

Introduction

Padraic Kenna

Professor of Law at the University of Galway (Ireland)

Housing Challenges in Europe

While EU Member States implement a range of regulatory, funding and provision measures to address housing need and homelessness, these are today insufficient to meet the need for affordable, accessible and secure housing for all. Almost 10% of the EU-27 population spend 40% or more of their net income on housing, and almost 20% live in overcrowded dwellings. The poorest spend almost half their incomes on housing, and 20% are unable to keep their homes adequately warm.¹ Homelessness across the Union is estimated at 700,000 people, an increase of 70% in the past 10 years. It is well established that homelessness, evictions and poor housing represent a threat to human dignity, create a sense of shame and social exclusion, and act as a barrier to equal opportunity in Europe.

Many European cities face the trinity of financialisation, touristification and residualisation of social housing in their housing systems, where the poor and vulnerable are squeezed out of the rental market. Progressive political and public responses are often wrong-footed by globalized financial corporations who invest in housing and development land, with high returns, while on-line platforms dominate the rented sector.

Yet, all EU Member States have adopted housing rights obligations, within their constitutions, laws, policies, budgets and international human rights obligations. All have adopted the *Universal Declaration of Human Rights* (UDHR)(1948) which recognises the right to housing as part of the right to an adequate standard of living. All have adopted the UN International Covenant on Economic, Social and Cultural Rights (ICESCR)(1966), the Council of Europe, European Social Charter (ESC)(1961) and Revised Charter (RESC) (1996).² All States have adopted the European Convention on Human Rights (ECHR)(1950),³ and all EU Member States have adopted the EU Charter of Fundamental Rights as part of Treaty law. In addition, a range of “*soft law*” measures have been adopted, including the European Pillar of Social Rights.⁴

1. https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Living_conditions_in_Europe_-_housing.

2. Kenna, P. (2022) Right to Housing, *Elgar Encyclopaedia of Human Rights* (Cheltenham, Edward Elgar).

3. Council of Europe, *Convention for the Protection of Human Rights and Fundamental Freedoms (ETS No. 005)* <http://conventions.coe.int/treaty/en/Treaties/Html/005.htm>.

4. SWD(2017) 201 final. https://ec.europa.eu/info/strategy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-20-principles_en

When we examine the application of these housing rights a complex and variegated pattern emerges. Litigation exposes the fault lines between what is legislated and what can be expected. Standards can appear with great clarity in legal texts, but deflate rapidly when challenged as legally enforceable norms. Equally, individual advocacy, so favoured by liberal housing rights advocates can have little impact beyond the individual cases. Although the liberal human rights model can ameliorate the worst excesses of policy failure and discrimination, a more comprehensive approach to rights realization, embracing questions of resource allocation in society, is being developed by the European Committee on Social Rights.

All these predicaments are expressed in this publication as it grapples with the conflict, contradictions, poor enforcement, and complexities of applying housing rights to different parts and different national forms of housing systems, in Europe today.

Housing Rights

The ICESCR, States obliges its European ratifying States to recognize, respect, and fulfil the right to housing, meet “*minimum core obligations*”, ensure non-discrimination, enact legislative measures and develop appropriate policies by committing the maximum available resources towards a progressive realisation of this right. *UN General Comment No. 4 on the Right to Adequate Housing* (1991) clarified that such rights to housing, at a minimum, include legal security of tenure, available services, materials and infrastructure, be affordable, habitable and accessible, be in a suitable location and be constructed and sited in a way which is culturally adequate. *UN General Comment No. 7 on Forced Evictions* (1997) states that evictions should not result in individuals being rendered homeless.

The (R)ESC sets out a range of housing rights in Article 15 (disabled persons); Article 16 (sufficient housing for families); Article 19 (migrant workers); Article 23 (elderly persons); Article 30 (as part of the right to protection against poverty and social exclusion); and Article 31 (on the right to housing). The ESC monitoring body, the European Committee of Social Rights (ECSR), has defined the concept of “*adequate housing*” as requiring a legal framework ensuring an adequate standard (safe, healthy and of adequate size); legal and procedural safeguards in case of eviction; policy and action to prevent homelessness; provision of adequate emergency accommodation for all homeless persons; provision of affordable housing through social housing of adequate quality and quantity or other means.⁵ Although not imposing on States an obligation of “*results*”, nevertheless the ESC and RESC rights recognised must take a practical and effective, rather than theoretical, form.⁶ When one of the rights in question is exceptionally complex and expensive to implement, States must take steps to achieve the objectives of the ESC within a reasonable time, undertaking measurable progress and making maximum use of available resources.

