

newsletter



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FEANTSA

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Editorial

Welcome to the spring 2013 edition of the Housing Rights Watch newsletter.

We continue our examination of the criminalisation of homelessness with two articles: Cory Potts writes about the systematic banning and ticketing of homeless people in Seattle and describes an attempt to challenge and change the system. Our feature interview is with activists and homeless service providers in Hungary, who are on the front lines of a battle to ensure that homeless people have access to appropriate accommodation and services, as well as access to their rights.

In the case law update section, we highlight a recent decision from the European Court of Justice on a prejudicial question from Spain that finds that mortgage legislation is a violation of EU consumer protection laws. The Aziz case is now being used as a tool in Andalusia to protect housing rights.

Several new publications are featured in the newsletter, including a book that follows up on the 2012 Housing Rights Conference in Galway, Ireland, and a new title from Jessie Hohmann on the Right to Housing – Law, Concepts, Possibilities. Padraic Kenna reviews Jeff King's new book, Judging Social Rights.

HRW will be publishing its own book later this summer on the criminalisation and penalisation of homelessness in Europe. Watch for our new website at www.hrw.org, as well as www.feantsa.org for more information.

Enjoy this edition.

We look forward to your comments and feedback.

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FEATURE INTERVIEW:

Criminalisation of homelessness in Hungary – from bad to worse

Housing Rights Watch has been following the developments in Hungary for over a year now, and in light of recent events, we interviewed several important players in the campaign to overturn the laws that criminalise homeless people. Rita Bence works for TASZ, the Hungarian Civil Liberties Union, Jutka Lakatos Bertalanné and Mariann Dósa, responded on behalf of A Város Mindenkié (AVM - The City is for All), and Boroka Feher works for BMSZKI which provides services for homeless people in Hungary, and is a member of TIZEK, the network of homeless service providers in Budapest.

Rita Bence – Hungarian Civil Liberties Union <http://tasz.hu/en> - bencerita@tasz.hu

Jutka Lakatos Bertalanné and **Mariann Dósa** – A Város Mindenkié (The City is for All) http://avarosmindenkie.blog.hu/2009/01/01/english_18 - avarosmindenkie@gmail.com

Boroka Feher – BMSZKI and TIZEK fboroka@gmail.com

Background

Mariann Dosa and Tessza Udavárhelyi from AVM - The City is For All, examined the emergence and prevalence of the use of criminalisation policies against homeless people in Hungary in the previous edition of Housing Rights Watch [newsletter](#). Here is a short synopsis:

Following the fall of the Communist regime in Hungary, which had denied extreme poverty and expelled homeless people from the cities, the transition to market capitalism resulted in a significant increase in the number of working poor and homeless people in Hungary, and the simultaneous dismantling of the social welfare system. In the 1989-1990, demonstrations by civil society raised awareness and put the problem of mass homelessness on the political agenda. But far from implementing structural solutions to reduce homelessness, the public

authorities responded with temporary emergency solutions (temporary shelters, soup kitchens, etc.). Thus, homelessness persists, and according to experts, the number of homeless people is estimated at 30,000 individuals in the country. In the current economic crisis, public opinion became less “compassionate” and political discourses harsher towards the poor, making them the targets of punitive policies instead of blaming the failing economy. Activists such as The City is For All (A Város Mindenkié) and human rights NGOs such as the Hungarian Civil Liberties Union, have worked hard to organise a campaign to challenge the legislation that makes it a crime to be homeless in Hungary. Service providers have also spoken out, as they see the immediate impact of these policies.

T I M E L I N E

2009

The mayor of the 11th district of Budapest defines “homeless-free zones”

October 2010

The Parliament passes a law allowing local municipalities to ban living in public spaces

Fall 2011

A special room for short-term arrests in a homeless shelter opens

November 2011

The Parliament passes a law that makes living in public spaces a crime; punishable by fine or by jail

April 2012

The “Petty Offence Act” comes into force: the condition for applying a fine or jail is that “appropriate” homeless services are determined by the local or national authorities

November 2012

Following a campaign by organizations like A Város Mindenkié and the Hungarian Civil Liberties Union, the Supreme Court declares the Petty Offence Act unconstitutional and strikes it down

Interview

HRW: The 4th Amendment of the Hungarian constitution opens the door for the criminalisation of homeless people. Have local authorities implemented legislation that criminalises homeless people yet?

Boroka Feher: In theory, they cannot yet put it to practice¹ – they need to wait for a change in the petty offence legislation by the Parliament before they can pass their local decrees. However, outreach teams have reported that rough sleepers are already being harassed and fined in certain areas of Budapest. There is anecdotal evidence that people who look like they might be homeless are asked to empty their pockets and if no house keys are found on them, it is considered a proof that they have no fixed above.

AVM: The proposed amendment clearly proves that decision-makers do use, or rather abuse the wide authorization provided by the 4th amendment of the Fundamental Law to criminalize homelessness. The Act gives the possibility to local governments to declare certain parts of the public premises prohibited in order to “preserve

the public order, public safety, public health and cultural values”, but contains no further restriction in this regard. Accordingly, local governments will in practice – in contrast to what is suggested by the official reasoning of the Act – be able to declare almost their whole city/town/district a prohibited zone, and will be able to “push” homeless persons to the outskirts of cities.

Based on our past experience, we know that local governments, when given the possibility, will promptly create ordinances criminalising “residing for habitation on public premises”. We don’t have any illusions about preventing the creation of such local legislation.

HRW: How many people were fined under the previous law?

AVM: The numbers are absolutely appalling. In the period between April and November 2012 a fine was imposed for “residing for habitation on public premises” on more than 1500 occasions, the total amount of fines exceed 39 million HUF (approx. 117.000 €).

¹ [Sándor Pintér, Minister of Interior](#), submitted his proposal on how to implement legislation that criminalises homelessness to the Hungarian Parliament on Friday, April 12th – the same day that a delegation of FEANTSA and experts from Housing Rights Watch held a seminar to discuss more positive ways forward with Hungarian FEANTSA members and allies in Budapest.

The [proposal](#) grants local authorities the power to define areas where “occupying public space for living purposes” is to be considered illegal for the purposes of protecting “public safety, public order, public health and the protection of cultural values”. Occupying public space for living purposes is “every behavior, where the individual has no plan to return to their permanent or temporary address, or any other shelter; where they plan to use public space for a duration of time; or where they carry out activities typical to what one does in their home – especially sleeping, washing, eating, getting dressed, keeping animals – in a public space in a repeated or regular fashion”.

Those who then break these local decrees can be ordered to leave the “public space” by a myriad of officers (police, civil servants, forest rangers, etc.) – if they refuse to do so, they commit an offence and can be sentenced to “work for the public good” – ‘work-fare’. If the offender fails to oblige with this duty, he/she must pay a fine.

However, if someone has already committed the same offence twice within the previous six months, he or she can be imprisoned as a repeat offender.

