

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE



## **A rights-based approach to guarantee the right to housing in Europe: between policy and (good) practice**

7<sup>th</sup> Meeting

of the CoE-FRA-ENNHRI-EQUINET Collaborative Platform

on Social and Economic Rights

**28 November 2018**

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***MEETING REPORT***

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## Introduction

The [Collaborative Platform on Economic and Social Rights](#) between the Council of Europe (CoE), the [European Network of National Human Rights Institutions](#) (ENNHRI), the [European Network of Equality Bodies](#) (EQUINET) and the [European Union Agency for Fundamental Rights](#) (FRA) held its 7<sup>th</sup> meeting in Strasbourg, France on 28 November 2018.

Following the feedback provided by the Platform members at the 6<sup>th</sup> meeting, held in Belfast (16 May 2018), the objectives of the 7<sup>th</sup> meeting are:

- to better understand the emerging challenges to the successful promotion and guarantee of the right to housing in Europe and to discuss possible responses;
- to clear and deeper the understanding of the existing tools to promote and guarantee the right to housing in Europe by highlighting and capitalizing on the synergies between the legal and political frameworks of the Council of Europe and the European Union;
- to explore and develop concrete solutions to bridge the gaps in the implementation of the right to housing in Europe through a cross-sectoral and human rights-based approach with multi-stakeholder partnerships;
- to explore the synergies between the European Social Charter and the European Pillar of Social Rights to enhance the effective implementation of social and economic rights at national level.

## Opening Session

**Jan Malinowski**, Head of the Department of the European Social Charter, Council of Europe, welcomed the participants and recalled the objectives of the meeting.

He pointed out that the European Social Charter (ESC) contains a strong provision in respect of the right to housing which is guaranteed by Article 31 of the ESC, although not one of the most favourite provisions of the Charter for member States. Recalling that social rights are human rights and as such they are universal, indivisible and interrelated, he mentioned that member States should respect those rights even if they are not bound by a particular provision. The monitoring is weakened if a provision is not accepted, but the obligation should not be ignored.

Jan Malinowski reminded that the right to housing is closely linked to many other rights such as the right to life, the right to health, the right to education, the right not to be discriminated against and to participate in a democratic society, and highlighted that democracy should not be denied to certain sectors of the population.

He welcomed the message of encouragement from the last meeting in respect of accession to additional provisions of the European Social Charter and to the collective complaints procedure and stressed that every effort in that direction is

very much appreciated. Even if human rights apply anyway, the monitoring ability is curtailed if the member States do not accept the provisions of the Charter. Therefore, it is important to render the ESR more effective and to improve the monitoring of member States.

With regard to the interrelation between the Council of Europe and other bodies, Jan Malinowski underlined the importance of NHRIs and NEBs, as well as of the FRA and civil society as a source of information and a multiplier of the results of the work done by the European Committee of Social Rights (ECSR) on the implementation of the European Social Charter.

**Danuta Wiśniewska-Cazals** from the Department of the European Social Charter, Council of Europe, welcomed the participants and presented the programme of the meeting (Appendix I – Programme).

### **Setting up the scene: challenges for the effective safeguarding of the right to housing in Europe**

*Trends, current challenges and new developments in the field of right to housing in Europe – experience of NHRIs and NEBs*

**Peter Verhaeghe**, Caritas Europe, pointed out that housing costs have become excessive in Europe and many people live in substandard housing. The situation seems particularly difficult in Greece, Bulgaria, Romania, Portugal and Italy where an increase of housing costs over the last years has been observed, while housing conditions have not improved in particular for the most deprived people.

He made several proposals to NHRIs and NEBs taking into account their mandate:

- ✓ to support the enforcement of non-discrimination legislation in the private rental market;
- ✓ to propose measures to guarantee and control the quality of the housing stock (the possibility to officially register rental contracts free of charge would be one option). In relation to this, housing should be guaranteed to people who have to leave their home when it is declared unhealthy, overcrowded, etc.;
- ✓ to advocate for the construction of more social housing and the creation of social real estate agencies;
- ✓ to propose measures to ensure that other social rights are guaranteed such as adequate minimum wages and fair working conditions (e.g. open ended contracts instead of short term engagements or even “zero hours” contracts);
- ✓ to introduce policy measures to support people become property owners, in particular young families (taxation policy, tax benefits).
- ✓ to advocate for better urban planning: invest in disadvantaged neighbourhoods, but avoid gentrification.

- ✓ to promote the ratification of the European Social Charter (revised), the acceptance of articles 16, 30 and 31 and the acceptance of the collective complaints procedure.

The full presentation of Peter Verhaeghe can be found [here](#).

The commodification of the housing market has been mentioned as a major challenge in certain countries. This is because housing is seen as an investment rather than a right. In the **Netherlands**, for instance, small private investors buy houses which then are rented for much higher prices. This blocks low-income groups from affordable housing of good quality. This also increases the risk of discrimination and makes it much more difficult for central and local governments to control the housing market. In other cases, local authorities sell social housing to private investors which may be acceptable for balancing the local budgets but it creates discrimination and pushes low-income people in the edges of the cities.

In **Greece** social rights are challenged because of the country's economic situation. One of the main problems in Greece is the lack of social housing for certain groups of the population such as Roma. Another issue is related to the very poor living conditions of asylum seekers and refugees. The Greek Ombudsman addresses these questions together with UNHCR and civil society organisations.

In addition, a new Greek anti-discrimination legislation of 2016 includes social status as a prohibited ground of discrimination.

**Cecilia Forrestal** from Community Action Network ([CAN](#)), Ireland, mentioned two main problems with housing in Ireland. The first is related to the follow-up to [Collective Complaint No. 110/2014](#), lodged by the International Federation for Human Rights (FIDH) v. Ireland. The European Committee of Social Rights adopted its [decision on the merits](#) on 12 May 2017, declaring that Ireland was in violation of Article 16 of the Charter because the government had failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for a non-insignificant number of families living in local authority housing. She shared how difficult is to implement the decision of the European Committee of Social Rights and to engage local authorities and the State in this direction. She added that CAN has been trying to link the collective complaint to existing human rights and equality legislation to examine if public bodies comply with their public sector duty.