The Council of Europe’s ECHR (1950) which addresses elements of housing rights in an oblique way, has become significant for housing rights advocates, especially in its jurisprudence on its definition of and respect for home. Article 8 of the ECHR (which is replicated in Article 7 of the EU

5. ECSR Committee of Social Rights, *Digest of the Case Law*. <https://rm.coe.int/digest-2018-parts-i-ii-iii-iv-en/1680939f80>

6. *European Federation of National Organisations Working with the Homeless (FEANTSA) v France*, Complaint No. 39/2006. Available at: https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH-2bYG/content/no-39-2006-european-federation-of-national-organisations-working-with-the-homeless-feant-sa-v-france?inheritRedirect=false.

Charter of Fundamental Rights) has been interpreted as prohibiting any eviction from a “home” without a proportionality assessment.⁷ The right to respect for ‘home’ “concerns rights of central importance to the individual’s identity, self-determination, physical and moral integrity, maintenance of relationships with others and a settled and secure place in the community”.⁸

The Treaties of the European Union sets out fundamental rights for Europeans, and integrate these rights into EU law. These Treaties include the Charter of Fundamental Rights (Charter),⁹ with Article 7 on the right to respect for home and family life, Article 33 on the rights of households to enjoy legal, economic and social protection – including access to adequate housing, and Article 36 on the obligation on the EU to recognise and respect Member States arrangements for access to Services of General Economic Interest, which includes social and affordable housing. While the Charter does not create stand-alone individually enforceable housing rights, it does create binding obligations on EU institutions, acting within their competences and mandates, and on Member States when implementing EU law, to “respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties.”¹⁰ Significantly, Article 7 of the Charter on right to respect for home falls within those Charter rights described in Title II as Freedoms, whereas Articles 33, 34 and 36 are set out within Title IV as Solidarity measures – sometimes referred to as principles.¹¹ Thus, the right to respect for home forms a fundamental right in the EU Treaties.

Perhaps, the best known Article of the Charter in housing terms is Article 34(3),¹² which potentially creates a normative standard of a “decent existence” for Europeans and requires that States provide social and housing assistance to all those who lack sufficient resources. While Article 34(3) can only be invoked in the context of EU social inclusion policies, based on Article 153 TFEU, it is however becoming an interpretative tool for assessing Member States application of related EU law, especially where EU law and national measures overlap.¹³

While not justiciable, the European Pillar of Social Rights (EPSR)¹⁴ provides at Principle 19 that access to social housing or housing assistance of good quality shall be provided for those in need, while adequate shelter shall be provided to homeless people. The EPSR now informs EU policy, including the European Semester, with a Social Scoreboard ranking Member States performance

7. *McCann v UK* Application no. 18984/91, [1995] available at: <https://hudoc.echr.coe.int/eng#%7B%22itemid%22%3A%22001-57943%22%7D>.

8. *Yordanova and Others v Bulgaria* Application No. 25446/06, Judgment, 24 September 2012.

9. Consolidated versions of the Treaty on European Union and the Treaty on the Functioning of the European Union 2012/C 326/01.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A12012E%2FTXT>

10. UE Charter of Fundamental Rights, article 51.

11. The *Explanations* of article 34§3 state that “The Union must respect it in the context of policies based on Article 153 of the Treaty on the Functioning of the European Union”.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32007X1214%2801%29>

12. “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, in accordance with the rules laid down by Union law and national laws and practices.”

13. See Case 571/10, *Servet Kamberaj v Istituto per l’Edilizia sociale della Provincia autonoma di Bolzano (IPES)* [2012]. See Kenna, P. (2020) *Briefing Paper 3. Integrating EU Charter Housing Rights into EU Economic Governance*. Available at: <http://www.nuigalway.ie/media/housinglawrightsandpolicy/files/Briefing-Paper-3-Integrating-EU-Charter-Housing-Rights-into-EU-Economic-Governance-and-Financial-Supervision--.pdf>.

14. SWD(2017) 201 final.

https://ec.europa.eu/info/strategy/priorities-2019-2024/economy-works-people/jobs-growth-and-investment/european-pillar-social-rights/european-pillar-social-rights-20-principles_en.

in a number of areas including housing,¹⁵ but there is much work to be done to make this relevant for housing rights.