The proposal also seeks to make it illegal to construct a cabin or hut on public grounds without the written consent of the owner – thus homeless people building their own huts in forested, non-populated areas can be persecuted.

In a grotesque gesture, the proposal has been sent to the Constitutional Court by the Parliament to make sure it is in conformity with the constitution. The law will be voted on following the response of the Constitutional Court – possibly only after the Parliament’s summer break, in September 2013.

March 2013

The Hungarian Parliament adopts the 4th Amendment to the Fundamental Law of Hungary, which allows for laws to be passed that criminalise homelessness and therefore gives constitutional jurisdiction to the prosecution of homeless people.

“Article XXII (3): An Act of Parliament or local government decree may outlaw the use of certain public space for habitation in order to preserve the public order, public safety, public health and cultural values.” (Unofficial translation by The Hungarian Helsinki Committee - http://helsinki.hu/wp-content/uploads/Appendix_2_Fourth_Amendment_to_the_Fundamental_Law_Unofficial_translation.pdf)”

Spring 2013

International organisations, including FEANTSA, Housing Rights Watch, the Special Rapporteurs on the adequate housing and on extreme poverty and human rights, all send letters to the Hungarian government urging it to reconsider this approach to homelessness policy

June 2013

Reports by the Venice Commission of the Council of Europe and the European Parliament on the constitutional amendments to be voted in Plenary...

We are not aware of anyone having been sentenced to incarceration for this reason, however, official data demonstrate that the number of legal proceedings converting unpaid fines or unfulfilled work-fare sentences into so called misdemeanour confinement increased almost sevenfold from the beginning to the end of 2012 (from 3504 in April 2012 to 23,896 in October).

HRW: *Tell us about your campaign to raise awareness about the criminalisation of homeless people*

Boroka Feher: We try to inform the public about the facts behind homelessness – the annual February 3rd homeless survey, for example, has shown that in several towns there are more people sleeping outdoors than in shelters, as there are not enough beds available. In the last five years the survey has gathered data about 48 000 individuals who have experienced homelessness for a shorter or longer while – counting their family members and relatives - this means that almost every Hungarian knows someone who has experienced homelessness at one point in their lives! As many people are struggling with unemployment, unpaid bills, poverty, we are trying to convince them that homeless people are the victims of the same processes as them.

We are distributing the results of a poll conducted this spring by Median about public opinion about homeless people. The results show clearly that the majority of Hungarians are against penalizing rough sleepers and would prefer to see more shelter beds and/or affordable housing options for the needy.

We lobby Members of Parliament, although with less enthusiasm than hope, as this struggle has been going on for three years already and our arguments have fallen on deaf ears...

Rita Bence: We use strategic litigation, by taking the cases of clients who were fined because they were living on the street. This approach was very successful, and we were delighted with the decision of the Constitutional Court in November 2012, which of course resulted in all of the cases against our clients being dropped. However, everything has changed since the new reforms to the Fundamental Law (Constitution). We want to continue the strategic litigation because I am afraid that there will be more legislation that will fine homeless people, so we will have to continue to fight.

AVM: We work to inform people directly, we updated our information, and our lawyers provide legal aid to homeless people in our Street Lawyer program that often includes informing clients about criminalising legislation and the possibilities of legal appeal. Furthermore, in personal conversations at shelters or other places of service provision the homeless members of AVM inform others about legal developments and their potential consequences for homeless people.

We use our blog and on Facebook, both of which have become quite popular over the past years, to reach the general public. Also, AVM members regularly write op-eds in popular Hungarian daily and weekly newspapers. We also publish material in English to reach a broader audience – NGOs, individuals and international institutions who are concerned.

We also organize events and actions on criminalisation, and join public actions organized by others that have some relevance for the criminalisation of homelessness. For instance, we actively participated in the sit-in in the main office of the ruling party Fidesz against the fourth amendment of the Fundamental Law and used the opportunity it gave us to publicly speak about the potential repercussions of the amendment for homeless people.

We run a specific awareness raising program for students to discuss criminalisation.

Of course we also try to influence politicians directly, by sending open letters and video messages to MPs and the president of Hungary and the prime minister urging them not to pass legislation that criminalises homeless people.

HRW: *Can you see a shift in public opinion? Is the public more supportive of the cause? Or do they support the government's approach?*

AVM: We see that many people are irritated by the criminalisation of homeless people and even people who are generally not interested in the social problem of homelessness are moved by the latest development of legislation. We get supportive emails and responses to our blog and Facebook entries that demonstrate that many people are actively against penalising homelessness.

The recent survey supports this: 69% of Hungarians think that homeless people should be supported and merely 2% think that punishment is the adequate response to homelessness.

Rita Bence: The poll results seem to have caused the Prime Minister to reconsider his proposed 'debate' on the topic; since the majority of Hungarians actually disagree with him, he has withdrawn his proposal for a public debate.

I think that society, the majority, think that shelters are the solution to homelessness, but we know that they are not the solution. So we, the Hungarian Civil Liberties Union, always emphasize that shelters are not a long term solution, especially when we do media interviews. Furthermore we also know from official statistics that there are not enough places in shelters - despite the government's assurances to the contrary. There are about 30,000 homeless people and only 10,000 shelter spaces.

HRW: What are the government's reactions to your criticism?

Boroka Feher: The government does not react to our criticism – it is as if we communicated in two parallel universes. There are no debates about the issue, government and city officials keep repeating the same statements no matter what they are challenged with.

Rita Bence: The government claims that there are enough shelters and therefore the problem should be solved. The government has rejected the comments from the United Nations, and is not taking the issue seriously.

The government claims to have consulted people on this topic. However, this exercise consisted in the government sending out questions that were formulated in a way that forced people to answer 'yes' or 'no', and forced people to respond favourably to the government's position. Following the publication of the recent poll on public opinion around criminalizing homelessness, however, the government decided not to initiate wider public consultation as it feared citizens wouldn't agree.

AVM: The government's responses are misleading. It claims that there are enough shelter places for every homeless person in Hungary, a claim that all existing data shows to be untrue.

An example of the government's typical response is what happened in the City of Budapest after the Constitutional Court struck down the previous version of the Act on Misdemeanours criminalising homelessness in November 2012. The City of Budapest cordoned off underpasses where homeless people used to shelter. We submitted an official information request about the cost of the alleged refurbishing works – the excuse used for closing the areas – to be able to share this information with the Hungarian tax payers. We are still waiting for an answer, of course.

HRW: Are there legal means that can be used to challenge the sentences that are given to homeless people – the fines, jail sentences, etc.?

AVM: When the law that criminalised homelessness was struck down by the Constitutional Court all misdemeanour proceedings that had been brought against people on the basis of the Act on Misdemeanours had to be reopened and re-examined. However, if the proposed new amendment of the Act on Misdemeanours in relation to the 4th amendment passes the Parliament the only legal means left to challenge future sentences is strategic litigation on the international level, taking cases to European Court of Human Rights in Strasbourg, in particular.