Cecilia Forrestal also mentioned the work of CAN with people experiencing mortgage distress (see Report [House Hold: Life in mortgage distress](#), CAN, November 2018). There are 66.000 mortgages in distress in Ireland and 20.000 going through the courts. CAN has informed people concerned about European legislation which should apply in these cases and which should protect them against eviction. One concerns the EU [Unfair contract terms directive](#) and the second - the application of the Charter of Fundamental Rights of the European Union.

There is a very little collective action on this issue because most of the people concerned have gone through this experience alone. It is therefore important to break the silence and accompany them to take legislative action.

## **Towards efficient protection of the right to housing in Europe: the international response**

*Synergies between the European Social Charter and the European Pillar of Social Rights*

**Olivier de Schutter**, Professor at UCLouvain and SciencesPo and member of the UN Committee on Economic, Social and Cultural Rights presented a comparative study on the [European Social Charter](#) and the [European Pillar of Social Rights](#), commissioned by the Council of Europe at the request of the Platform.

The study aims at exploring the contribution of the European Pillar of Social Rights, proclaimed by the European Union institutions in November 2017, to the protection and promotion of social rights in the European Union, and how to create synergies with the European Social Charter in the future.

Part I of the study describes the protection of fundamental social rights in the EU. It then addresses, in part II, the added value of the European Pillar of Social Rights. Finally, it discusses, in part III, how the Pillar could strengthen its links with the European Social Charter. According to Olivier de Schutter, the European Social Charter, being the main instrument for the protection of social rights in Europe to which all EU member States are parties, should seize the opportunity represented by the adoption of the Pillar to strengthen social rights in Europe.

In his study, Olivier de Schutter makes concrete proposals in order to build further synergies:

### ✓ **Proposal 1**

The overwhelming majority of principles of the European Pillar of Social Rights correspond to guarantees of the European Social Charter. To the extent that there is an overlap between the EU Charter of Fundamental Rights and the European Pillar of Social Rights, strengthening the references to the European Social Charter in the commentary to the European Pillar of Social Rights could help compensate, in part at least, for the paucity of references to the European Social Charter in the Explanations appended to the Charter of Fundamental Rights, which serve as an authoritative guide to its interpretation.

### ✓ **Proposal 2**

The references in the European Pillar of Social Rights to the corresponding provisions of the European Social Charter should be accompanied by a

recommendation to take into account their interpretation by the European Committee of Social Rights, as a means to strengthen convergence.

✓ **Proposal 3**

The references to the European Social Charter and to its interpretation by the European Committee of Social Rights shall constitute a strong encouragement to the Court of Justice of the European Union to align the status of the European Social Charter with that of other international human rights instruments ratified by all the EU member States, and to treat as authoritative its interpretation by the European Committee of Social Rights.

✓ **Proposal 4**

In the current situation, the budgetary discipline imposed under the "Fiscal Compact" may lead the EU member States parties to the 2012 TSCG ([Treaty on stability, coordination and governance in the economic and monetary union](#)) to adopt measures that lead to violations of the European Social Charter. Article 3(3)(b) of the TSCG allows for certain deviations from budgetary commitments in the presence of "exceptional circumstances", defined as "an unusual event outside the control of the Contracting Party concerned". In the future, a finding by the European Committee of Social Rights that a particular measure, made in the name of fiscal consolidation, leads to a situation that is not in conformity with the European Social Charter, should be treated as such an "exceptional circumstance". It should thus allow a deviation from the budgetary commitments of that State.

✓ **Proposal 5**

The adoption of the European Pillar of Social Rights provides an opportunity to further strengthen the social rights component of Impact Assessments. This could be achieved not only by reference to the European Pillar of Social Rights, but also by an explicit reference to the European Social Charter. In future, it should be prepared in order to assess:

- the Stability or Convergence Programmes presented by the EU member States as well as the [country-specific recommendations](#) (CSR) addressed to member States in the [European Semester](#) cycle;
- prescriptions addressed to countries under the "enhanced surveillance" mechanism for countries of the Eurozone facing or threatened by, serious financial and budgetary difficulties (under Regulation No. 472/2013), so as to ensure that the structural measures these countries adopt do not lead to violations of fundamental social rights;
- the [Memorandum of Understanding](#) negotiated and signed by the European Commission acting on behalf of the [European Stability Mechanism](#) (ESM) with the countries granted financial assistance.

✓ **Proposal 6**

Most of the provisions of the European Pillar of Social Rights require to be implemented not by the EU (or not by the EU only), but (also) by the EU member States. The process of convergence encouraged by the European Pillar of Social Rights would be significantly facilitated if all EU member States ratified the most recent version of the European Social Charter and accepted all its provisions; or, if that cannot be achieved, if they agreed on a number of paragraphs that they all accept as binding.

- ✓ the full presentation of Olivier de Schutter can be found [here](#)
- ✓ the Study on the European Pillar of Social Rights and the role of the European Social Charter in the European Union legal order can be found [here](#)

*The effectiveness of existing housing rights frameworks and tools at the European and international level. What could be the role of National Human Rights Institutions and National Equality Bodies?*

**Henrik Kristensen**, Henrik Kristensen, Deputy Head of Department, European Social Charter, presented Article 31 on the right to housing of the European Social Charter. He pointed out that the right to housing is closely connected to the right to life and other civil, political, economic and social rights and freedoms. The right to housing facilitates social inclusion and integration and can contribute to reducing socio-economic inequality; it is in effect a pre-condition for a full and proper enjoyment of many of the other rights in the Charter.