The European institutions, Member State governments and civil society have committed also to the European Platform on Combatting Homelessness, with a target for ending homelessness by 2030. Within this platform, the FEANTSA/Housing Rights Watch promotes rights to housing, access to decent emergency accommodation, equal treatment, right to a postal address, right to sanitary facilities, emergency services, voting, data protection, privacy and right to carry out practices necessary to survival (within the law) of homeless people,¹⁶ among which the most vulnerable groups (migrants, women, LGBTIQ+ people, people with disabilities) are the most affected.¹⁷

However, Olivier De Schutter has highlighted the weak status of social rights in the European Union's constitutional framework. The EU Charter contains significant gaps in comparison to the Council of Europe's ESC. In areas such as the right to social assistance as a means of combating social exclusion or the right to housing, the EU Charter guarantees no directly enforceable entitlements.¹⁸ While this limited approach may be explained by the fact that these areas are primarily regulated by Member States, the EU could in fact take a greater lead in guaranteeing social rights.

*“(...) Guaranteeing a right does not necessarily equate to having the power to take measures to implement it. It may imply, more modestly but at the same time importantly, that the European Union commits to not restricting the ability of Member States, within their own sphere of competence, to adopt measures that are aimed at the realization of the right in question”.*¹⁹

Climate Change

It is time to recognise that the right to adequate housing must include an additional element – namely sustainability.²⁰ Addressing climate change is now becoming a key part of housing policy in Europe, recognised as impacting on the enjoyment of the right to adequate housing. The European Green Deal involves the introduction of harmonising regulations governing climate law, to enshrine the 2050 climate-neutrality objective into EU law.²¹

15. <https://composite-indicators.jrc.ec.europa.eu/social-scoreboard/#socialdimensions>. The EPSR Action Plan (2021) <https://ec.europa.eu/eurostat/web/european-pillar-of-social-rights/indicators/social-scoreboard-indicators>.

16. <https://www.housingrightswatch.org/billofrights#bill>. See also FEANTSA/Fondation Abbe Pierre (2020) *Fifth Overview of Housing Exclusion in Europe*. <https://www.feantsa.org/en/news/2020/07/23/fifth-overview-of-housing-exclusion-in-europe-2020?bcParent=26>

17. See FEANTSA: *Homelessness on the European agenda: European Parliament and the European Commission discuss homelessness and Housing First during first European Parliament plenary session of the year*.

18. UN Doc. A/HRC/47/36/Add.1. *Report of the Special Rapporteur on extreme poverty and human rights, Olivier De Schutter – Visit to the European Union*. Para 20.

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/G21/110/87/PDF/G2111087.pdf?OpenElement>

19. *Ibid*, para 21.

20. See UN Doc. A/HRC/52/28, *Towards a just transformation: climate crisis and the right to housing*. Report of the UN Special Rapporteur on adequate housing as a component to the right to an adequate standard of living and on the right to non-discrimination in this context, Balakrishnan Rajagopal. <https://www.ohchr.org/en/documents/thematic-reports/ahrc5228-towards-just-transformation-climate-crisis-and-right-housing>

21. A European Climate Pact to engage citizens and all parts of society in climate action; a 2030 Climate Target Plan to further reduce net greenhouse gas emissions by at least 55% by 2030 and an EU Strategy on Climate Adaption to make Europe a climate-resilient society by 2050, fully adapted to the unavoidable impacts of climate change. European Green Deal (2021), https://ec.europa.eu/clima/eu-action/european-green-deal_en

Since 75% of housing in the EU is not energy efficient and 85% of these homes will still be in use in 2050, major renovation of housing is required to meet the targets. The implementation of the Green Deal, through the Renovation Wave Initiative²² (which aims for 35 million buildings to be renovated by 2030), the Commission Recommendation on Energy Poverty,²³ the future revision of the Energy Efficiency Directive²⁴ and the steer and guidance for local action by EU Energy Poverty Observatory²⁵, will contribute to alleviate energy poverty and increase the quality of housing, in particular for medium and low-income households. Some 30% of European households are tenants, and their inclusion in future European and national housing policy development will be important.²⁶

