in relation to Article 16.

The Report submitted by the Government of Ireland does not show that any of these obligations are being met.

1. There is no commitment expressed to meet the goals set out in the ESC Article 16 rights and the Decision of 2017 within a reasonable time. In fact, we are now 6 years after the Decision and there is still only planning for a "joint endeavour" between the Department of Housing and the City and County Managers Association (CCMA) for a pilot stock condition survey of Local Authority housing, and indeed it seems that a standardized stock condition survey template has only now been agreed. (p.13.) There is also a vague reference to a "strategic regeneration capital plan for the next 20 years" (p. 17) but this document (if it exists) has not been made available to tenants or indeed the ESCR.

In fact, Resolution **CM2018** *FiDH v Ireland Address by the Representative of Ireland the State* states that all stock conditions surveys would be completed between Q4 2017 and Q4 2018. Clearly, this was not correct, and the responses to the Decision are therefore not appropriate or timely.

The Decision of 2017 is being largely deflected by the Government Departments on to local authorities, who manage State housing. Indeed, further clarification might be needed from the ECSR on the State responsibilities as a whole, in this kind of situation, rather than deflecting responsibility to regional and local public bodies. All are part of the State – all are subject to judicial review and all have a legislative and constitutional basis. Such duplicitous responses should not be used to diminish the obligations set out in the Decision.

Perhaps one of the most disturbing aspects of the Government rReport is that it does not recognize that human and social rights are enjoyed by tenants of local authority housing – the Report firstly claims that 140,000 units of local authority housing have an estimated market value of €25b (p.13). After this, there is an acknowledgement in the Government Report that these are actually homes for local authority tenants. The fact that such a valuation has taken place would seem to suggest that moves have been undertaken to sell these homes to a private entity, private development or equity fund, and this makes the protection of the housing rights of tenants all the more critical.

2. There is no clear measurable progress. There are vague promises that a pilot study would be completed in early 2023 (p.14), but there is no evidence of this having been completed.. The Government report states that "the CCMA on behalf of Local Authorities is driving a shared approach to the planned maintenance of social housing, including stock condition surveys...". There is a reference to an "expected" new date for completion of the surveys "over the next 4 or 5 years" (p.13). This would be then ten years after the Decision in 2017, and even these timeframes are not firm or binding. There is a vague commitment that local authorities would "commence the move to a planned management and maintenance approach to housing stock management by Q1 2024". But this does not give any measurable timeframe for actually addressing violations in the ESCR Decision.

3. Making use of the maximum available resources. The Irish Government recorded a budget surplus of over €16bn for 2024 and similar sums in the subsequent years, so there is no lack of available resources to address these violation of social rights.<sup>1</sup>

4. The Irish Government Response states that the Housing (Standards for Rented Houses) Regulations 2019 provide the minimum standards for rental accommodation that local authorities are required to adhere to in respect of social housing (p. 13). However, the local authority is at the same time the enforcement body for these Regulations and the landlord of local authority housing tenancies – and this conflict of interest means that no effective regulation takes place. *Guidelines for Housing Authorities in Implementation of Minimum Standards in Rented Accommodation* (November 2021)<sup>2</sup> pointed out that housing authorities are required to have regard to these guidelines (issued under section 5 of the Act of 2009) in the performance of their “functions under the Housing Acts 1966 to 2014.” The procedure for enforcement in relation to local authority stock is set out in the “Guidelines” – “On receipt of a complaint from a tenant, an appointment to inspect the house should be made with the complainant and an inspection of the complainant’s accommodation carried out. The inspector’s notes should be signed and dated and kept on the property file.”<sup>3</sup> There is no obligation to address any breach of the standards and the tenant has no right of action or redress under the “Guidelines”.

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#### 5. Updates from the Areas. Housing Conditions and Maintenance Response.

Community groups have been monitoring the situation of housing conditions experienced by many local Authority tenants across the country in local authority areas which are reflective of the issues covered in the Collective Complaint.