Boroka Feher: Currently, as there are no valid laws, there could be. If a homeless person is fined for being a rough sleeper today, the process could be challenged as there is no legal ground for that (yet)².

If the law implementing the constitutional possibility of banning rough sleepers from certain public areas is passed, and local decrees are made, I am afraid it is not going to be possible to challenge the sentences.

The local decrees could be challenged on the basis that the areas off-limits for rough sleepers are in fact no different in regards of public safety, health, cultural heritage, etc. as other areas.

But in the meantime, many rough sleepers will be fined, imprisoned, or pushed out of the designated areas.

² However, it is very difficult to follow a case through where a complaint is issued by a homeless person. Often, no ticket is issued for the fine, or it gets lost. Many homeless people are understandably reluctant to go to court, or to be involved in a process that lasts for several months, even years.

STRATEGIC LITIGATION

Building the case for the Constitutional Court

Rita Bence – The Hungarian Civil Liberties Union works with AVM, who work directly with people who were receiving fines. AVM collected all the papers to be able to start an appeal. There is a specific procedure and a specific court that covers petty offenses. People who wish to appeal have the right to have legal representation, it is not obligatory.

In order to win an appeal, people have to prove that there were no shelter spaces, or that they were not sleeping in a public space, for example in a private garden.

The aim of the procedures was to have a decision from the court that we could take the case further, to the international level; to exhaust the effective remedies and then take the case to the European Court of Human Rights in Strasbourg.

What now?

Unfortunately, we will have to start again under the new legislation. The cases that we took under the previous Law on Petty Offenses, that we won, and which were upheld by the Constitutional Court are no longer valid. Not since the government amended the constitution to make the Constitutional Court's decision null and void.

The only way forward is the international courts – the Human Rights Court in Strasbourg (to argue on the basis of article 8 of the European Convention on Human Rights, the right to private life, and possible, article 3, which guarantees protection against torture and inhuman treatment). And maybe even the EU's court in Luxembourg, where our case would rest on article 31 of the European Social Charter; we would refer to the EU's Charter of Fundamental Rights, and the UN Convention, referring to the right to human dignity and the right to private life. I think that the domestic law in Hungary doesn't give us any possibility to reform. We should continue with the strategic litigation.

Preliminary Reference to the European Union Court of Justice

We hope to find a judge in Hungary who would be willing to ask a preliminary reference to the European Court of Justice in Luxembourg. The HLCU has had experience with this already – we asked a question on the voting rights of disabled people, which is in progress now, we are still not sure if the judge will send the question on or not. Another case put forward by the Helsinki Committee about refugees has been decided. The Hungarian judge sent the preliminary question to the European Court, which decided that Hungarian procedure and law violated the rights of foreigners.)

HRW: *How can organisations and individuals help to support the fight against these laws at the European and international level? NGOs, European institutions, UN...*

Boroka Feher: We believe that even though international pressure does help, the fight has to be won from within. However, public opinion is sensitive to how things are in other countries, and it helps our struggles if there communication from time to time about how the criminalisation of homelessness cannot be the answer, how similar laws are applied in other countries (for example – do they ever get to the imprisonment stage?)³.

If a case ever gets to Strasbourg, international support (legal, financial, etc.) would be essential.

I think international conferences or workshops in Hungary, for example FEANTSA and HRW's seminar on Promoting Housing Rights in Hungary in April 2013, are also a good way to go forward – especially if public officials (both from the Ministry and the City of Budapest) would attend. It would be important to try to engage them in dialogue (and the state secretary has expressed their "openness" for such meetings) – as they are not communicating with us, Hungarian service providers...

Publicity is important – especially because the government often claims to be doing what "citizens" want them to do.

³ The government likes to pretend that rough sleepers are criminalized all over Europe and that shelters are the answers.

AVM: We welcome all of the international solidarity with our cause and with Hungarian homeless people that we're receiving. It's important for organizations and individuals on the international level, to send messages reminding the Hungarian government, to fulfil its role, as a European democratic government, to serve its people and design a just socio-economic system that provides welfare and freedom for all. We would particularly welcome a message from the European Union to this effect. We think that visits to Hungary, like the HRW conference on Promoting Housing Rights in Hungary, was a very good example of action that might put pressure on the government.

We also welcome support for AVM actions within Hungary, and sharing of information across international NGOs and other networks.

HRW: How does the Hungarian government respond to international attacks?

Rita Bence – the Hungarian government does not care about the comments from international actors, NGOs, etc., and openly lies by claiming that the problem is solved, that in fact, there is no problem. The government claims not to understand why there is a need for such reports from international institutions like the UN, the European Parliament, the Council of Europe's Venice Commission, etc.

AVM: There is little different in the government's reaction to criticism on the national or international level: it issues misleading communication, tries to appear benevolent, and continues to disparage international organisations as oppressive colonizers. The government diverts attention away from the fact that the international community's criticism of the Orbán-government, by trying to paint the opinions as being against Hungary and Hungarians.

Also, the government also uses the strategy of making minor concessions, which are meaningless for those affected by the given measures, however they are designed to placate international actors and end the campaigns against the government.

Boroka: Just like with other issues, with the criminalisation of homelessness it is often heard that

- The government/City is not doing anything that is not being done elsewhere in Europe
- It is the task of the government/City to protect its citizens (homeless people from freezing to death, citizens with housing from having to observe the public lives of others)
- No one should tell them how to do their job

HRW: What are the next steps in your campaign?

AVM: We will continue our media campaigning, as well as a letter campaign to MPs to urge them to vote against the proposed amendment of the Act on Misdemeanours. Last but not least, we will organize a demonstration on the day of the final vote that would draw attention to the severe injustice of the amendment.

Boroka Feher: We will go on lobbying against the implementation of the Constitutional amendment – both by using existing, though impotent, official channels of communication and individual meetings.

We will continue our publicity campaign – for example sharing the results of pilot projects placing rough sleepers into supported accommodation directly from the streets.

We direct homeless people to legal aid possibilities.

We are thinking of other, creative ways to go forward (like providing every homeless person with some keys...)

An appeal for justice – Seattle’s policy of banning homeless people from parks and public transportation

By CORY POTTS¹

In September 2009, I had been working for one year at *The Defender Association*, a not for profit public defense law firm in Seattle, USA, as a criminal investigator. Investigators work case by case building defenses for *Defender* clients through interviews with witnesses, victims and police officers. In the autumn, Anita Khandelwal, who was at the time a misdemeanor attorney (handling low-level charges like drunk driving, petty assault, and trespassing) explained that she was applying for a grant to look into trespassing laws in Seattle. Anita had been hearing from her juvenile clients about bans they had received from police officers. In some cases the bans restricted access to after school community centers, in others the bans made bus stops or parks off limits—in one case, a boy had been banned from attending his brother’s funeral. Eventually, Anita received the grant and I left my investigator position to volunteer with her. I didn’t want to work from case to case anymore; I wanted to see about changing the legal system.

