

3 August 2016

A Pillar Supporting Housing Rights?

FEANTSA Response to the Commission's Proposal for a European Pillar of Social Rights

Introduction

On 8 March 2016, the European Commission put forward its proposals for a **European Pillar of Social Rights (EPSR)**.¹ The EPSR aims to support a deeper and fairer EMU, whilst strengthening Member States' employment and social performance and helping to overcome the impact of the crisis. The Commission proposes to build on and support the implementation of the EU's "social acquis" i.e. the social rights and competences established under EU law. The Pillar will help to "screen" MS' employment and social performance; to drive reforms at national level; and to provide a framework for social convergence. The Pillar is in part a political reply to the charge that the social dimension of the EU has been undermined by the response Eurozone crisis. The Commission is currently consulting EU authorities, social partners, civil society and citizens to prepare the content and role of the Pillar. This is FEANTSA's first contribution to that debate. FEANTSA looks forward to engaging in further dialogue on the finalisation and implementation of the Pillar.

FEANTSA considers the EPSR to be an unmissable opportunity to strengthen the EU's social dimension. It has real potential to support the fight against homelessness and housing exclusion. However, a number of possible shortcomings and pitfalls need to be addressed for this potential to be reached. Ultimately, the EPSR's impact will depend on the willingness of the Commission, the MS and stakeholders to operationalise it, making the best possible use of the available competences and instruments. The remainder of this document sets out in detail FEANTSA's position on 3 dimensions of the EPSR:

- Opportunities and Potential Pitfalls
- Housing and Homelessness in the EPSR
- Five Practical Recommendations for Implementation

Opportunities and Potential Pitfalls

The proposed EPSR represents a timely chance to renew the social dimension of the EU. FEANTSA welcomes the inclusion of housing and homelessness amongst the 20 priorities covered by the EPSR. This paves the way for better supporting MS to ensure the effective enjoyment of housing and related rights for all. The EPSR could help improve the living conditions of people who have frequently been left behind by EU policy efforts in the social field.

Despite its potential, the proposed outline reveals a number of possible shortcomings and questions. Firstly, the main objective is the completion of the EMU and the internal market. This does not align straightforwardly with the promotion of social rights. It remains to be seen how much genuine ambition to operationalise social rights underpins the Commission's proposals. At this stage, FEANTSA is cautiously hopeful that the Pillar can support Member States to deliver housing rights, notably by tackling homelessness.

¹ The proposals consist of a Communication (COM/2016/0127 final) and a set of supporting documents. See dedicated [Commission web page](#) for more information.

Secondly, the proposal covers an ambitious range of policy areas whilst its form, legal basis and scope are only partially defined. This raises the question of how and to what extent the Pillar will be operationalised. The EPSR can only deliver if concrete initiatives are developed to allow the EU to play what the Commission calls its ‘supporting, guiding and framing role.’² FEANTSA believes that real impact is possible. However, concrete initiatives that go beyond the status quo are needed to deliver. These should in part target people in the most vulnerable situations; ensuring that they are not left out of Europe’s “triple Social A” ambition.³ It is notable that the Pillar proposal does not refer to the Social Investment Package (SIP), which was the Commission’s last overarching initiative on the EU’s social dimension. The SIP’s major weakness was that it was inadequately translated into action. FEANTSA firmly believes that such an implementation gap can be avoided on housing issues in the context of the EPSR. To that end, 5 practical suggestions are provided in the final section of this response.

Thirdly, the Commission’s proposal does not in fact take the form of a Pillar of Social Rights. It focuses on policy domains, which are not given the form and content of actual rights. References to the Charter of Fundamental Rights are mixed with other legal provisions and with general policy guidance and principles. FEANTSA appreciates the Commission’s wish to go beyond the mere statement of rights to a focus on the policy means that can deliver them. However, the current formulation creates ambiguity and potentially weakens the EPSR’s social credibility. The rights-based character of the proposal could be re-enforced, whilst maintaining a focus on implementation.

Fourthly, it is unclear how Member States beyond the Eurozone will be voluntarily involved in implementation of the Pillar. Social rights, including housing and related rights, are an issue for the whole EU. The implementation of the EPSR should reflect this.