- a. The Report Living Our Rights, building capacity to address human rights failures and inequalities in South Dublin County<sup>4</sup>, outlines the findings of research undertaken by community organisers during the autumn of 2021 and spring and summer of 2022. The survey focused on Dublin areas of Tallaght and Clondalkin, including Cushlawn, Glenshane, Jobstown, Tymon North, Fettercairn and Balgaddy and had 108 responses. The purpose of the survey was to find out more about the issues people in these areas were facing. Key findings in relation to housing conditions include
  - Almost a third said their home was overcrowded – 4 out of 5 of these had children under 18 at home
  - Just over one third felt their accommodation met the needs of their household
  - Just over half felt their home was in good condition.
  - More than one in three people felt their living conditions negatively impacted their physical
  - Mental health issues were mentioned by one in four

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<sup>1</sup> <https://www.gov.ie/en/publication/e4f3a-stability-programme-update-2023/>

<sup>2</sup> Department of Housing, Local Government and Heritage (2021) *Guidelines for Housing Authorities in Implementation of Minimum Standards in Rented Accommodation*  
[file:///Users/padraickenna/Downloads/201342\\_fdc24a91-7cb1-4e33-9b1e-55baa88a9aee.pdf](file:///Users/padraickenna/Downloads/201342_fdc24a91-7cb1-4e33-9b1e-55baa88a9aee.pdf)

<sup>3</sup> DHLGH (2021) *Guidelines for Housing Authorities in Implementation of Minimum Standards in Rented Accommodation*, p. 54

<sup>4</sup> Living Our Rights, building capacity to address human rights failures and inequalities in South Dublin County, 2022 A project of the Rights Platform, North Clondalkin Community Development Project and St Kevin’s Family Resource Centre.

- Over a third said they lacked an effective heating system.
- Over half reported damp and/or mould.

With regard to maintenance

- Three out of five reported difficulty getting repairs.

b. In the report on a **Survey of Environmental Conditions of Oliver Bond Flats, in Dublin City, completed by Robert Emmet CDP in March 30th 2021**<sup>5</sup> the findings of 186 surveys revealed

- 83% report damp and mould and a further 35% report of sewage problems
- Two thirds have not suitable pest or vermin free refuse storage and a third say they have rat and pest infestation in their homes
- Two thirds have poor insulation and difficulty heating their homes with over half those interviewed saying they have no suitable place to dry clothes.
- Almost half have concerns re fire safety, while two thirds have fears that emergency services will not be able to attend to their homes if required
- Over two thirds say that there is no safe place for their children to play, and the same number worry about crime and anti social behaviour in the estate.

With regard to maintenance

- Two thirds of those interviewed feel that repairs are not carried out in a timely manner according to the sense of urgency, while over half of all maintenance requests are taken off the system without being resolved.
- Over three quarters say that they are not kept informed about how long it will take for their repairs to be resolved, and a further three quarters say they are dissatisfied with the quality of repairs when they are eventually dealt with.

### c. **Dolphin House**

Dolphin House continues to house 224 families living in the conditions that the State deemed to be unsuitable in 2002 when the area was first earmarked for regeneration. These same conditions were cited in the decision on the Collective Complaint by the Committee of Social Rights in 2017 as “going to the core of adequate housing, raising concerns from both habitability and access to services”

CAN has also gathered the following additional updates from across a number of communities in Dublin City

a. **Davitt House in Drimnagh, Dublin 12.** Tenants are complaining that they

- Are unable to have Ambulances, Police, Fire brigade, Doctors or care teams access our homes due to the restrictive and insufficient access within their blocks.
- Have windows which are left unopenable, single glazed, cracked, past repair with poor insulation and as a result houses are left constantly running the heating due to the cold, driving up huge bills
- Have severe mould due to unresolved reported maintenance issues

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<sup>5</sup> Survey of Environmental Conditions of Oliver Bond Flats, in Dublin City, completed by Robert Emmet CDP in March 30th 2021

- They do not have fire doors and there is not fire plan in place or functioning exit points.

#### **b. North Inner City Communities**

Mould and damp problems with inadequate maintenance responses are reported by tenants living in the following areas

- Ballybough House
- Avondale House
- Liberty House
- Brien Hall: Gardiner Street
- Matt Talbot Court
- Patrick Heeney Crescent

#### **c. Longford**

The National Newspaper The Independent.ie, reported on damp and mould problems in Longford where a TD (Member of Parliament) who put out a Facebook call for council tenants with damp and mould issues to get in touch has been bombarded with messages from exasperated tenants. Thomas Gould, TD. had 130 replies in two days, many with photographs attached showing serious mould growth in living and sleeping areas.

Tenants told of their losing battles to keep the mould at bay, buying dehumidifiers and repeatedly wiping wet walls and windows dry while trying in vain to get their local council to take action. Some of the replies came from people caring for family members with disabilities who were largely confined to the home and were constantly breathing in mould.

