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5 Key Principles for Implementing the Housing Priority of the European Pillar of Social Rights

Introduction

Until December 2016, the Commission is consulting stakeholders on its proposal for a European Pillar of Social Rights. FEANTSA has responded to the consultation and published a reaction to the Commission's preliminary proposal¹. As the consultation draws to a close, it is time to ask how, once adopted, the Pillar could actually be implemented. FEANTSA is especially interested in the housing priority (priority 19 of the Commission's first proposal). Many questions remain open about the Pillar, not least regarding its legal form. Here, FEANTSA shares 5 key principals for supporting Member States to tackle homelessness and ensure the right to adequate housing for all. FEANTSA hopes that these messages will help the Commission; Member States and other stakeholders to make the most of the opportunity presented by the Pillar. FEANTSA looks forward to contributing to the process of refining and actually implementing the Pillar from a housing rights perspective.

5 Key principles

1. Leave no-one behind
2. Pursue an EU housing rights agenda
3. Measure housing outcomes
4. Develop benchmarks based on existing jurisprudence
5. Scale up innovative housing solutions

1. Leave no-one behind

The EU has signed up to the UN Sustainable Development Agenda and its 17 sustainable development goals. To deliver, the EU must mobilise both internal policy and external development cooperation. A concerted effort on housing rights in the framework of the Pillar would help the EU to concretize its commitment to "leave no one behind". Currently, people experiencing homelessness are unintentionally overlooked by much EU social policy-making. For example, they are not captured by the indicators used in the framework of the Europe 2020 Strategy's poverty target. Implementing the housing priority of the EPSR could help the EU to deliver on at least three Sustainable Development Goals:

SDG1 Eradicating poverty in all its forms;

Addressing homelessness and housing exclusion is essential to achieving this goal. Homelessness is arguably what extreme poverty in the EU looks like. To eradicate extreme poverty by 2030 (SDG 1.1), the EU will need to look at internal policies as well as to external development. Implementing nationally appropriate social protection systems and measures for all, including floors, and achieving substantial coverage of the poor and the vulnerable (SDG1.3) implies addressing the ways in which people frequently fall through social welfare nets in EU MS.

¹ *A Pillar Supporting Housing Rights? FEANTSA Response to the Commission's Proposal for a European Pillar of Social Rights*, published 3rd August 2016



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SDG11 Making cities and human settlements inclusive, safe, resilient and sustainable

SDG11 includes ensuring access for all to adequate, safe and affordable housing and basic services and upgrading slums. The EPSR could help deliver on this goal by framing an EU housing rights agenda and supporting progress in tackling homelessness and housing exclusion.

SDG 3 Ensuring healthy lives and promoting well-being for all at all ages

Housing is a social determinant of health. Homelessness, insecure and inadequate housing are all associated with ill-health and lower life expectancy. This should be a concern of the European Pillar of Social Rights. SDG3 includes the target of ending epidemics of important communicable diseases (3.3). The primary field for action on this front is the EU's external development policy. However, additional risk and unmet need amongst vulnerable groups within the EU, including homeless people, is an important issue when it comes to diseases like tuberculosis and hepatitis. Similarly, the target of reducing mortality from non-communicable diseases by one third through prevention and treatment, as well as promoting mental health and well-being (3.4) necessitates paying particular attention to the vulnerabilities associated with the lack of decent housing. Homeless people are also an important target group in the context of strengthening prevention and treatment of substance abuse, including narcotic drug abuse and harmful use of alcohol (3.5). People who do not have a safe, adequate place to live face barriers to healthcare, which would need to be addressed to reach the target of access to coverage, health care services and essential medicine for all.

2. Pursue an EU housing rights agenda

There is growing European and international jurisprudence on housing-related rights. The right to housing can be derived from various EU and international human rights treaties. The strong link between the EU Charter of Fundamental Rights and other international human rights treaties like the revised Social Charter of the Council of Europe mean that the right to housing is increasingly established within the EU.

Table 1: Key treaties from which the right to housing can be derived

<p>International Covenant on Economic, Social and Cultural Rights of the UN</p>	<p>One can derive a right to housing from the right to an adequate standard of living which is recognised in article 11 of the International Covenant on Economic, Social and Cultural Rights of the UN (ICESCR), and further explained in the General Comments 4 and 7 of the UN Committee on Economic, Social and Cultural Rights. The latter provide specific details regarding the different dimensions of the right to housing</p>
<p>European Convention on Human Rights</p>	<p>The European Convention on Human Rights (ECHR) includes specific rights that guarantee a right to housing, including Article 8, the right to family and private life and protection of the home; Article 6, the right to due process in the case of eviction; Article 3, the right to be protected against inhuman and degrading treatment; Article 2, the right to life; and Article 14, the right to protection against discrimination. The right to housing is also grounded</p>



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	in the right to property. An individual's substantial interest in a 'good' can cover in certain situations the protection of one's home irrespective of the tenure status (Article 1, protocol 1).
Revised European Social Charter of the Council of Europe	The right to housing is explicitly recognised in Article 31 of the Revised European Social Charter of the Council of Europe (RESC), which provides specific criteria and guidance for the progressive realisation of the right to housing and the reduction and prevention of homelessness, to the point of its eradication. Housing must be available, affordable and of adequate quality. The Charter also contains the rights to social protection (Article 30) and the right to the protection of family and children (Articles 16 and 17), which have been considered to also constitute a right to housing.