Housing and Homelessness in the EPSR

FEANTSA strongly welcomes the inclusion of housing and homelessness amongst the 20 policy domains of the EPSR. Domain 19 under Chapter III on Adequate and Sustainable Social Protection Systems reads:

19. Housing

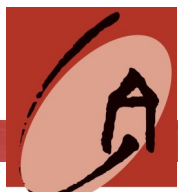
Lack of adequate housing and housing insecurity continues to be a large concern across the EU, leading to increasing financial risk taking, evictions, arrears in rental and mortgage payments, and in some extreme cases, homelessness. Restrictions to supply in housing sector and rental market distortions are contributing to the lack of availability. Lack of adequate housing also remains a barrier for labour mobility, for the establishment of young people on the labour market and for fulfilment of life plans and independent living.

a. Access to social housing or housing assistance shall be provided for those in need. Protection against eviction of vulnerable people shall be ensured, and support for low and medium income households to access home property provided.

b. Shelter shall be provided to those that are homeless, and shall be linked up to other social services in order to promote social integration.

² COM(2016) 127 final

³ As laid out in the [The Five Presidents' Report: Completing Europe's Economic and Monetary Union](#)



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This is an important milestone, which could support better progress in fighting housing exclusion and homelessness in the MS. The proposed text is in line with the emergence of housing exclusion and homelessness as key social issues at EU level over the past 20 years. It mirrors the UN Sustainable Development goals, which include ensuring access for all to adequate, safe and affordable housing and basic services by 2030. It reflects evidence that much of the EU is experiencing a housing crisis.⁴ It implies the need to balance economic and social imperatives in housing systems. It also recognises that housing outcomes act as both a litmus test and a determinant of the effectiveness of welfare systems and labour markets.

The housing priority contains much useful content. It draws on Article 34 of the Charter of Fundamental Rights, covering the right to housing assistance. It goes considerably further than Article 34 to include social housing, protection against eviction, support for low and medium income households, the right to shelter and social services for homeless people.

One potential weakness is confusion between policy means (social housing, housing assistance, shelter, social services) and social ends (the right to adequate housing; the reduction of homelessness). A more clearly rights-based approach could strengthen the housing priority. International human rights treaties,⁵ as well as an emerging body of European and international case law would be useful references. For example, the right to adequate housing in the Revised European Social Charter's Article 31 covers promoting access to housing of an adequate standard; preventing and reducing homelessness with a view to its gradual elimination; and making the price of housing accessible to those without adequate resources. Focusing on the right to adequate housing would provide a coherent point of departure from which to elaborate policies for implementation, taking account of different contexts. The meaning of adequate housing has been defined by the UN Committee on Economic, Social and Cultural rights in terms of security of tenure, affordability, habitability, accessibility, location and cultural adequacy.⁶ This could help to substantiate the housing priority in the EPSR.

FEANTSA applauds the Commission's decision to give specific attention to homelessness within the housing priority. As stated, the EPSR should reach those in excluded and vulnerable situations whose social rights are denied. Whilst strongly welcoming the focus on shelter and social services for homeless people, FEANTSA underlines that they do not constitute *alternatives* to adequate housing. The EPSR must be clear that addressing homelessness is an integral part of ensuring the enjoyment of housing rights for all.

Five Practical Recommendations for Implementation

As the Commission points out, the key challenge for the EU is not the recognition of the importance of social rights *per se* but their actual implementation. FEANTSA hopes that the EPSR can be operationalised to improve housing outcomes, especially for those in the most precarious situations. The following suggestions aim to catalyse debate and joint reflection with institutions, MS and stakeholders.

1. Use international and European ***jurisprudence on housing rights to develop benchmarks***. Social benchmarks look likely to be a focal point for implementing the EPSR. Unlike vague policy principles, legal norms on housing rights could provide a workable basis for benchmarks. There is a growing body of case law on housing rights from the European Court of Human Rights, the European Committee of Social Rights of the Council of Europe, the UN Committee on Economic, Social and Cultural Rights, and the Court of Justice of the European Union. This could be used to help elaborate benchmarks for MS' performance on housing.⁷

⁴ See FEANTSA and Fondation Abbé Pierre (2015) [Overview of housing exclusion in Europe](#), which reports that 11% of the EU's households face housing cost overburden, whilst homelessness has increased in 8/10 MS for which recent trend data is available

⁵ See annex for a summary of how housing rights are enshrined in key international human rights treaties

⁶ Committee on Economic, Social and Cultural Rights, General Comment n°4

⁷ See FEANTSA and the Fondation Abbé Pierre (2016) [Housing Related Binding Obligations on States](#) for an overview