#### **d. Regeneration**

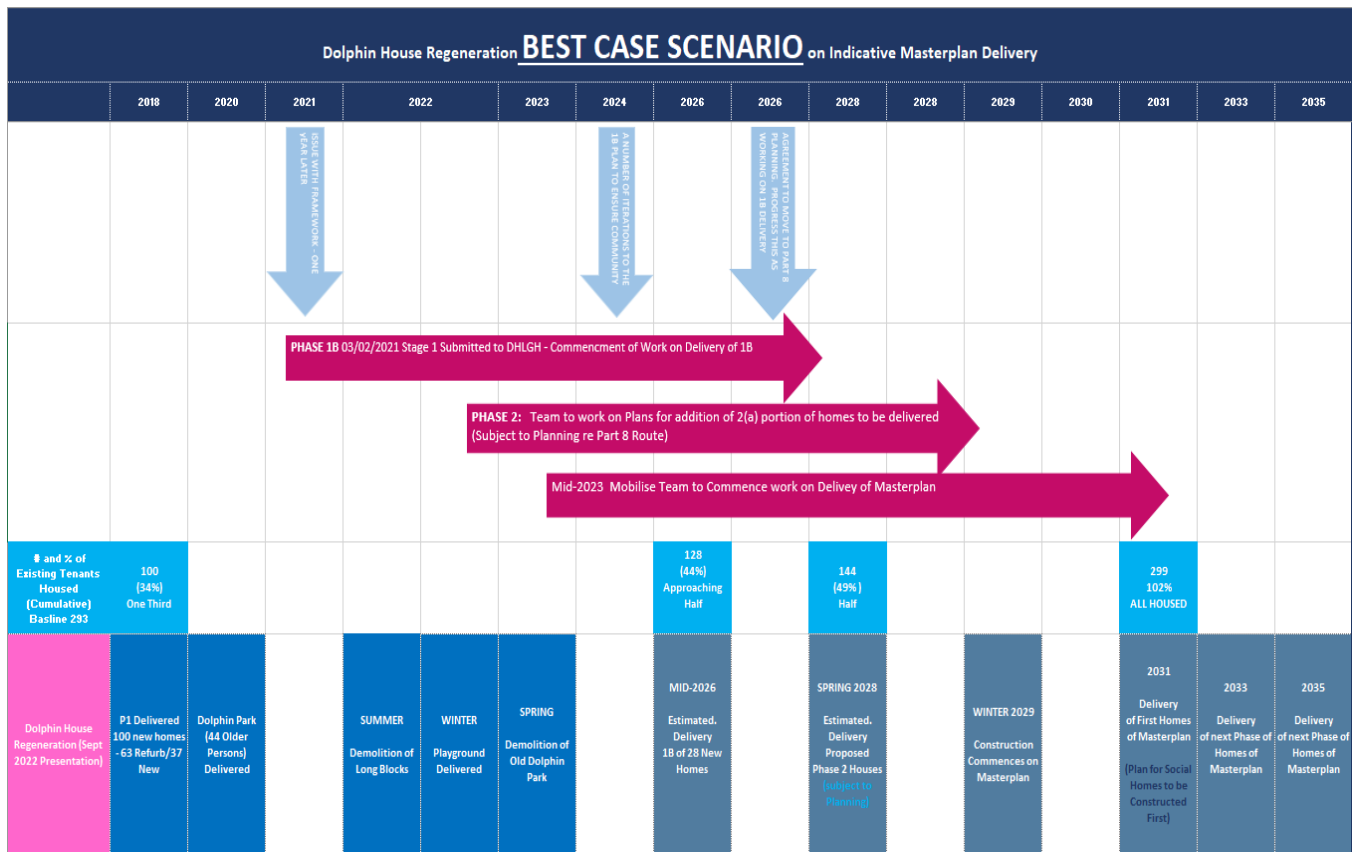
With regard to regeneration, The Government report does not provide any targets, a clear time line or any action plan against which progress can be measured. There continues to be no national plan, timetable or allocation of resources for regeneration. Looking closely at the list submitted in the current national report, there are only four areas where there is actually any development taking place on site. The remainder are at either stage 1 or 2 which is according to the State's own definition, a "preliminary" or "informal" stage of negotiations.

The following snapshot of areas within Dublin City Council, many of them earmarked for regeneration as far back as 2002 highlights the total inadequacy of the current response.