Significantly, the European Parliament in January 2021, adopted the Report on “*access to decent and affordable housing for all*”, with Kim Sparrentak MEP, as Rapporteur.²⁷ The Report called for adequate, energy-efficient and healthy housing for all Europeans, end homelessness by 2030, no discrimination, an integrated approach to social, public and affordable housing at EU level, security of tenure and inclusive housing markets, and major investment in social, public, affordable and energy-efficient housing.²⁸ The European Parliament has also called for a European impetus to end homelessness across the EU by 2030.²⁹

Connecting all these housing rights arrangements together is a work in progress, and it is the sharing of information and analysis which enables advocates to develop common and higher standards of housing rights. Equally, housing rights advocates can offer insights to human rights advocates (especially in relation to other socio-economic rights).

However, the liberal legal human housing rights model is somewhat fettered by the legal treatment of housing both as a property right (with all that entails for lending, markets, security, and ideology) and housing as a home (decommodified and available to all those in need). Many liberal civil/human rights approaches are entrenched in property rights arguments. This duality becomes visible in debates about the justiciability of housing rights at national level (since many courts constitutional first obligations are to preserve property rights). This approach is not so prevalent in political, social or other disciplinary treatment of housing rights.³⁰ Changing the

22. COM(2020) 662 final of 17 September 2020.

23. Commission Recommendation (EU) 2020/1563 of 14 October 2020.

24. Directive 2012/27/EU of 25 October 2012.

25. <https://www.energypoverty.eu>.

26. <https://ec.europa.eu/eurostat/cache/digpub/housing/bloc-1a.html?lang=en>; See My Rights as a Tenant in Europe: https://www.uni-bremen.de/fileadmin/user_upload/fachbereiche/fb6/fb6/Forschung/ZERP/TENLAW/My_Rights_as_Tenant_in_Europe.pdf

27. European Parliament (2021) Report on access to decent and affordable housing for all (2019/2187(INI) P9_TA(2021)0020 (January 2021) available at: https://www.europarl.europa.eu/doceo/document/A-9-2020-0247_EN.html

28. https://www.europarl.europa.eu/doceo/document/A-9-2020-0247_EN.html

29. European Parliament resolution 2020/2802(RSP) of 24 November 2020 on tackling homelessness rates in the EU. https://www.europarl.europa.eu/doceo/document/TA-9-2020-0314_EN.html

30. For instance Picketty, T. in *Capital and Ideology* (Harvard University Press (2020) suggests that this overwhelming constitutional respect for property rights (especially corporate property rights) will have to be amended, and it would be a “*good idea to constitutionally enshrine an explicit principle of fiscal justice based on progressive taxation so that it will be impossible for the rich to pay proportionally less in taxes than the poor (and possible for them to pay more if legislators so decide*” (p.996). He suggests that court interventions in this area of socio-economic rights has historically been regressive, citing the US Supreme Court striking down of the New Deal social and fiscal legislation.

conception of housing as property and as an asset class,³¹ prevalent among policymakers and mainstream media in Europe, is challenging for human rights and other lawyers.

The development of a housing rights approach can also demonstrate the valuable role of courts in vindicating non-majoritarian rights, and in challenging the other branches of the State to address iniquities which politics does not always effectively reach. Equally, at EU level, the impact of Commission funding for European NGOs and support for Member States action on homelessness, such as through the open method of coordination has been equally, if not more, significant than many human/housing rights approaches to date.³² In the context of the development of New Public Management (NPM) and other “*governance*” models of public service provision, changing the role and operational models of the State, some human rights models around duty bearers and rights holders are becoming dated. NPM redirects the primary focus of the State/public sector away from traditional public administration models towards goals of cost-effectiveness, efficiency and customer satisfaction – drawing directly from the “*private sector*”. It seeks to view citizens as customers, and relegates rights to elements of non-binding actions plans and strategies.³³

European Contribution to the Right to Housing: Standards, Litigation and Advocacy

All of this provided the context for the Conference on *The European Contribution to the Right to Housing Standards, Litigation and Advocacy Conference*, in May 2022, organised by Abbé Pierre Foundation and FEANTSA.³⁴ It marked the end of the COVID lockdown period, and enabled a contemporary examination of the “*state of the art*” on housing rights in Europe. The expert speakers (and now writers) at this event addressed key topics such as the right to housing, EU law, social and environmental rights, strategic litigation, climate change, rent control, housing standards, social housing, energy poverty and regulation.