Despite its fundamental importance, Article 31 is unfortunately the least ratified of the Charter's provisions: only 10 States Parties have accepted it entirely and 4 States have accepted it partially, that is Article 31§1 or 2 or both. Henrik Kristensen explained that this problem is to a certain degree compensated by the fact that the European Committee of Social Rights examines aspects of the right to housing also under Article 16 on the rights of the family, which in its turn is accepted by most States Parties. But the scope of Article 16 with respect to housing goes only so far and, in addition, the European Committee of Social Rights' ambitious interpretation is not uncontroversial and has on occasion been contested by States who consider that they did not sign up to wide-ranging housing obligations when accepting Article 16.

Therefore, encouraging more acceptance of Article 31 by States is an important challenge for the Council of Europe.

The full presentation of Henrik Kristensen can be found [here](#).

**Maria Jose Aldanas Sanchez**, Policy Officer at European Federation of National Organisations working with the Homeless (FEANTSA), informed the participants about the publication of the Report [Third Overview of Housing Exclusion in Europe](#)



[2018](#), issued in March 2019. The report, in addition to being a repeated call for local, national and European authorities to act, is also a basis for action, recommending strategies to be adopted and pitfalls to be avoided for the implementation of integrated strategies to reduce and to eradicate homelessness. Analysis of the Eurostat/EU-SILC data on housing exclusion, carried out annually for the European Housing Exclusion Index, shows that while the quality of housing is gradually improving at European level, the continuous increase in housing costs is putting more and more pressure on all households. The report shows that inequalities and housing exclusions have increased between 2010 and 2016, with the situation of people below the poverty line having worsened in particular. The profiles of homeless people are changing, with children becoming the largest group of people in emergency shelters as a result of deterioration in the living conditions of extremely vulnerable families. Women, young people, people with a migration background, the working poor, are becoming increasingly numerous among the homeless population. Finally, an analysis of the implementation of the right to housing in Europe in 2017 reveals the growing gap between the rights guaranteed by European and international treaties and the reality of local and national situations. Maria Jose Aldanas emphasised that member States have a legal obligation to respect the right to housing for all. By mobilising a legal base, political will and strategic planning simultaneously, the eradication of homelessness and the fight against housing exclusion cease to be out of reach and become imperatives of human dignity as well as proof of the credibility of the European social project.

Maria José Aldanas also presented the tool [Housing-Related Binding Obligations on States from European and International Case Law](#), prepared in collaboration with the Foundation Abbé Pierre. The tool includes minimum standards relating to housing rights that have to be respected in Europe and it is intended to assist NGOs, lawyers and other organisation to gain knowledge on European law to combat homelessness and social exclusion.

Maria José Aldanas emphasised that FEANTSA is trying to rely on legally binding instruments such as the European Social Charter and the Charter of Fundamental Rights of the European Union as benchmarks to monitor progress on the right to housing in the EU. The reference nevertheless remains Article 31 of the European Social Charter and the interpretation of the European Committee of Social Rights.

**Grigorios Tsioukas**, Seconded National Expert, FRA, presented the [Report on Child Poverty](#), issued in October 2018 by the FRA. The objectives of the Report are:

- ✓ to show that child poverty is a reality for a great number of children in the EU;
- ✓ to contribute in the discussion for a more 'social Europe' from rights of the child perspective;
- ✓ to point out that 'social Europe' cannot exist unless child poverty is effectively addressed by member States;

- ✓ to stress that combating child poverty is not only a matter of policy choices and priorities, but it is also an issue of fundamental rights and legally binding obligations, both for EU member States and EU institutions.

With regard to housing, the Report notes that being deprived of decent housing with electricity and sanitation facilities constitutes a striking violation of human rights. Moreover, it is a matter of concern when certain households have difficulties to provide goods and services for their own basic needs that most of their peers enjoy (television, computer, phone, car or holiday).

In 2016, almost 7 % of families with dependent children experienced severe housing deprivation (in 2017 dropped to 6.5%). In households without children, the EU average of severe housing deprivation is 3 %.

The FRA proposes several actions to be undertaken:

- ✓ Strengthening the legal framework
- ✓ Focusing on the most vulnerable
- ✓ Using European policy mechanisms to protect children from poverty
- ✓ Taking action to implement the European Pillar of Social Rights
- ✓ Effectively funding the fight against child poverty

The full presentation of Grigorios Tsioukas can be downloaded [here](#).

**Olivier de Schutter** welcomed the references to the European Social Charter made in the FRA's Report on Child Poverty and in particular the recommendation to take into account the rights enshrined in the European Social Charter when developing policies and taking measures to combat child poverty. He also recalled a study carried out and submitted to the European Parliament which concludes that accession of the European Union to the European Social Charter is easier to achieve than accession to the European Convention of Human Rights. He pointed out that the more this message is put forward by different institutions, the more it will become at some point inevitable for the European Union to take action. And if accession is not possible, other means to link member States to international human rights instruments to which States have committed could be explored.

**Chrisoula Arcoudis**, Seconded National Expert, Roma and Travellers Unit, Council of Europe, put the Roma and Travellers issue on the agenda of the meeting. She pointed out that the role of human rights organisations is, in essence, to strengthen the capacity of rights holders to claim their rights, to understand their rights, to know their rights and to be able to seek their rights. Therefore, the role of duty bearers, including international organisations, is to fulfil their obligations towards rights holders. The question she put forward is why the protection of fundamental human rights is not effective when there is a large number of international legal standards and obligations?

Chrisoula Arcoudis underlined that Roma are the most marginalized, particularly in the former communist countries. Reports show that 80% of Roma live below the

poverty line and that the most affected are Roma children and families with more than 4 children. In certain member States, there is a conscious policy of exclusion of the Roma.