The power that Anita and I were studying is the power to *banish*. In Seattle, local authorities have the power to banish individuals from public places and services like parks, recreation centers or the city’s public transit network in response to a reported violation of a conduct rule. Officially the sanctions are called either “exclusions” or “suspension notices,” and they constitute a civil punishment, legally similar to a parking ticket, which targets non-criminal infractions against the public order, such as camping or public urination—eventually we also found that the bans were being used to punish the homeless.

We could take two approaches to understanding how Seattle enforces trespass notices. The first is social: we might consider how banishment disrupts the ability of an individual from accessing health care and social services, from participating in community events and, in the case

of homeless people, from accessing a place of residence, whether it be in a particular park or a warm bus on a cold night. As a social practice, we could compare the objectives of the trespassing notices, designed to allow local authorities to swiftly punish individuals who behave badly in public, with the social consequences that follow banishment.

The second approach considers the trespassing notices as legal tools. In this case, we would say that the trespass notices are “just” as long as they do not violate another law or Constitutionally protected activity. As this report gives an account of an example of legal activism, that is, a project created by a lawyer within a law-firm, we will consider the notices primarily from the second, legalist approach. Our choice does not, however, assume some kind of natural priority or legitimacy for the law. In fact, our project attempted to create opportunities for discussing social values and consequences within a legal environment that proved ill-adapted to such a discussion. At the same time, our project was personal: we fought trespass notices that were being enforced against individuals in Seattle, specifically homeless individuals, who we treated as clients and whose situation we were hoping to improve. Being that our goal was to help individuals while also calling the entirety of the trespass program into question, a social approach could not guarantee immediate relief for our clients who needed urgent aid, such as the need to collect belongings from an off-limits park or the need to visit a doctor by using an off-limits public transit system, for example.

Banishment, again from a legalist approach, begins with a local authority, such as the Seattle Parks Department Superintendent. At the same time, this authority is a law-maker, a law enforcer and a judicial arbiter². He wears a lot of hats: he determines what kind of behavior is

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2 See *Seattle Municipal Code* (SMC) 18.30.030 “Rules of Construction.” Section A.10 defines the rule making power of the Parks Department Superintendent while section A.13 elaborates the judicial powers of the superintendent. SMC 18.12.278 “Park exclusion” defines how the Superintendent may enforce park rules.

unacceptable in parks, he determines if an individual has engaged in unacceptable behavior, he determines what kind of sanction to apply when a person has engaged in unacceptable behavior and he is responsible for providing a sanctioned individual with an appeals process. A parks exclusion is a non-criminal sanction used by the Parks Superintendent to enforce park conduct rules. Exclusions require offenders to stay out of a park zone, or several park zones, or all parks managed by the Seattle's Parks Department—parks are grouped into zones depending on their geographic proximity to one another in order to prevent offenders from migrating to a nearby park after receiving a ban. It is possible for exclusions to accumulate: after being banned from a south Seattle Zone, for example, if an offender commits a new offense in a north Seattle Zone, he may be banned from both zones at the same time. Finally, receiving an exclusion does not exempt the offender from also receiving a fine or from being charged with a crime. Following the application of an exclusion, enforcement of bans is delegated to park rangers and police officers. In the case of repeat offenses, officers may issue a renewed warning, may issue a new ban carrying a longer suspension period, may expand the geographic scope of the ban or, if the officer happens to be a police officer, the offender may be arrested for a trespassing³.

The public transport authority in Seattle operates a trespass program identical to the Seattle Parks trespass program⁴.

Even though trespass notices are not equivalent to a criminal sanction, trespass programs must legally provide offenders with the possibility to appeal their banishment. Initially, our project's goal was to appeal so many trespass notices until the appeals process became overburdened and officers would not longer be able to legally issue trespass notices, given that the right to appeal would have become impossible. My responsibility in the project was to locate individuals who had received trespass notices—individuals who were in most cases homeless—and to engage them in our project by

offering to appeal their banishment. I quickly found that nearly every homeless person that I met in Seattle had experienced banishment; a large number had active trespass notices and recognized that large parts of the city were off-limits to them.

We did not lack for bans to appeal. The difficulty arose once we engaged the appeals process. In practice, the panels set up within the Parks Department and Metro (public transportation authority) existed simply in order to satisfy a legal requirement to provide an appeals process. In other words, they existed to create administrative barriers: it seemed that for every appeal we submitted, the panel created a new requirement: demanding for example that we submit appeal requests in writing, or that we submit requests within seven days of the offender having received the ban, or that we submit original copies of the ban, or demanding signed authorization from the offender, and etc. Eventually we could meet all the restrictions imposed by the panels and began to file legitimate appeals. We then discovered that the appeals panels had no intention to revise or nullify suspensions. Our appeals were systematically rejected. What's more, the panels gave no explanation for their decisions: a week after filing an appeal, a one page letter from the chair of the appeals panel would appear in the mail notifying us that our appeal had been denied. When we demanded to know the justification for the panel's decision, the panel notified us that their deliberations were available only through a public records request. City agencies typically required at least three weeks to fulfill a public records request.

Our only remaining option after being denied an appeal was to request a personal hearing before the appeals panel in order to challenge the panel's findings. We routinely requested these hearings and when in front of the appeals panels, now in person, we pleaded for leniency on behalf of clients who were sick, had no homes, and were socially excluded. Routinely, the appeals panels upheld their decisions.

3 SMC 18.12.279 "Trespass in Parks" makes it a crime punishable by one year imprisonment or a fine of up to \$5,000 for an individual to violate a Parks exclusion by returning to a Park zone from where he has been excluded.

4 See *King County Code* (KCC) Section 28.90 "Public Transit." Section 28.96.010 "Civil Infractions—Misdemeanors" defines unacceptable behavior punishable by a civil fine (See the *Revised Code of Washington* chapter 7.80) or by criminal sanctions. Section 28.96.410 explains the range of possible sanctions in the event of a rule or criminal violation, sanctions which range from the suspension of use rights from public transit property and services up to criminal penalties. Section 28.96.430 describes the appeals process, which falls under the jurisdiction of the public transit Director.

