

Padraic Kenna, Sergio Nasarre-Aznar, Peter Sparkes and Christoph U. Schmid (Eds.) (2018)

***Loss of Homes and Evictions across Europe  
A Comparative Legal and Policy Examination.***

Edward Elgar: Elgar Land and Housing Law and Policy series, pp.400. €123.00.

Evictions are the most widespread form of residential instability, and this timely publication explores both the drivers of and the protections against evictions in a number of EU countries.

Eleven country chapters cover Belgium, France, Germany, Hungary, Ireland, Italy, the Netherlands, Poland, Slovenia, Spain, and the United Kingdom, over the period 2010 to 2016. It draws on a large EU Commission-funded pilot study examining evictions across the (then) 28 EU member states, although no explanation is offered of why a subset of these countries was selected for the book.

Admirably, each country chapter follows a similar structure, addressing the social and policy background, legal/human rights, and ‘substantive’ matters. The latter involves material on the extent of evictions, risk factors, links between evictions and homelessness, and best practice in preventing and responding to evictions. However, the assiduousness of application of this template varies, with e.g. under the heading of ‘Profile of those evicted’, the UK entry’s laconic single sentence states that “The profile of those households who experience evictions varies across the tenures”, contrasting with the rather more elaborate discussions in most other chapters.

The country chapters are based on country expert reports, while Padraic Kenna’s lengthy introduction provides a synthesis based on the country chapters, the original EU study, and Kenna’s own review of (mainly legal) literature.

The focus throughout is on the definition of eviction as a judicially supervised eviction process encompassing three stages: the pre-court phase beginning from the occupier being given a formal instruction to leave; the second stage being the court process itself; and the third involving the phase between the court order for repossession and the actual physical eviction (with the possibility of occupiers quitting their home – and potentially becoming homeless – at any of these stages).

A wide range of factors relevant to evictions is covered in the book. Some country chapters attend to issues of poverty and social exclusion in relation to social services, tenure and housing systems, while others focus on the impact of particular

shocks such as the Global Financial Crisis. Some discussions have a narrower focus on evictions, their immediate antecedents (typically rent or mortgage arrears) and policy responses. Kenna attempts to synthesise this material by drawing on an analytical framework from the EU Pilot study listing structural, systemic / institutional, interpersonal, and personal levels of causation.

Economic issues around poverty are identified as the principal cause of evictions, though this varies by country and tenure. The broadest pattern suggested by Kenna is that eviction problems stem from high rent levels in some northern and western European cities, and from higher levels of poverty in CEE states, though this geographical classification is not itself explained. Policies to address eviction are discussed at primary, secondary and tertiary levels (mirroring to some extent the analytical risk framework). Primary prevention measures, for example, refer to macro-level measures to increase housing supply and affordability, including housing and welfare benefits. Kenna also notes the significant differences in tenure systems across the eleven countries, with a shifting balance over time and between countries between the rights of the occupying resident households and the rights of mortgagees and landlords (private and social). An issue worthy of further exploration is the use of time-limited tenancies in the English private rented sector, which functions as an alternative mechanism to eviction.

Examples of 'best practice' include steps to prevent reckless lending, an integrated approach from support agencies (e.g. where there is an obligation on courts to inform social services of impending evictions), requirements that undue hardship be taken into account in evaluating an eviction case before the courts, tenancy sustainment services, and rapid rehousing.

Protection against forced eviction is one of the seven components of adequate housing listed by the UN Committee on Economic, Social and Cultural Rights (1991), and much of Kenna's introduction is devoted to a discussion of housing rights at UN, Council of Europe and EU level and of constitutional and legislative measures at country level. Striking an optimistic note, Kenna anticipates the absorption of common housing rights norms into domestic policy and practice, based on Article 8 of the ECHR, and a closer link between mortgage and tenancy contracts and human rights law. However, economic and ideological forces pitted against such trends warrant further discussion (Donnelly, Finnerty and O'Connell, 2020).

Kenna readily acknowledges the difficulties of cross-country comparisons where social, policy, legal and other contexts differ. This is compounded by the paucity of eviction data both in the informal or shadow housing sector and in relation to legal (judicial and non-judicial) evictions. Where some countries have good data on judicial evictions, often this relates to court proceedings rather than pre-court proceedings where many persons leave their accommodation involuntarily. In this

regard, the section in the country template on ‘squatting’ is scarcely informative. Similarly, the section on ‘domestic violence’ yields few insights: a focus on supplier-generated residential instability would have allowed a clearer focus (Finnerty and O’Connell, 2017).

There are a number of different roles that this publication will play – principally as a compendium of eviction related policy, legislation and practice in the eleven countries discussed. From a wider social policy point of view, it provides an invaluable mapping exercise in constructing a theory of the middle range in relation to supplier-generated residential instability.

### › References

Donnelly, D., Finnerty, J. and O’Connell, C. (2020) The Right to Housing, in: G. McCann and F. Ó hAdhmaill (eds.) *International Human Rights, Social Policy and Global Development. Critical Perspectives*. (Bristol: Policy Press).

Finnerty, J. and O’Connell, C. (2017) Changing Precarities in the Irish Housing System: Supplier-Generated Changes in Security of Tenure for Domiciled Households, *Global Discourse* 7(4) pp.473-488.

UN Committee on Economic, Social and Cultural Rights (1991) *General Comment No. 4: The Right to Adequate Housing*. Available at: <https://www.refworld.org/pdfid/47a7079a1.pdf>

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