



**Housing Right Watch.
Proposal for an action plan on Priority 19**

New Action Plan to implement the European Pillar of Social Rights must take a rights-based approach.

[Housing Rights Watch](#) is an interdisciplinary network where associations, lawyers, academics, and advocates from different countries, work together to promote the right to housing in Europe. It is a joint venture of FEANTSA and the Abbe Pierre Foundation based on the idea that the knowledge and use of the law, whether at local, national, European or international level, constitute a necessary and complementary tool to civil society actions in the field and to political advocacy at different levels.

The Commission is currently consulting to engage stakeholders in preparing this action plan to implement the European Pillar of Social Rights. As Housing Rights Watch, we would like to express our support for a European Collaboration Platform on Homelessness as a key element of the action plan. Such an initiative would help deliver progress on priority 19 of the European Pillar of Social Rights.

Housing Rights Watch would like to stress the need for a rights-based approach to homelessness in the action plan. We understand homelessness as a situation that deprives individuals of fundamental rights, including the right to housing. The rights-based approach means that homeless people are rights holders and therefore they are empowered to claim their rights.

One serious concern is the criminalisation of homelessness in Europe. This approach not only undermines human dignity, but it does not work in order to eliminate homelessness, moving the visible problem of homelessness out of public view, rather than offering any real solution. The European Union Institutions and its Member States should promote alternatives to criminalisation. Concrete progress on eliminating homelessness can be made by implementing integrated, housing-led, and preventative policies.

For De Schutter, a human rights-based approach to tackling poverty¹ means that *human rights standards and principles are placed at the centre of planning, policy, and practice*. In the context of poverty reduction and measurement, it can help to ensure that strategies address structural causes and related human rights violations. For such strategies to be effective, poverty itself should be measured as a multidimensional phenomenon. De Schutter has described in detail some of the components of a rights-based approach to poverty reduction, including the principle of accountability, of equality and non-discrimination, and of participation.

Social and economic rights, including the right to housing, are receiving greater recognition in Europe and FEANTSA and Housing Rights Watch have highlighted in the past the role of existing European and

¹ See Olivier De Schutter, *Human Rights in The Service of the Fight Against Poverty: A Rights-Based Approach To Addressing Poverty in the National Action Plans to Implement the Sustainable Development Goals* (2018)

International jurisprudence to develop standards on the right to housing². The legal norms related to the right to housing are being gradually defined by case law from the European Court of Human Rights and the European Committee of Social Rights as well as by the decisions of the European Court of Justice. They are shaping a coherent corpus specifying the limits and obligations of public authorities on the right to housing.³

The nature of economic, social and cultural rights requires States to respect, protect and fulfil these rights in order to progressively achieve them.⁴ However, there is a “minimum core” of rights that must be upheld immediately.⁵ Whereas the right to adequate housing is permanent and is guided by the principle of progressive realisation, the right to shelter is temporary and requires immediate action to be taken by the State.

Principle 19 of the EPSR on housing and assistance for the homeless, brings together these different aspects, establishing that everyone in the EU should have a decent home, with social housing or housing assistance provided to those who need it. People should be protected from eviction and no one should ever be left without shelter.

Principle 19 draws directly from article 34.3. of the EU Charter of Fundamental Rights (the Charter): *“In order to combat social exclusion and poverty, the Union recognises and respects **the right to social and housing assistance** so as to ensure a decent existence for all those who lack sufficient resources (...).”*

There is strong link between the rights enshrined in the Charter and other international human rights treaties, especially the revised Social Charter of the Council of Europe. Many of the Articles of the Charter are linked with rights in other instruments and relate to the housing rights obligations of States. The *Explanations relating to the Charter of Fundamental Rights*,⁶ set out these links. Art 34.3 of the EU Charter corresponds to Arts 13 of the European Social Charter (ESC) and Arts 30 and 31 (right to housing) Revised Social Charter (RESC). Art 31 incorporates Art 16 ESC on rights of family to social, legal and economic protection. They all must be respected in the context of Art 153 TFEU (social inclusion policies).

We believe that the New Action Plan could still provide a new impetus for **monitoring and accountability** around housing rights at EU level. The Fundamental Rights Agency could be instrumental to achieving this if its mandate were extended to social rights. Better use could also be made of the monitoring of housing rights which already takes place through the Council of Europe via the European Committee of Social Rights and the United Nations expert bodies, such as the Committee on Economic, Social and Cultural Rights.

In terms of measuring progress, the model for assessing effective implementation of rights developed by the European Committee for Social Rights offers a progressive realisation approach for rights that may be

² See FEANTSA/ Fondation Abbe Pierre (2016) *Housing-related Positive obligations on States from European and international case law*. Brussels.

³ See FEANTSA (2016). *5 Key Principles for Implementing the Housing Priority of the European Pillar of Social Rights*. Brussels

⁴ Nolan et al *The Justiciability of Social and Economic Rights: An Updated Appraisal* (Human Rights Consortium, March 2007).

⁵ Christian Courtis, ‘Standards to Make ESC Rights Justiciable: A Summary Explanation’ [2009] *Erasmus Law Review*, 2, 379

⁶ Explanations relating to the Charter of Fundamental Rights, OJ 2007/C 303/02.

costly to implement, such as housing rights: *“When the achievement of one of the rights in question is exceptionally complex and particularly expensive to resolve, a State party must take measures that allow it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources.”*

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