In some UNICEF reports, the situation of Roma children is equivalent to that of developing countries. It is equal to a humanitarian crisis. In addition, if Roma families and children in particular cannot enjoy decent housing, no other rights can be guaranteed, including civil and political rights.

The reality shows that Roma live in homelessness, despite this they are unable to seek justice or remedy. This creates a cycle of transgenerational poverty which is very difficult to break.

Chrisoula Arcoudis also mentioned the phenomenon of evictions and shared with the participants the [Joint Statement](#) on evictions of Roma and Travellers in Europe, as well as the cases brought before the European Court of Human Rights, dealing with evictions, but also related to discrimination (Articles 8, 3 and 14 of the Convention).

**Claude Cahn**, from the UN OHCHR's Regional Office for Europe, referred to the current political context and the extent to which international human rights organisations are under pressure from people and from competing political discourses. At present, international human rights organisations face challenges related to unaffordable housing, low wages and low living standards. For Claude Cahn, the European Pillar of Social Rights is frustrating precisely because it does not respond to these challenges in any meaningful way. Although it is well written and structured, taking into account the European Social Charter and the case law of the European Committee of Social Rights, it does not reshape the way people in the member States are feeling at present, it does not adequately respond to their needs.

The second point mentioned by Claude Cahn concerned the growing problem of 'vulture funds' and financialisation of real estate. Currently, huge international companies are investing in real estate in urban areas, which artificially increases the prices of real estate. These operations are intended to migrate money and leave real estate often empty. For instance, a housing company in Ostrava, Czech Republic, has been recently involved in the eviction of a large Roma neighbourhood in order to build a housing park for older persons. In these cases, several violations of human rights can be identified such as exclusion, discrimination, poverty, eviction. The problem is that housing is not seen as a right to be provided, but as a commodity and investment. It is even worse when EU money is spent, which is sometimes the case. According to Claude Cahn, the answer to this problem is regulation. Community members should be protected from real estate market speculations.

The third point raised by Claude Cahn was related to the fact that policy questions are often very ethnically charged. Policy makers need to recognise this and

challenge it with appropriate measures. Excluding one particular ethnic group from housing or depriving it from other benefits is not acceptable as this is a general, universal right. Unfortunately, racial divisions are frequently denied or avoided in public discourse.

Claude Cahn emphasised the role of the collective complaints procedure, which has provided civil society with a way of challenging a policy without the obligation to exhaust domestic remedies, find the victim and put it in the context of bearing the weight of social change.

The procedure helps authorities to move forward in certain aspects of social rights policy. Unfortunately, when it comes to the Pillar, one can see that it does not put the rights in the hands of people, it does not sufficiently answer the call of 'what is a right'. People should have the possibility to claim their rights, and if they can be claimed, they can be challenged. Claude Cahn called for the universalization of the acceptance of the collective complaints procedure and the full range of the European Social Charter's provisions, as well as the acceptance of the [Optional Protocol](#) to the International Covenant on Economic, Social and Cultural Rights. So far, only 10 European countries have accepted the Optional Protocol, which is comparable to the acceptance of the collective complaints procedure (15 countries have accepted it). They are complementary and extremely needed tools: one for challenging policy and the other for making social rights real in human terms.

### **Towards efficient protection of the right to housing in Europe: the national response**

*Good practices of National Human Rights Institutions and National Equality Bodies as regards the right to housing from the point of view of discrimination (individual complaints), the promotion of rights and the structural change (legislative advice)*

In **Latvia**, for example, the Ombudsman is carrying out research, takes part in individual cases, litigation and participates in the drafting of laws. Indeed, research on assisting municipalities realise the right to housing has been carried out progressively involving different groups at risk of poverty and homelessness. As a result of the research, the Ombudsman's Office made recommendations to municipalities and relevant ministries in order to follow the measures taken by local authorities to address the housing needs of certain groups of people.

In order to push local and national authorities to take concrete measures, the Ombudsman's Office is also using recommendations addressed to Latvia by the Council of Europe, the United Nations, the OECD and the EU.

**Anete Ilves** from the Office of the Ombudsman of Latvia, emphasized that, although Latvia has accepted Article 31.1 of the European Social Charter, the Ombudsman's Office relies more on the International Covenant on Economic, Social and Cultural Rights.

The full presentation of Anete Ilves can be downloaded [here](#).

**Lucas Roorda** from the Netherlands Institute of Human Rights presented its work on homeless youth, whose number is growing rapidly. According to official figures, there are 12.000 homeless youth, but according to the Institute, this number might be doubled. There has been an increase of 50% in the last couple of years.

One of the problems is that homeless youth participate very little in policy debates. Many homeless youth have drug, psychological and health problems. It is therefore difficult to propose a generalised response and policies.

In terms of housing policies, there is a great vertical fragmentation around the issue of housing because some of the policies are decided at the local level, others at the national level. It is often difficult to define who is responsible for providing an adequate response in terms of policies and programmes, as well as in terms of funding. Therefore, it is very difficult to have an integral, holistic view of the problems of homeless youth.

The Netherlands Institute for Human Rights has set up a platform where young people can discuss with policy makers at the national and local levels, and vice versa. Civil society organisations representing homeless youth are also involved in this process as they have large networks at the local level. Regular meetings are held within the platform in order to evaluate the progress made on specific issues raised by homeless youth. The role of the Institute is also to translate the needs of homeless youth into a human right and to make them understand that someone has a duty to respond and realise their rights.

In order to tackle certain issues related to homeless youth, the Human Rights Institute has identified four key areas in terms of rights protection:

- ✓ housing
- ✓ education
- ✓ living standard
- ✓ policy participation

From this perspective, the human rights-based approach holds a central place to getting a more integrated perspective of the problem rather than just a fragmented, policy driven approach.

Lucas Roorda shared some challenges faced by the Institute in the framework of the Platform:

- ✓ the difficulty of getting a long-term commitment from homeless youth;
- ✓ the importance of identifying intermediate goals to keep them motivated;
- ✓ the challenge of convincing them that coming and talking to policy makers makes a practical difference for them such as legal aid or other types of supports.