We thought we could throw a wrench into the city's trespass practice. We found in fact that no "practice" existed: the more appeals we filed, the more we realized that the city had no intention of applying a formal process in treating the appeals. So we decided to transform our frustration into a weapon: instead of shutting the system down, we would use our experiences within the appeals process as evidence that the appeals process was broken. To this end, we began to obsessively document our work: we kept records of all our interactions with clients, records of their trespass notices, records of all our correspondence with the appeals panels and records of all their decisions. We systematically filed public records requests following every appeal hearing we attended and we used personal tape recorders to preserve the appeal panels' deliberations. Eventually, we were setting traps. Anita found lawsuits that touched on trespass notices, lawsuits that concerned, for example, the right to assemble or the right to free movement. Once we understood the criteria used in the previous lawsuits, during hearings with the appeal panels, we would elicit responses from panel members that opposed standards established in previous courts. We also never stopped fighting for our clients. In appealing their individual cases, however, we had the means to establish a larger case that could challenge the legitimacy of the entire system

In the end, our project got as far as threatening the city with a federal lawsuit whose principal argument targeted the faulty appeals system offered by the city and county to offenders who had received bans. Armed with the papers needed to file the lawsuit, the material gathered from our appeals and a long list of potential clients, on whose behalf we had filed the appeals, Anita

approached the city with an offer to negotiate. These negotiations led to promises by the city to reform how trespass notices were imposed. Specifically, the city agreed to grant more exceptions to banished individuals who needed, for example, public transit in order to attend a medical appointment.

In the end, Anita and I left Seattle's trespass program intact, a disappointing end to a project that aimed at reforming an entire system. Of course, we can be idealistic: during a single year, a project staffed by only two people, one who was unpaid, was able to force the city of Seattle to reconsider its trespass policy in terms of the policy's effects on our clients who, because they were homeless, had rarely seen their plight incorporated into a discussion of legal practices. Discussing the effects of penalisation had become, briefly, a discussion where their treatment was prioritized above platitudes and empty promises to end suffering and increase compassion.

Better, though, to recognize the obvious: penalisation is political. Cities do not simply enforce laws and codes that legislators write. These laws and codes are merely components in a system driven as much by the desire to enforce the "rule of law" as by demands by local business owners and property developers, by police unions, by *vogue* policing tactics, by neighborhood groups and any number of other factors. While attacking an entire legal practice stood a good chance at upsetting the balance of all these factors, creating the possibility for less penalisation, in the end the threat of a lawsuit was not on its own sufficient to bully the city into reforming its approach to policing.

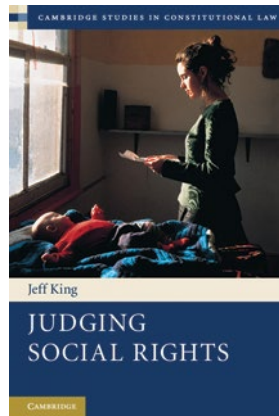
BOOK REVIEW:

Judging Social RightsBy JEFF KING, *Cambridge University Press 2012.*By DR PADRAIC KENNA¹

Housing rights are a part of social rights. Indeed, housing rights are widely established within international, constitutional and legislative social rights provisions. However, as Jeff King points out “everyone has human rights, but...that is no answer to the question of who should define and enforce them”. (p. 187). In this book King ably tackles that difficult task. This well written text examines how public law courts review State action in addressing common law constitutional social rights obligations.

As a common law constitutional lawyer, King examines the challenges in implementing social rights where they can be found within such constitutions, as in South Africa. This provides valuable universal insights into the role of courts vis-à-vis governments in the allocation of resources for social rights. In terms of housing, this is particularly important, since housing costs can dwarf other budgetary provisions. The result, of course, as we have seen in South Africa, is a reluctance by courts to order the implementation of large-scale welfare provisions, much to the disappointment of human rights advocates.

However, King suggests that this is, in fact, the correct role for courts. Even civil and political rights have been developed by courts incrementally, taking small steps to expand the coverage of existing rules and principles in a controlled fashion, learning from past experience and waiting for feedback and new developments. Judicial decision-making should depart only mildly from the existing status quo, in order to avoid a major conflict between the courts and the other parts of the machinery of the State. While King focuses only on common law systems, it is clear that the relationship between the courts and parliament is one which is finely balanced across all States, including European Civil Law systems.



For instance, in Latvia, in case 2009-43-01, the Constitutional Court declared unconstitutional a law which temporarily restricted payments of pension rights, thereby asserting the primacy of constitutional and human rights law over IMF-imposed public expenditure rules. However, the competence of the Constitutional Court in Hungary was reduced by the Parliament as a consequence of its finding, in 2010, that a legislative measure on retroactive income tax at 98% for former government officials was unconstitutional. Yet, in Germany, the Federal Constitutional Court, in

July 2012, decided that the provisions governing cash benefits according to the Asylum Seekers Benefits Act were incompatible with the fundamental rights to a minimum existence, protected as human dignity in Articles 1 and 20 of the Basic Law. The Court held that the fundamental rights to a guarantee of a dignified minimum existence encompasses both the physical existence of an individual and the possibility to maintain interpersonal relationships and a minimum of participation in social, cultural and political life. These needs must be secured comprehensively, and levels of payment must relate to these requirements and be continually reviewed.

Indeed, this case highlights the critical role of courts in defining the minimum core obligations of States in implementing social rights. But there is a major difference on what this means across the world, and more particularly, between developed welfare States and developing countries. Thus, it is important for European social rights advocates to ensure that European normative welfare State and EU social inclusion standards are adopted, rather than universal minimalist UN approaches. Indeed, King proposes that State obligations of a “social minimum” or a claim for resources required for a minimally decent life. This “social minimum” involves an entitlement to

¹ Dr. Padraic Kenna is a professor at the School of Law, National University of Ireland Galway

resources to meet a healthy subsistence threshold, meeting basic physical needs of shelter, nutrition, childhood development, health, psychological integrity; a social participation threshold involving education, insurance against economic shocks and resources for minimal social engagement with family and peers; and finally an agency threshold, involving education and economic stability to engage in basic life-planning, framing and achieving long term goals. King argues that this social minimum should be independently measured, i.e., away from political considerations. However, from a liberal legalist outlook, he is emphatic that it is not the role of courts to order governments to guarantee the social minimum to individual litigants. But one might ask - why not in a modern European welfare State context?

Overall, he suggests that in the absence of a developed welfare State, there is only a small role for courts. He goes so far as to claim that courts are a hollow hope for the poor, citing numerous public law precedents in the US and elsewhere. Yet, King suggests that legal mobilisation can be part of an effective strategy, but only where campaigning and litigation are linked. Nevertheless, there are occasions where judges can act boldly, compensating for democratic inadequacies in parliamentary decision making, ensuring the application of specific expertise, and mandating greater flexibility in administrative and legislative decision-making.

Well written, concise, clearly structured and referenced, this book is essential readings for lawyers, academics, human rights advocates and policy makers.

http://www.cambridge.org/be/knowledge/isbn/item6676477/Judging%20Social%20Rights/?site_locale=nl_BE

Case-Law Update

Evictions in Spain: The Court of Justice gets involved (Judgement C415/11 from the Court of Justice of the European Union)

By CLÉMENTINE SINQUIN¹

A judge at the Barcelona Commercial Court raised doubts about the interpretation of E.U. law whilst examining the case of an eviction procedure carried out by the bank Caixa Catalunya, and called upon the **Court of Justice of the European Union (CJEU) to issue preliminary rulings on two matters:**

- one on the **limits of consumer protection** : when a consumer's decision to take his case to court does not guarantee the effective protection of his rights,
- another on the disproportionate nature of interest accrued on late loan repayments, and the carrying out of a mortgage repossession procedure (among others).