**Dolphin House** had originally 436 units and was earmarked for regeneration in 2002. Evidence from the tenants in this estate was presented in detail in the Collective Complaint lodged in 2014 and was cited in the decision of the Committee of Social Rights on the merits of the Complaint in 2017. While some 100 new homes were built in late 2018, some 224 families are still living in the conditions that were deemed unsuitable in 2002. The most recent timeline given to tenants outlines the best case scenario for the remainder of the estate and clearly shows that the next phase of building will not begin until 2028. The expected date for completion is 2035, at best. Children born in 2002 will be 33 years old by the time this estate is completed, at best.

The following Chart was presented to tenants at a community information meeting on the 22nd September 2022 by Dublin City Council officials. It clearly shows the lack of urgency in addressing the situation which is amounting to an ongoing violation of Article 16.





**St. Michael's Estate** had originally 346 homes, this was earmarked for regeneration in 2002. After 11 Housing Ministers and 4 Regeneration Plans later, just 175 homes have been replaced. The last block of flats was demolished in 2020. At a recent community event attended by President Michael D Higgins, the community outlined the huge personal, family and activist struggle it has experienced over 21 years, and still they are waiting for the full regeneration to be completed.

**Dominick Street** had originally 198 homes. It too was earmarked for regeneration in 2002. To date, 72 homes have been replaced. Currently, the earliest expected date for any further work to begin is 2025, and any work to make this a reality is still very much at a vision stage in preparation to move to **stage one !!**

**O'Devany Gardens** originally 278 homes, but to only 77 new homes have been completed.

**Oliver Bond** has currently 395 homes and according to tenants, the earliest they can expect any movement is in 2026, with no end in sight for a completion date.

### Impact on families

Inadequate housing, delayed, stalled or regeneration projects lasting decades results in unstable, transient and disintegrating communities. Many of the communities referenced in this report and in previous ones are all too often characterized by high incidences of anti social behavior, related to drug use and its associated crime, causing significant negative impact on families and young people living in the community. Though drug misuse is present in households across Ireland, these experiences are thankfully not part of life in many communities. They are, however, familiar and, in some cases, routine experiences for people living in parts of Local Authority communities.

In recent times five Community Crime Impact Assessments<sup>6</sup> have been carried out in Dublin 8, 10 and 12 – the location of many of the estates referenced in this report. While for obvious reasons, these assessments are highly confidential, the following are some sample contributions by people living in some of our communities.

*“The main concern I would have is with the open drug dealing that is happening in the area. I see this in many spots but in particular openly in the park itself at the wall near the back of the school, there is a gang that stands there all day long dealing.”*

*“This is intimidating for all residents. It’s also not safe to let your child out to play and has a negative impact on all aspects of life”*

*“Majority of people I think are afraid to say anything in fear of been targeted by gangs, commonly known if you talk to authorities; house will be vandalised. Many families live in fear so stay quiet and say nothing”*

*“It could be on a Sunday morning at 8am..... shouting, roaring, nothing discreet about how they do it, dealing pills, crack heroin in front of your eyes, they have no shame.”*

*“People are afraid to walk up and down stairs because there is dealing on the stairs”*

*“One parent told me her child had a real interest in nature, but she was afraid to let them out of the flat, because of the drug dealing. The child is seven”*

*“Young people get started and then get trapped and it affects the whole family- parents end up having to pay back debt and getting threatened”*

*“There’s loads of ways to groom the young ones, you bring them to places and show them how to rob cars – they get a big rush from it and look up to you. You make the situations for danger and violence and then get them into it”*

Most contributors cite the poor condition of housing, with condensation, damp, mould and other issues, along with a poor maintenance programme and constant and widespread littering as factors in community safety. “It is an unloved place” said one contributor. When an area is designated for regeneration, deteriorating begins eventually, leaving communities in a totally neglected state for many years. Maintenance also slows down. Given the absence of a planned, timed, resourced approach to regeneration hope for an adequate, safer home diminishes, leaving tenants disillusioned and anxious to leave.

**CONCLUSION: The rights set out in Article 16 of the European Social Charter have yet to be fully realized in Irish Local Authority housing.**



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<sup>6</sup> Community Crime Impact Assessments are used to track the impact of drug related crime and anti-social behaviour in a community. They are unpublished to protect the anonymity of communities. See here <https://youtu.be/9lDiikQFzCw>