To conclude, Lucas Roorda mentioned that NHRIs need civil society organisations, private companies and other stakeholders to get in contact with homeless youth, but need to remain independent and protect the rights of rights holders.

Web site of the Netherlands Institute of Human Rights:

<https://www.uu.nl/en/research/netherlands-institute-of-human-rights-sim>

In **Belgium**, the transition from youth to adulthood is not always easy for young persons. Many of them become homeless at the age of 18, without resources and with limited knowledge about their rights after 18. In some cases, young people are asked to move out of the familial home when they become adults because the total amount of social benefits is lower than it is without this young adult. Parent/s are then “obliged” to ask the young adult to leave.

**Marion Sandner** from the Equality and Human Rights Commission (EHRC), United Kingdom, presented the case of the Grenfell Tower fire in west London, where seventy-two people died after a huge fire engulfed the Tower on 14 June 2017.

The events surrounding the fire and the subsequent treatment of survivors, their families and the community, raise serious equality and human rights questions. The Tower has gone under a major renovation in 2015/16 and received a new (low-cost) cladding to improve heating and energy efficiency, and external appearance. Residents, as well as independent assessors, had repeatedly expressed significant safety concerns regarding the cladding prior to the fire. The rapid spread of the fire has been attributed to the building's exterior cladding, a type in widespread use and highly combustible. After the fire, local authorities were criticised for neglecting the borough's poorer residents, and some have blamed their negligence as a cause of the fire.

Building regulations are currently under review in the light of the fire due to concerns with the rules and their enforcement. There is also a concern over fire safety issues with regard to many other buildings, but to date, this particular cladding has not been prohibited yet.

The objective of the EHRC was to ensure the human rights and equality dimension of the fire and the surrounding circumstances was not overlooked in the public investigations, and to do as much as possible to ensure that similar tragedies do not happen again. In addition, it was important to ensure that an effective, independent and impartial investigation is carried out by public authorities.

The United Kingdom has ratified the International Covenant on Economic, Social and Cultural Rights but has not incorporated the right to housing in its domestic legislation. Marion Sandner pointed out that the EHRC is trying to advocate for this but there are no concrete results for the time being. Consequently, the Commission relies on rights incorporated into domestic legislation (e.g. the UK Equality Act and UK Human Rights Act which incorporates the European Convention of Human Rights into UK law) and in particular on the right to life. The State has an obligation to

protect the life of individuals and to put in place a legislative and administrative framework designed to effectively deter threats to the right to life, including the right of people to information.

The EHRC has put forward several questions related to the Grenfell Tower fire. In particular:

- ✓ which laws should have protected the safety of Grenfell Tower residents and what arrangements were in place for ensuring that residents' concerns were heard?
- ✓ what support can people who have suffered 'inhuman and degrading treatment', like many survivors and others affected by the fire, expect from the State?
- ✓ how have children affected by the fire been treated since, in terms of things like psychological support, housing and education?
- ✓ what immediate and long-term support, such as medical treatment, counseling, care and housing, can they expect?
- ✓ was the housing provided to Grenfell Tower residents adequate?
- ✓ how easy was it for tenants and residents to obtain legal advice about the condition of Grenfell Tower?

Another key question is whether a positive discrimination in favour of disabled residents, children, and pregnant women could be considered. It was found that the escape routes in Grenfell Tower were not accessible for disabled people. Therefore, the Commission asked what adjustments were made to policies or to Grenfell Tower itself, to accommodate the needs of particular groups.

An Independent public inquiry which runs alongside the criminal investigations was also launched after the fire. The objective is to examine the cause and spread of the fire, whether building regulations and fire protection measures were adequate and complied with, to examine the actions of the local council and Grenfell management in general prior to the fire.

The EHRC has been trying to influence the Inquiry and the public debate through public submissions and briefings in the course of the Inquiry, to comment on evidence that is heard by the Inquiry from a human rights perspective, to draw specific conclusions and make recommendations to national and local authorities, to advocate for displaced residents and provide a platform for the community to voice its experiences and concerns.

At international level, the EHRC has cooperated with the UN Committee on Economic, Social and Cultural Rights and with the UN Special Rapporteur on the Right to Housing which helped them to reach a broader audience and promote the human rights dimension of the issue.

The challenges faced by the EHRC were mostly related to the delays and the narrow scope of the Public Inquiry, to the lack of stakeholders' engagement, especially with

regard to the survivors and the community itself, and the lack of legal enforceability of international human rights treaties.

The full presentation of Marion Sandner can be downloaded [here](#).

As for the *Commission nationale consultative des droits de l'homme* (CNDCH), France, it is mainly engaged in advocacy actions, but also in providing recommendations on draft legislation.

The Commission has been recently working, together with the "Abbé Pierre" Foundation and other actors, on the situation of slum areas in France. The majority of the population living in slums in France is Roma, but not exclusively. Today, according to the CNDCH, there are around 20.000 persons living in slums in France and the number has not changed since 2000. The reason is that there is no national prevention strategy.

To address this issue and also to respond to the requirements of the [EU Framework for National Roma Integration Strategies](#), the French Government created DIHAL ([Délégation interministérielle à l'hébergement et à l'accès au logement](#)) in 2010. The objective was to have a national strategy in relation to the framework set out by the EU. According to **Mérodie Le Hay**, *Chargée de mission* at the Commission, the problem was that DIHAL had no enforcement power and that the implementation of the EU requirements was very much depending on the local authorities' willingness. In addition, the Circular on the evacuation of illegal settlements of 5 August 2010 covered two main components: prevention and repression. The only part implemented was the repression because of the number of evictions carried out by the authorities.