In response to this request, the CJEU issued a ruling on March 14th 2013 declaring that this Spanish legislation went against EU directive 93/12/EEC of April 5th 1993 on unfair terms in consumer contracts, in as far as **it does**

not allow the judge presiding over the case to suspend the eviction procedure - a suspension which is necessary to ensure that "the final judgement issued is fully effective". Furthermore, the Court stated that it is up to the national judge to decide whether the clauses in question in the case examined are indeed unfair in nature.

Explanation:

- Under Spanish law, unfair clauses are not included in the list of reasonable grounds upon which an individual can challenge the implementation of an eviction procedure. **In order to challenge the decision to implement such a procedure on the grounds that the contract in question contains an unfair clause, the debtor must go before a judge at the Commercial Court, whose responsibility it is to rule on the case. However, according to the Court of Justice of the**

¹ Clementine Sinquin is a policy assistant at FEANTSA.

European Union, the irrevocable and immediate nature of an eviction procedure mean that the judge is unable to suspend it “in order to guarantee that the final judgement issued is fully effective”.

- Thus, the European directive 93/13 goes against this legislation in that it “prevents the judge competent to rule on whether or not a clause in a property loan agreement is unfair to suspend the repossession procedure, initiated by an outside party”.
- Moreover, if the judge presiding over the case rules that the loan agreement does indeed contain an unfair clause- and, therefore, that the repossession procedure is null and void - but does so after repossession has been completed, this ruling is **only able to provide a posteriori protection, purely compensatory in nature, without the person who has been evicted being able to resume ownership of his property.** And yet, despite the existence of this legal provision, the payment of this compensation does not make it possible to stop banks using unfair clauses.
- The decision is a step forward as far as the law covering first-time buyers in Spain is concerned. It came as a relief for José Maria Fernandez Seijo, the Spanish judge who brought the case before the Court of Justice: *“From today onwards, any judge who detects an unfair clause will be able, as a precautionary measure, to declare that the consumer may remain in his home”* (quoted in the French daily *Libération* <http://bruxelles.blogs.liberation.fr/coulisses/2013/03/expulsion-les-juges-europ%C3%A9ens-condamnent-les-abus-des-banques-espagnoles.html>).

Consequences

On May 16th 2013, this jurisprudence was used by the judge at Andalucía’s High Court to demand that all judges in the region enforce the legislation which allows an eviction procedure to be frozen whilst a case is examined. He also expressed his belief that national and European jurisprudences had produced enough tools for judges to be able to remedy the social tragedy of mortgage repossession.

The facts

- **M. Aziz took out a 138,000€ loan secured against his mortgage** at the Spanish bank Caixa Catalunya on 19 July 2007. Repayments were to be made over 33-year period. The loan was taken out against his habitual residence, of which he had been the owner since 2003.
- Clause 15 of the loan agreement stipulated that the **annual interest rate on late payments was 18.75%** and that this was automatically applicable to payments not settled on time, without it being necessary for the bank to seek permission to do so. Furthermore, the contract stated that should the debtor fall behind with his payments, the bank was able to demand that the loan be repaid in full.
- Another clause granted banks **the right to repossess the property against which the loan was secured were its owner to accumulate debt, and to directly demand the liquidation of the sum owed.**
- Mr Aziz lost his job and **ceased to make the monthly payments required** ten months after having signed the loan agreement with the bank.
- The liquidation of his loan was valued at more than 139,000 € and the interest and costs involved were estimated to stand at more than 40,000 €.
- Having failed to meet his financial obligations, Mr Aziz’s property was auctioned off on 20 July 2010, and was sold at half its original value. **Six months later, Mr Aziz was evicted from primary residence - his home - in order that it could be transferred to the successful bidder.**
- Prior to his eviction, Mr Aziz had filed a **request for a ruling from the Commercial Court which would annul the clause in the contract deemed unfair in nature.**
- This procedure does not allow a judge to stay the **eviction decision**, which is **irrevocable** under Spanish law. If the judge rules that the contract contains an unfair clause, the plaintiff will at best receive compensation, but the eviction will not be overturned.

Legislation update from France

By CLÉMENTINE SINQUIN¹, NORIA DERDEK² and JEAN- BAPTISTE LECERF³

Decision to recognize the right to emergency accommodation and the right to remain in an emergency accommodation facility as ‘fundamental freedoms’ opens up a new channel for appeals before the courts.

SUMMARY:

In France, administrative court judges can now declare that the administration has violated a fundamental freedom and order that the authorities in question take action to ensure that this freedom is respected.

Since the Council of State’s decision to recognise the right to accommodation as a ‘fundamental freedom’ in February 2012, homeless persons whose requests for assistance from public housing services have been ignored and who gone to court to see this right enforced, are now able to obtain a decision within 48 hours. However, things have now further progressed. On 14th January 2013, the Paris administrative court also recognised the right to remain in an emergency housing facility. This ruling was issued in favour of a father and his three children whose funding for hotel accommodation had been suspended by the authorities. In helping people involved in legal proceedings with their appeals, the association Droit au Logement actively pushed for this jurisprudence.

- In France, two pieces of legislation guarantee the right to emergency accommodation and the right to remain in such a facility.
 - Article L. 345-2-2 of the Social Action and Families Code stipulates that ‘any homeless person who is in a situation of physical, mental or social distress has the right to access an emergency housing facility, at any time. This emergency accommodation must allow him, in conditions which respect human dignity, to benefit from facilities which provide bed, board and washing facilities, an initial assessment evaluating his physical, mental and social state. This assessment must be conducted within the emergency accommodation facility itself or, by agreement, by external bodies or health professionals. The facility
- must also direct the individual in question towards any professional or organisation likely to provide him with assistance made necessary by his state at the time of the assessment, namely an accommodation and social reintegration centre, a stabilisation centre where the person can be housed for an indefinite period in order to make longer-term plans, a family guest house, a facility which aims to provide residents with a family life, a residence for elderly persons unable to live independently, a short stay in another shelter, health care or a hospital service.’
- Article L. 345-2-3 of the same Code stipulates that ‘all individuals entering an emergency accommodation facility must have access to support which is tailored to his needs within the facility itself and must be able to remain in this facility from a point of his choosing, until he is referred to another facility. The alternative offered must be either a facility providing stable accommodation or health care, or a house, depending on his particular situation.’
- **In view of these articles, on 10 February 2012, the Council of State declared that a failure to apply the law relating to emergency accommodation could constitute ‘a serious violation of a fundamental freedom.’⁴**
- This recognition of the right to accommodation as a fundamental freedom opens up a new channel for appeals before the courts for people who have applied for emergency accommodation or who have been put back out on the streets: This new legal instrument is known in France as **le référé-liberté**.
- The **référé-liberté** is a procedure brought before the administrative courts,⁵ in cases where ‘a decision has been made on the case [of the party involved] by a

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2 Correspondent from Housing Rights Watch, France, for the network Jurislogement

3 Legal expert at the association Droit au Logement.

4 ALPIL, Handbook on the preparation of a référé-liberté for people working with those living on the streets or with those at risk of joining this category: <http://www.jurislogement.org/files/Vademecum.pdf>

5 Amongst other things, the administrative court settles disputes between individuals and the French administration.

public authority or service which constitutes a serious and clearly illegal violation of one of his fundamental freedoms.⁶ It is a procedure which requires a ruling to be issued as a matter of extreme urgency, within the 48 hours following the appeal being lodged.