Of course, FEANTSA has been central to the development of housing rights in Europe, and the FEANTSA Expert Group on Housing Rights was established in 2005, with impetus from Marc Uhry and colleagues at Abbé Pierre Foundation. FEANTSA supported a number of Collective Complaints to the ECSR, which clarified the obligations of States under the ESC.³⁵ Indeed, the Expert Group book on *Housing Rights and Human Rights (2005)*³⁶ pointed out that States were increasingly disengaging from direct interventions in housing systems and that the responsibilities of States to housing poor people would depend more and more on exercising housing rights. While recognis-

31. Gabor, D. & Kohl, S. (2022) “My Home is an Asset Class” – The financialisation of housing in Europe, The Greens/EFA of the European Parliament. <https://www.greens-efa.eu/en/article/document/my-home-is-an-asset-class>

32. https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:open_method_coordination

33. Hood, C. “A Public Management for All Seasons”, *Public Administration* Vol. 69 Spring 1991 (3-19). <http://newdoc.nccu.edu.tw/teasyllabus/110041265941/hood%20onpm%201991.pdf>. See also Mazzucato, M. & Collington, R. (2023) *The Big Con – How the Consulting Industry Weakens our Businesses, Infantilizes our Governments and Warps our Economies*. (Penguin)

34. All the presentations from the Conference are available at: <https://www.housingrightswatch.org/news/european-contribution-right-housing-standards-litigation-and-advocacy>

35. *European Federation of National Organisations Working with the Homeless (FEANTSA) v France*, Complaint No. 39/2006. Available at:

https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH-2bYG/content/no-39-2006-european-federation-of-national-organisations-working-with-the-homeless-feant-sa-v-france?inheritRedirect=false.

36. Available at:

<https://aran.library.nuigalway.ie/bitstream/handle/10379/1762/Housing%20rights%20and%20human%20rights.pdf?sequence=1&isAllowed=y>.

ing that the most effective housing rights strategy is one which makes use of all available tools, including political organisation and advocacy, the ultimate (albeit minimal) protection often now relies on asserting legal rights in courts.

This publication is set out in five sections. Part I begins by addressing a central question in any European consideration of housing rights – does the EU have any obligations in relation to housing generally and housing rights, in particular. The EU Charter of Fundamental Rights will play a central function as it entrenches all the rights expressed in the other instruments adopted by Member States, such as the ECHR and (R)ESC, as well as rights and principles resulting from the common constitutional traditions of EU Member States, and all the international instruments they have adopted, into binding EU law. But the question of EU competences – exclusive, shared or supportive of Member States is critical. As Judge Rossi points out in chapter 1, the CJEU can only apply the Charter where there is an EU law nexus, as set out in the Treaties.³⁷ Of course, some Charter rights are based on the ECHR, and in chapter 2 Professor Albuquerque suggests that judges of the European Court of Human Rights have become more cautious in defining a socio-economic right in recent years. This theme of defining housing rights by human rights adjudication bodies is developed by Professor Palmisano (former President of the ECSR at the Council of Europe), where he emphasises the advantages of a “*collective complaints*” system, and the comprehensive nature in which State obligations are defined in addressing socio-economic rights by the ECSR. Bearing in mind that Article 34(3) of the EU Charter is informed by the jurisprudence on Articles 30 and 31 of the RESC these observations are likely to be of benefit to those advancing EU wide standards under Article 34(3).

Part II focusses on the lessons for housing rights advocacy that can be learned from strategic litigation on climate change. The connection between housing rights and the climate crisis is becoming increasingly apparent, with the recognition of the damage to the environment caused by housing. The way we build, heat, cool, and seal land with housing and infrastructure contributes to 37% of carbon dioxide emissions alone.³⁸ A just and human rights compliant transformation is necessary to ensure that current and future generations have access to adequate housing. Sustainability implies that States should not realize the right to adequate housing in ways that would undermine collective survival. Instead, it requires reducing housing’s own carbon footprint, and ensuring housing’s resilience against climate events.³⁹

In this context, as Delphine Misonne and Marine Yzquierdo suggest, climate action lawsuits by taken civil society groups as a tool of mass mobilisation can also contribute to social change. This is because law and litigation can be a means of whistle-blowing, of defending, of criticising, and of fighting for the recognition of rights. The dynamic legal, political and social synergy which characterises climate change litigation can also provide inspiration for housing rights advocates. This theme is developed by Nicolas Bernard and Koldo Casla, who provide a valuable analysis of the differences and similarities between strategic human rights litigation on the climate crisis and