Mérodie Le Hay informed the Platform that the government has issued in early 2018 a new instruction, which supplements the 2010 Circular. This new instruction outlines the importance of taking preventive measures more than repressive. The instruction also includes issues such as education, medical assistance, health safety, housing, etc. The coordination and the enforcement power of DIHAL were also strengthened.

One of the main problems identified by the CNDCH was the lack of communication between the different stakeholders: local authorities, national authorities, DIHAL, associations and civil society organisations working with people in slum areas. According to Mérodie Le Hay, this communication and coordination have been improved and strengthened thanks to the setting up of a monitoring commission at national level which brings together the different actors around the table. In addition, several working groups have been established within the Commission.

The city of Strasbourg was mentioned as a good example of the establishment of adequate policies of inclusion and non-discrimination towards people living in slums.



Web site of the *Commission nationale consultative des droits de l'homme*:  
<https://www.cncdh.fr/>

**Tatjana Prijić** from the Office of the Commissioner for Protection of Equality of Serbia informed the Platform that Serbia has not accepted Article 31 of the European Social Charter on the right to housing. Nevertheless, the Commissioner relies on the existing Housing Act in Serbia, which also includes social housing.

When dealing with violation of the provisions of the law relating to housing, the Commission provides opinions and recommendations in specific cases.

At present, very few cases relating to housing are brought before the Commission. For this reason, the Commission, in cooperation with an NGO working on human rights, initiated a survey in the Roma community of Belgrade to study the renting situation of tenants. The results of the survey showed that Roma community was not discriminated, which was not the case when the situation was examined in 2013. Consequently, it can be noted that some progress has been achieved over the last years, but much remains to be done, especially with respect to lodging a complaint.

The Commissioner can also initiate lawsuits related to the protection against discrimination. Tatjana Prijić shared a concrete example where a court decision on discrimination against Roma was applied on the basis of a lawsuit. She underlined the importance of working with national judicial bodies and to make their decisions known to the public.

She also highlighted the role of the media in addressing human rights issues and their influence on public opinion.

In **Kosovo\***, the legal framework guarantees the right to housing. Local authorities are those responsible for implementing social housing policies. One of the main problems of local authorities is the inadequacy of the social housing stock while the demands are too numerous. In this respect, the Ombudsman's Office has received several complaints from individuals. The issue of social housing is therefore included in each annual report of the Ombudsman. The Ombudsman has recommended to the Government to change social housing policy in Kosovo\* in order to provide better solutions for the population.

In the **United Kingdom**, there are cases where landlords discriminate against national minorities and migrants on the basis of recently adopted legislation according to which a person of colour might not be able to rent a dwelling because of his or her residency status. These laws are currently challenged in a case before the government of the United Kingdom.

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\* All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo

It was also mentioned that **Scotland** is currently setting up its social security system. One of the principles of the Social Security Act is that social security is a human right. This shows that the Scottish government clearly adopts a human rights-based approach in respect of social security. The representative of the Scottish Human Rights Institution said that it will be important to follow these developments in the future.

### **Concrete solutions and next steps for the Platform**

Platform's partners shared their ideas on the topics to be discussed at the next meeting/s, as well as working methods.

The following topics have been proposed for future meetings:

- ✓ Human rights budgeting and maximum resources available for human rights bodies;
- ✓ Further examination of the synergies between the European Social Charter and the European Pillar of Social Rights to really examine how the study, presented by Olivier de Schutter at the meeting, can be used at the national level;
- ✓ Article 8 on the right of employed women to protection of maternity;
- ✓ Article 12 on the right to social security;
- ✓ Article 23 on the right of elderly persons to social protection;
- ✓ Article E on non-discrimination.

With regard to working methods it was suggested to:

- ✓ work more in small groups to have more interaction between participants;
- ✓ mix the policy level further with national experiences;
- ✓ share and use the findings of international organisations such as the Council of Europe and its committees, the European Union and its agencies and the United Nations.

In addition, participants asked to have more time to further develop certain topics, to receive feedback from international experts on national policies put in place, on how to approach economic and social rights at the national level and on how to address policy makers.

It was also suggested to explore the possibilities of engaging with the UN Committee on Economic, Social and Cultural Rights and the individual complaints system.

ENNHRI informed the Platform of the upcoming flagship event to be organised in 2019 with the OSCE Office for Democratic Institutions and Human Rights (ODIHR) on how to translate the recommendations given by international organisations into a language which appeals to people. Moreover, a Study on how to measure poverty in the EU member States and beyond will be published in 2019.

As for Equinet, the following meetings on social and economic rights will be organised in 2019:

- ✓ Capacity building seminar on supporting the equality for older persons in relation to Article 23 of the European Social Charter.
- ✓ Training for equality bodies on building positive narratives.

For FRA, the following topics will be of particular interest in 2019:

- ✓ poverty ([Child Poverty Report](#), 2018);
- ✓ the rights of older persons (the [2018 Fundamental Rights Report](#) dedicates its focus chapter to the equal treatment of older people and respect for their fundamental rights);
- ✓ report on linking social rights and the concept of sustainable development established by the UN 2030 and the Sustainable Development Goals;
- ✓ the synergies between the European Pillar of Social Rights and the European Social Charter.

Participants were very much interested in ways to better communicate about social rights, formulate and transmit a positive human rights narrative and speak to rights holders and duty bearers.

It was also underlined that the conclusions and decisions of the European Committee of Social Rights should be made more accessible, as well as the reports submitted by the State Parties.

## Conclusions of the meeting

At the end of the meeting, **Jan Malinowski** emphasised that the [Turin Process](#) under the European Social Charter, launched in 2014, is still relevant including its objective of encouraging the ratification of the European Social Charter (revised) and acceptance of the additional Protocol providing for a system of collective complaints by all Council of Europe member States. He also mentioned the forthcoming ministerial conference in Helsinki in May 2019 under the [Finnish Chairmanship of the Committee of Ministers of the Council of Europe](#) and the hope that social rights will be included in any relevant document adopted at the meeting. In the meantime, he invited NHRIs and NEBs to continue to carry the message of social rights at national level and make sure that national authorities understand the importance of social rights which, he emphasised, should not be confused with charity or gratuity.