- Since February 2012, under the référé- liberté procedure, **several rulings issued by administrative courts have ordered that the prefecture provide a place in an emergency accommodation facility for homeless people.**⁷
- On 11 January 2013, for the first time ever, an administrative court recognised **the right to remain in accommodation** through a ruling issued following a référé-liberté procedure, pursuant to article L. 345-2-3 of the Social Action and Families Code (see above).
- The case in question involved a man and his three children for who were stripped of their place in a hostel for the homeless. The local authority service responsible for managing requests for emergency accommodation (the '115' telephone service in the French département-Val d'Oise) had withdrawn the funding for the place. In order to avoid ending up back on the streets, the man had been paying for his own accommodation in a hotel, to the tune of 100 € a night. It was within this three- day period that the association DAL brought an appeal before the Paris administrative court using the référé- liberté procedure.
- Within 36 hours, the Court had ordered 'that the Prefecture of the Ile-de-France and Paris region offer them an alternative.' The 115 service did so immediately.
- The right to accommodation and to remain within it is one which the state has the duty to enforce. Prior to the introduction of the référé-liberté procedure, administrative court judges were already able to sanction state authorities for their failure to do so using a procedure known in France as a 'référé classique.' According to the association Droit Au Logement, the new référé-liberté is 'the fastest procedure available under administrative law. However, it is also a procedure whose use requires

stringent conditions to be met. Indeed, the order issued by the Council of State in February 2012 states that in order for a court to rule that there has been a violation of this fundamental freedom, the authorities' refusal to provide accommodation but 'lead to serious consequences for the party involved,' in view of his age, health and family situation.⁸ It is the fulfilment of these criteria which obliges the judge to issue a ruling within 48 hours.

- The right to accommodation remains unconditional in France. As a result, it can be enforced using other appeal procedures which are slower but which are designed to guarantee accommodation to any individual in distress. Such procedures are used when the situation is less serious and when the degree of urgency is lower and take between approximately two weeks and a month).
- The procedure is not a tool which makes structural improvements to housing supply in France but does nevertheless complement the appeal made by associations working to enforce the right to housing.⁹

BACKGROUND:

The association Droit au Logement (DAL)

The association Droit Au Logement was founded in Paris in 1990, 'following the decision taken by 48 households, largely comprising families with children, to set up camp, after having been evicted in May of that year from two buildings which they occupied as squatters.'¹⁰ The case captured the attention of the media and the authorities rehoused the families. Since then, the association has used direct action- camps, squats- in order to prompt the authorities to take action on the issue of homelessness and poor housing. It has also opened offices providing legal advice to those who need to enforce their rights, including families who have been evicted, homeless people and those living in unsanitary accommodation.

For more information, visit <http://droitaulogement.org/>

6 Official website of the public sector : <http://vosdroits.service-public.fr/F2551.xhtml#>

7 For more details, see the Jurislogement website : <http://www.jurislogement.org/droit-des-personnes-hrg-mainmenu-33/29-droit-au-maintien/243-droit-a-un-hebergement-durgence-consacre-comme-liberte-fondamentale>

8 Marion Jenkinson, "Consécration de l'hébergement d'urgence des personnes sans abri en situation de détresse comme liberté fondamentale dans le cadre du référé-liberté" in Lettre "Actualités Droits-Libertés" by CREDOF, 15th February 2012

9 See the press release issued by the association Droit au Logement : « Le 14 janvier : L'hébergement est un droit, jusqu'au relogement! » <http://droitaulogement.org/paris-le-11-janvier-nouvelle-jurisprudence-un-jugement-reconnait-le-droit-au-maintien-en-hebergement/>

10 See the introduction to the association published on its website : <http://droitaulogement.org/association-droit-au-logement/>

April 2013 Case of *Mohammed Hussein v. the Netherlands and Italy* (Application no. 27725/10)

Somali asylum seeker failed to prove that removal from the Netherlands to Italy under Dublin Regulation would expose her and her two children to risk of ill-treatment and homelessness

The Court found in particular that, if returned to Italy, the future prospects of Ms Mohammed Hussein and her two children did not disclose a sufficiently real and imminent risk of hardship severe enough to fall within the scope of Article 3 (Prohibition of torture). The applicant complained that, during her stay in Italy, she had received no support from the Italian authorities and had been forced to live on the streets. However, the Court underlines that while at the reception centre she had not sought assistance in finding alternative accommodation so as to avoid the risk of homelessness.

It further noted that, after her request for international protection had been accepted, she had been provided with a residence permit for a three-year period, which entitled her to benefit from the general schemes for social

assistance, health care, social housing and education in the same manner as the general population of Italy.

Furthermore, the Court took into account various reports drawn up by both governmental and non-governmental institutions and organisations on the reception schemes for asylum seekers in Italy, **the Court considered that, despite some shortcomings, the general situation of asylum seekers in Italy had not been shown to disclose any systemic failure.**

The European Court of Human Rights has unanimously declared the application inadmissible under the articles 3 (prohibition of torture), 13 (right to an effective remedy) and 8 (right to respect for private and family life).

Recent publications

'**Draw me a house, please**', by Jacques Fierens, in *The Right to Housing: moving towards an obligation to produce results?*, die Keure/la Charte, Bruxelles, 2013.¹

Notes on the article (original article in French) by Clémentine Siquin, Policy assistant, FEANTSA
clementine.siquin@feantsa.org

LEGALITY, LEGITIMACY, EFFECTIVENESS AND THE RIGHT TO HOUSING

Following calls for improved living conditions from the poorest members of society, the right to housing was enshrined in international, European and national legislation. However, getting rights legally recognised does not lead directly to a significant improvement in the situation of those who have been deprived of them. For example, in 2009 FEANTSA estimated that the number of homeless people in Belgium stood at 17, 000. How is it possible that such a phenomenon continues to exist, despite the state's commitments to uphold human rights?

In the light of this statistic, how can we ensure the right to housing is effectively enforced?