37. Articles 2, 3, 4 & 6 TFEU. <https://eur-lex.europa.eu/EN/legal-content/summary/division-of-competences-within-the-european-union.html>

38. See UN Doc. A/HRC/52/28, Towards a just transformation: climate crisis and the right to housing. Report of the UN Special Rapporteur on adequate housing as a component to the right to an adequate standard of living and on the right to non-discrimination in this context, Balakrishnan Rajagopal. <https://www.ohchr.org/en/documents/thematic-reports/ahrc5228-towards-just-transformation-climate-crisis-and-right-housing>

39. UN Doc. A/HRC/52/28, p. 18.

on housing rights, respectively. Climate and housing related issues impact most negatively on the same type of people – the poorest members of society. While they advocate in largely different fora, there is common cause between housing rights advocates and climate change advocates. Indeed the model for “*progressive realization*” of especially difficult rights, as set out in *FEANTSA v France* (2007), offers potentially valuable jurisprudence on rights-based approaches to climate change resource issues.

Part III provides a focus on how the principle of proportionality, as it relates to evictions from home, is being developed in Europe. Here, Padraic Kenna and Maria José Aldanas trace the genesis of Article 8 ECHR proportionality on housing evictions, its limitations in evictions by private property owners (which is not quite water-tight), and its current emanations in relation to Traveller cases, where increasing deference to the margin of appreciation of States is evident. However, the application of this principle through Article 7 of the EU Charter is expanding the remit of proportionality within EU law. This overcomes the limited protection inherent in the vertical application of ECHR rights, as does the growing jurisprudence on proportionality at the UN Committee on Economic, Social and Cultural Rights.

Part IV addresses questions of housing systemic importance, where Max Althoff provides a detailed examination of rent controls in Germany, widely seen as providing the most equitable models for Europe. Virginie Toussain challenges the dichotomy between EU regulations on State Aid in social housing, with the need to support the provision of social housing for a wide section of the population, so as to ensure the right to housing. She critiques the narrow EU approach to housing investment, and presents the European Pillar of Social Rights as one potential means of creating coherence in EU approaches to housing policy. But it is worth noting that while the social provisions in the EU Charter could impact in this area – Olivier De Schutter has pointed out that “*at present, scant attention is being paid to the social provisions of the Charter in the tools developed in the new economic governance architecture of the Union. This is a major gap, and it breeds suspicion and hostility towards attempts to improve economic coordination in the Union. Vague references to ‘social fairness’ are not a substitute for an approach based on social rights.*”⁴⁰

This dichotomy between the human rights and liberal market ideals and the reality of housing systems is again highlighted by Noria Derdek and Marc Uhry. They point out to the extensive network of legal protections, systematic and curative policies intended to guarantee – on paper and at great expense, minimum housing standards. But when the housing system is, in fact, largely controlled by private financial interests, the role and action of the State (and courts) in monitoring how public policies are, or are not, meeting housing rights standards becomes critical for housing rights protection. The chapter clarifies the nature of State regulation of financial corporate entities to ensure an alignment of public policy and housing rights.

Part V examines the key questions of energy poverty in housing. Marlies Hesselman links the EU Electricity Directive with the EU Charter and EPSR as well as international housing rights, particularly the concepts of adequacy, affordability and habitability. This poses the question as to whether full enjoyment of housing rights necessitates recognition of a right to energy, which is essential for a dignified life today. Louise Sunderland examines a number of mandatory energy standards for homes in France, England and Wales, Scotland and Flanders, Belgium. She focusses

40. De Schutter, O. (2016) “The Implementation of the Charter of Fundamental Rights in the EU institutional framework”, European Parliament’s Policy Department for Citizens’ Rights and Constitutional Affairs. Study for the AFCCO Committee; p. 26.

on England which was the first of these to introduce and enforce legally-binding minimum energy standards in housing, but with mixed outcomes because of ineffective enforcement arrangements.

This publication captures the key developments on housing rights in Europe in 2023 and will inform policy makers and legislators, housing rights advocates and adjudicators on how this core right can be further developed. Building on this powerful knowledge base, it will provide a significant resource for those housing rights advocates who see the importance of the European arena, where so many decisions are taken which impact on housing at local level.