Jan Malinowski stressed the importance of the following issues discussed at the meeting:

- ✓ the idea of indirect activation of rights and how to assert rights in indirect mode when a specific legislation does not exist;
- ✓ the interrelation of rights and how housing affects many other rights;

- ✓ the empowerment of rights holders to exercise their rights and the duty of the State to put rights holders in a position to actually assert their rights;
- ✓ the threat of commodification of rights and their morphing into services, which leads to the rights gradually disappearing;
- ✓ the notion of good democratic governance which requires that people are engaged—through outreach, empowerment and dialogue—in respect of policy-making on matters that concern them.

The conclusions of the meeting were presented by **Tanya Montanari** from the Department of the European Social Charter, Council of Europe.

She recalled that human rights are universal, indivisible and interrelated and that, in this respect, the right to housing cannot be examined alone without taking into account all the other rights affected. She also reminded that even if member States are not bound by certain international standards, they are still under an obligation to respect human rights and the duty to respond to people's needs.

As a result of the discussion, the following ideas and thoughts could be highlighted:

- ✓ the right to a decent housing is a core human right;
- ✓ the right to housing should be seen in a broader context of economic and social rights in general in order to find long-term solutions to the problems of respect for this right;
- ✓ the right to housing is linked to many other rights, such as the right to health, the right to life, the right to fair working conditions, the right to decent living standard, the right to equal treatment, etc.;
- ✓ housing is not a commodity nor an investment; therefore, investment in housing has to be regulated by state authorities and communities should be protected from real estate markets speculations;
- ✓ the right to housing is guaranteed in international treaties, but is not always reflected in national laws, which curtails its implementation at the national level and complicates the work of national human rights institutions, equality bodies and civil society;
- ✓ the existence of national antidiscrimination legislation and its implementation by member States is essential;
- ✓ national authorities in particular, but also NHRIs and NEBs need to collaborate with rights holders and more specifically with persons belonging to vulnerable groups such as Roma, children, women, people with migrant background;
- ✓ rights holders need to be empowered and stigmas need to be taken away;
- ✓ there is a need to foster 'interlinkages' between partners and frameworks (legal and policy frameworks) in order to tackle the multi-dimensional problem of the lack of housing;

During the meeting, it was also highlighted that in many cases the European Committee of Social Rights sets up standards going beyond the minimum standards

enshrined in EU law. It is therefore challenging for States to comply with different legal orders.

Participants agreed that a broader acceptance of the provisions of the European Social Charter (revised) and the collective complaints procedure would allow for better monitoring of rights and would help States to develop adequate national policies which respect social and economic rights at the national level. Several participants underlined the role of the European Social Charter and in particular of the collective complaints procedure as a tool for civil society to challenge public policies and achieve results.

With regard to the European Pillar of Social Rights, although it is a positive step in securing economic and social rights, many concerns have been expressed during the meeting. The main question is whether the European Union institutions would pursue the goal of the Pillar after the next European elections in May 2019. Another fear is that the Pillar actually does not put rights in people's hands, so people cannot challenge it in a valuable way. This issue was underlined several times having in mind that the purpose of the Pillar is to serve as a guide towards effective employment and social outcomes by responding to current and future challenges which are directly aimed at fulfilling the essential needs of the community, and ensuring better enactment and implementation of social rights.

The meeting again illustrated the need for a strong commitment amongst partners to ensure that national and international frameworks and policies benefit persons whose rights are at risk, such as homeless persons or those experiencing social exclusion.

## APPENDIX I - Programme

9 a.m. *Registration*

9:30 a.m. **Opening Session**

Welcome and introductory remarks:

Jan Malinowski, Head of Department of the European Social Charter, Council of Europe

**Setting up the scene:  
challenges for the effective safeguarding of the right to housing in Europe**

Moderator: Grigorios Tsioukas, Seconded National Expert, European Union Agency for Fundamental Rights (FRA)

9:45 a.m. Trends, current challenges and new developments in the field of right to housing in Europe – experience of NHRIs and NEBs

Introduction by Peter Verhaeghe, Caritas Europe, representative of the Council of Europe Conference of INGOS

Tour de table

Discussion

10:45 a.m. *Coffee break*

**Towards efficient protection of the right to housing in Europe:  
the international response**

11 a.m. Moderator: Tamas Kadar, Head of Legal and Policy Team, the European Network of Equality Bodies (EQUINET)

Synergies between the European Social Charter and the European Pillar of Social Rights

Speaker: Olivier de Schutter, Professor, University of Louvain (UCL), member of the UN Committee on Economic, Social and Cultural Rights

Discussion

Moderator: Tamas Kadar, Head of Legal and Policy Team, the European Network of Equality Bodies (EQUINET)

The effectiveness of existing housing rights frameworks and tools at the European / international level. The role of National Human Rights Institutions and National Equality Bodies.