Jacques Fierens' article provides a crucially important answer to this question. He states that in order for a right to go from being legally recognised to effectively enforced, it needs to be recognised by society as a whole as having both 'ethical and political foundations'. This is why it is incumbent upon experts in the right to housing- academics, activists, decision makers- to spread their knowledge far and wide, in order to ensure that the right to housing is firmly established within the community of citizens.

¹ Original title in French: 'S'il te plaît, dessine-moi un logement', in *Droit au logement : vers une obligation de résultat ?*, die Keure/la Charte, Bruxelles, 2013.

THE STRUCTURE OF THE RIGHT TO HOUSING

The right to housing can be represented as a house whose every component is vital in ensuring it stays standing:

- **The roof** represents the formal recognition of the right to housing by both national and international law.
- **The bearing walls** serve as a metaphor for the human rights which are connected with the right to housing. Without these related rights being enforced, (the right to dignity or non-discrimination, for example), the right to housing would not be entirely effective. Therefore, in the words of Fierens himself, 'indeed, being poor does not mean being homeless. It means being deprived of the opportunity to exercise every single one of your fundamental rights. Do we not in fact describe fundamental rights as "indivisible"?'
- **The open windows** illustrate the relationship between the residents and the outside world, and thus portray housing as means for social integration. **The closed windows** depict the right to housing as a vital prerequisite in order to ensure respect of the individual, and as a principle which runs counter to the social control which society often wields over its poorest members.
- **The door** invites us to consider who holds the keys to the house. Who will give them to whom? It is the state, through its international commitments, which must ensure that each and every individual has the means necessary to acquire housing. Relationships between private landlords and tenants are also governed by the legislator, and then by a judge should disputes arise. The door to a house is also used to leave or to make others do so. This thus brings the pivotal issue of evictions to mind. Evictions are common practice across the globe and are not always illegal, but can sometimes constitute a violation of the right to housing, the right to safety and the right to have possessions respected. In short, evictions constitute the denial of a whole host of fundamental rights.
- **The quality of the construction and the comfort offered** do not function as metaphors here. The right to housing of an adequate quality is enshrined in both international and national legislation. Quality criteria include size, salubrity, protection offered against vandalism and burglary and equipment providing a basic level of comfort.
- **The front steps** represent the obstacles which prevent individuals from fighting for their social rights in court. These include being ill-informed about their rights and being deprived of the right to a fair hearing within a reasonable period of time. In many countries, when property owners do not respect the rights of their tenants, they can be brought before a judge who will ensure that they comply with the law. However, what happens when it is the state who disregards the right to housing? As things currently stand, there are no legal procedures which can bring Belgium to court if it fails to uphold international commitments made regarding the right to housing. Given that this is the case, why not give legally binding status to the decisions taken by the only institutions that pass judgement on states' violations of social rights, namely the U.N Committee on Economic, Social and Cultural Rights and the European Committee of Social Rights?
- **The foundations** underpin the entire structure of the house. In the same way, there are a number of philosophical principles without which the right to housing cannot be effectively enforced. First is the principle that human rights are universal and that as such, contrast entirely with any concept of merit whatsoever. Secondly, in order to be effective, rights must be applied to people who form part of a political community (Hannah Arendt). Consequently, when the right to housing of society's poorest members is violated, it is appropriate for those in power to consider the conditions for integration in place and the primary importance which our society attaches to money as a means of integration.

The book **Droit au logement: vers une obligation de résultat?** can be purchased at the following address :

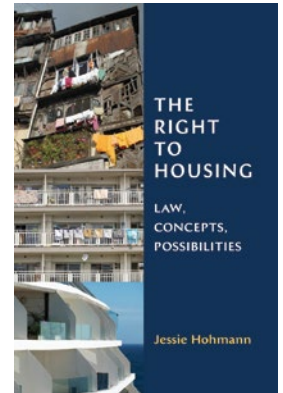
http://www.diekeure-juridischeuitgaven.be/catalogue/detail_fr.php?id=1230&bestelcode=202%20121%20334

The Right to Housing – Law, Concepts, Possibilities

By Jessie Hohmann

“A human right to housing represents the law’s most direct and overt protection of housing and home. Unlike other human rights, through which the home incidentally receives protection and attention, the right to housing raises housing itself to the position of primary importance. However, the meaning, content, scope and even existence of a right to housing raise vexed questions.”

The book draws on insights from a variety of areas, including: law, anthropology, political theory, philosophy and geography, and addresses the legal, theoretical and conceptual issues, providing a deep analysis of the right to housing within and beyond human rights law. The book outlines the right to housing in international law and in national legal systems; examines the key concepts of housing: space, privacy and identity, and finally looks at the potential of the right to alleviate human misery, marginalisation and misery.



Published by Hart, 2013. Available at:

<http://www.hartpub.co.uk/BookDetails.aspx?ISBN=9781849461535>

Forthcoming publication:

Following the Housing Rights Watch conference in 2012 in Galway, Dr. Padraic Kenna will edit a collection of papers.

Contemporary Housing Issues in a Globalized World

Edited by Padraic Kenna, NUI Galway, Ireland

The globalisation of housing finance led to the global financial crisis, which has created new barriers to adequate and affordable housing. It presents major challenges for current housing law and policy, as well as for the development of housing rights. This book examines and discusses key contemporary housing issues in the context of today’s globalised housing systems.

The book takes up the challenge of developing a new paradigm, working towards the possibility of an alternative future. Revolving around three constellations of writing by diverse contributors, each chapter sets out a clear and developed approach to contemporary housing issues. The first major theme considers the crisis in mortgage market regulation, the development of mortgage securitisation and comparisons between Spain and Ireland, two countries at the epicentre of the global housing market crisis.

The second thematic consideration focuses on housing rights within the European human rights architecture, within national constitutions, and those arising from new international instruments, with their particular relevance for persons with disabilities and developing economies. The third theme incorporates an examination of responses to the decline and regeneration of inner cities, legal issues around squatting in developed economies, and changes in tenure patterns away from home-ownership.

This topical book will be valuable to those who are interested in law, housing rights and human rights, policy-making and globalisation.

Available in January 2014 c 288 pages from www.ashgate.com



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This programme was established to financially support the implementation of the objectives of the European Union in the employment and social affairs area, as set out in the Social Agenda, and thereby contribute to the achievement of the Lisbon Strategy goals in these fields.

The seven-year Programme targets all stakeholders who can help shape the development of appropriate and effective employment and social legislation and policies, across the EU-27, EFTA and EU candidate and pre-candidate countries.

To that effect, PROGRESS purports at:

- providing analysis and policy advice on employment, social solidarity and gender equality policy areas;
- monitoring and reporting on the implementation of EU legislation and policies in employment, social solidarity and gender equality policy areas;
- promoting policy transfer, learning and support among Member States on EU objectives and priorities; and
- relaying the views of the stakeholders and society at large.

For more information see: http://ec.europa.eu/employment_social/progress/index_en.html

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