2. Create a ***forum for structured exchange on homelessness and housing exclusion*** There is a good precedent of transnational exchange and mutual learning on homelessness and housing exclusion at EU level. For example, MS have chosen to carry out 8 Peer Reviews on homelessness in the Social OMC. The continuation and strengthening of such exchange would help deliver on housing rights in the context of the EPSR. More impact could be secured by creating a forum for structured exchange over time. Such a forum could specifically target policy makers responsible for housing and homelessness. The establishment of a ***Commission expert group on tackling homelessness and housing exclusion*** would be one way to do this.
3. Use a ***composite housing exclusion index*** to support the Commission's analysis of housing outcomes in the European Semester. EUSILC includes housing indicators such as housing cost overburden, arrears in rent and utilities, overcrowding, severe housing deprivation, ability to maintain a comfortable temperature, etc. Synthesising these could help socialize the Commission's analysis of housing markets and systems.⁸
4. Scale up ***social innovation to deliver on housing rights***. The EU-level can support the social innovation required to meet housing needs. For example, Housing First is a proven innovation in homeless service provision. It has attained unprecedented success in ending homelessness amongst people with complex support needs. Taking it to scale in the EU requires cross-border training, capacity building and sharing of knowledge. Another area of innovation is the use of the European Structural and Development Funds to deliver housing rights. A third is increasing affordable housing supply. Many promising practices exist in these spheres. The EPSR could allow the Commission to support actors in the MS to access and exploit such innovation to meet housing needs.
5. ***Monitor homelessness and policies to address it in the Member States***. Comparable statistics on homelessness at EU level are lacking. This means that the EU struggles to account for the most blatant denial of housing rights. In the context of the EPSR, more systematic use could be made of MS' own homelessness data, notably in the Semester and the Social OMC. ***The Fundamental Rights Agency could carry out a study on homelessness and fundamental rights violations*** to help establish a baseline of the situation in different MS. Implementing the EPSR will require monitoring of MS' policies to address homelessness. The recent Resolution adopted by the UN Human Rights Council on Adequate housing as a component of the right to an adequate standard of living could provide inspiration about what to focus on in this context. The Resolution calls on States to a) take positive measures to prevent and eliminate homelessness by adopting and implementing cross-sectoral strategies and b) eliminate legislation that criminalizes homelessness and ensure effective remedy and the right to access to justice in the context. The Commission itself called on MS to develop integrated homelessness strategies and avoid criminalization in the context of the Social Investment Package. The next step, in the context of the EPSR, should be monitoring whether this is happening.

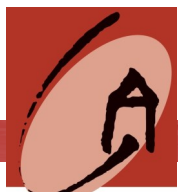
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⁸ NB FEANTSA and the Fondation Abbé Pierre have tested such a composite index in the framework of [Overview of housing exclusion in Europe](#)

Annex: The Right to Housing in Key International Human Rights Treaties

The right to housing exists in several human rights treaties, but its scope and precise content are not very explicit. **Key treaties from which the right to housing can be derived are summarised in the table below:**

International Covenant on Economic, Social and Cultural Rights of the UN	One can derive a right to housing from the right to an adequate standard of living which is recognised in article 11 of the International Covenant on Economic, Social and Cultural Rights of the UN (ICESCR), and further explained in the General Comments 4 and 7 of the UN Committee on Economic, Social and Cultural Rights. The latter provide specific details regarding the different dimensions of the right to housing
European Convention on Human Rights	The European Convention on Human Rights (ECHR) includes specific rights that guarantee a right to housing, including Article 8, the right to family and private life and protection of the home; Article 6, the right to due process in the case of eviction; Article 3, the right to be protected against inhuman and degrading treatment; Article 2, the right to life; and Article 14, the right to protection against discrimination. The right to housing is also grounded in the right to property. An individual's substantial interest in a 'good' can cover in certain situations the protection of one's home irrespective of the tenure status (Article 1, protocol 1).
Revised European Social Charter of the Council of Europe	The right to housing is explicitly recognised in Article 31 of the Revised European Social Charter of the Council of Europe (RESC), which provides specific criteria and guidance for the progressive realisation of the right to housing and the reduction and prevention of homelessness, to the point of its eradication. Housing must be available, affordable and of adequate quality. The Charter also contains the rights to social protection (Article 30) and the right to the protection of family and children (Articles 16 and 17), which have been considered to also constitute a right to housing.



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