Panelists:

Henrik Kristensen, Deputy Executive Secretary of the European Committee of Social Rights

Maria Jose Aldanas Sanchez, Policy Officer at European Federation of National Organisations working with the Homeless (FEANTSA)

Grigorios Tsioukas, Seconded National Expert, FRA

Olivier de Schutter, Professor, University of Louvain (UCL), member of the UN Committee on Economic, Social and Cultural Rights

Chrisoula Arcoudis, Seconded National Expert, Roma and Travellers Unit, Council of Europe

Claude Cahn, UN OHCHR's Regional Office for Europe

Discussion

*1 p.m.*

*Lunch break*

### **Towards efficient protection of the right to housing in Europe: the national response**

*2:30p.m.*

Good practices of National Human Rights Institutions and National Equality Bodies as regards:

- Right to housing from the point of view of discrimination (individual complaints)
- Promotion of rights
- Structural change (legislative advise)

Moderator: Cecilia Ines De Armas Michelis, Human Rights Policy Assistant, European Network of National Human Rights Institutions (ENNHRI)

Panelists:

Marion Sandner, Senior Associate – Treaty Monitoring, Equality and Human Rights Commission, United Kingdom

Lucas Roorda, Netherlands Institute for Human Rights, the Netherlands

Anete Ilves, Legal counsellor of Social, Economic and Cultural Rights Division, Office of the Ombudsman of the Republic of Latvia

Mélodie Le Hay, Chargée de mission, Commission nationale consultative des droits de l'homme (CNDCH), France

Tatjana Prijić, Senior Advisor, Office of the Commissioner for Protection of Equality of Serbia

Discussion

4 p.m.

*Coffee break*

### **Concrete solutions and next steps for the Platform**

Moderator: Nina Panikova, Human Rights Officer, European Network of National Human Rights Institutions (ENNHRI)

4:15 p.m.

Discussion on the Platform 4SocialRights output with a view to providing specific and actionable guidance on the effective engagement of national equality bodies and human rights institutions with the European Committee of Social Rights, the implementation of the European Social Charter and synergies with the Social Pillar, to address potential gaps in implementation at national level.

Working methods, definition of capacity building needs of Platform Partners and outline for the next meeting of the Platform

General discussion (CoE, FRA, ENNHRI, EQUINET)

5:15-5:30 p.m.

### **Conclusions of the meeting**

Tanya Montanari, Department of the European Social Charter, Council of Europe



## **APPENDIX II – List of Participants**

### **European Network of Equality Bodies (EQUINET)**

**Tamás KADAR**

Head of Legal and Policy Team

### **European Network of National Human Rights Institutions (ENNHRI)**

**Nina PÁNIKOVÁ**

Human Rights Officer

**Cecilia Ines DE ARMAS MICHELIS**

Human Rights Policy Assistant

### **EQUINET Members**

**Monika GROSER**

Ombudsman for Equal Treatment  
Austria

**Maria VOUTSINO**

Ombudsman for Equal Treatment  
Greece

**Stephanie MAGRO GAZZANO**

National Commission for the Promotion of Equality  
Malta

**Tatjana PRIJIĆ**

Office of the Commissioner for Protection of Equality  
Serbia

**Nena NENOVSKA GJORGJIEVSKA**

Commission for protection against discrimination  
North Macedonia

### **ENNHRI Members**

**Veerle STROOBANTS**

Combat Poverty, Insecurity and Social Exclusion Service  
Belgium

**Mérodie LE HAY**

*Commission nationale consultative des droits de l'homme*/National Consultative Commission  
on Human Rights  
France

**Spyridon APERGIS**

National Commission for Human Rights  
Greece

**Meral TEJECI**

Ombudsperson Institution of Kosovo\*

**Vlora VESELI**

Ombudsperson Institution of Kosovo\*

**Marius MOCANU**

Institute for Human Rights  
Romania

**Dragana MARINKOVIĆ**

Office of the Protector of Citizens of the Republic of Serbia  
Serbia

**EQUINET and ENNHRI Members**

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**Selma JAHIĆ**

Institution of Human Rights Ombudsman  
Bosnia and Herzegovina

**Janja PAVKOVIĆ**

Office of the Ombudswoman  
Croatia

**Jana MIKULČICKÁ**

Office of the Public Defender of Rights, Department of Equal Treatment  
Czech Republic

**Nino SHALAMBERIDZE**

Public Defender Office  
Georgia

**Anete ILVES**

Office of the Ombudsman  
Latvia

**Agnieszka WAŚNIEWSKA**

Office of the Commissioner for Human Rights  
Poland

**Michal RIEČANSKÝ**

National Centre for Human Rights  
Slovak Republic

**Lucas ROORDA**

Institute for Human Rights  
The Netherlands

**Cecilia FORRESTAL**

Community Action Network  
Ireland

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\* All reference to Kosovo, whether to the territory, institutions or population, shall be understood in full compliance with United Nations Security Council Resolution 1244 and without prejudice to the status of Kosovo.

**Marion SANDNER**

Equality and Human Rights Commission  
United Kingdom

**United Nations OHCHR**

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**Claude CAHN**

Office of the United Nations High Commissioner for Human Rights  
Regional Office for Europe

**European Union Agency for Fundamental Rights (FRA)**

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**Grigorios TSIUKAS**

Seconded National Expert  
Equality and Citizens' Rights Department

**European Federation of National Organisations Working with the Homeless  
(FEANTSA)**

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**Maria José ALDANAS SANCHEZ**

Policy Officer

**Consultant**

**Olivier DE SCHUTTER**

Professor, University of Louvain (UCL)  
Member of the UN Committee on Economic, Social and Cultural Rights

**Council of Europe**

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**Chrisoula ARCOUDIS**

Anti-Gypsyism and Roma Equality, I-CARE Unit, Inter-governmental Co-operation  
DGII Directorate of Democracy

**Peter VERHAEGHE**

INGOs Conference of the Council of Europe, Caritas Europe

**Jan MALINOWSKI**

Head of Department, Executive Secretary of the European Committee of Social Rights  
Department of the European Social Charter, DG of Human Rights and Rule of Law

**Henrik KRISTENSEN**

Deputy Head of Department, Deputy Executive Secretary of the European Committee of  
Social Rights, Department of the European Social Charter, DG of Human Rights and Rule of  
Law

**Danuta WIŚNIEWSKA-CAZALS**

Responsible of the Platform

**Tanya MONTANARI**

Web and SharePoint

**Danijela GERDIJAN**

Administration and finances

## **Interpreters**

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**Elisabetta BASSU**  
**Rémy JAIN**  
**Katia DI STEFANO**