Source: FEANTSA and the Fondation Abbé Pierre (2016) [*Housing Related Binding Obligations on States*](#)

The proposed social rights pillar provides a new impetus **for proper monitoring and accountability on housing rights at EU level**. The Fundamental Rights Agency could support this work. An EU mechanism on democracy, the rule of law and fundamental rights, as requested the European Parliament would need to cover housing-related rights². It is worth noting that the Parliament has consistently highlighted concern about homelessness as a violation of fundamental rights³. Better use could also be made of the monitoring of housing rights which already takes place through the Council of Europe and the United Nations treaty bodies like such as the Committee on Economic, Social and Cultural Rights. Proper EU level monitoring would support national use of housing-rights and the development of further jurisprudence. In terms of measuring progress, the model for assessing effective implementation of rights developed by the European Committee for Social Rights offers an interesting approach to the realization of those social rights which may be costly to implement, such as housing rights:

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

On a policy-level, EU level action should focus on **mutual learning and transnational exchange**. This involves best practices; setting common objectives, benchmarking; thematic discussion; promoting social innovation, promoting the use of ESIF to deliver on common objectives etc. Such work could be delivered through thematic work within the Social Open Method of Coordination. It could be supported by external experts, including the European Social Policy Network and stakeholders like FEANTSA. With appropriate resources, a suitable timeframe, and political commitment, such mechanisms can have a real impact. The fight against homelessness would be a concrete and actionable priority for EU policy-coordination on housing rights.

² See P8_TA(2016)0409 *European Parliament resolution of 25 October 2016 with recommendations to the Commission on the establishment of an EU mechanism on democracy, the rule of law and fundamental rights*

³ See P8_TA(2015)0286 *European Parliament resolution of 8 September 2015 on the situation of fundamental rights in the European Union 2013-2014*

3. Measure housing outcomes

To support the implementation of the Pillar, the Commission needs to ensure that its analysis of Member States' economic and social policies, notably in the European Semester, actually captures how they perform. At the moment, the Commission focuses primarily on house prices (MIP) and housing cost overburden (SPPM). This reveals nothing about homelessness and little about housing exclusion (i.e. about the violation of housing rights). More detailed analysis of housing outcomes has begun in some Country Reports, although this remains fairly limited. This gap could be partly addressed by developing a **composite housing exclusion indicator** linking the relevant EU SILC data (e.g. housing cost overburden, arrears in rent and utilities, overcrowding, severe housing deprivation, ability to maintain a comfortable temperature, etc).

As SILC data is based on a household survey, it is unable to capture homelessness. It would therefore be useful to strengthen EU-level monitoring of how Member States perform on fighting homelessness. Data on the extent of homelessness is not comparable across the EU. However, **analysis of trends on a country-specific basis is perfectly possible**. As well as the extent of homelessness and housing exclusion, the follow up of the EPSR needs to engage with MS' policies to address them. Some information is already collected in the framework of the Semester. However, there is much scope to strengthen this to make it more comprehensive to allow more thorough evaluation of MS' efforts. The recent 2016 Resolution adopted by the UN Human Rights Council on Adequate housing as a component of the right to an adequate standard of living could provide inspiration about what to focus on⁴. In the area of homelessness, the Resolution calls on States to a) take positive measures to prevent and eliminate homelessness by adopting and implementing cross-sectoral strategies and b) eliminate legislation that criminalizes homelessness and ensure effective remedy and the right to access to justice in the context. The Commission itself called on MS to develop integrated homelessness strategies and avoid criminalization in the context of the Social Investment Package. The next step, in the context of the EPSR, should be monitoring whether this is actually happening.

4. Develop benchmarks based on exiting jurisprudence

Benchmarking means setting a standard against which to measure progress. It has emerged as a “buzzword” since discussions on the Pillar began. And yet what to benchmark and how remains far from clear. In the fight against poverty, the establishment of benchmarks is a challenging task. The Pillar aims to support upward social convergence but there are legitimate concerns about triggering downward pressure by introducing arbitrary minimum standards in the social area. In relation to the housing priority, concrete proposals have not yet been made.

FEANTSA believes that **existing jurisprudence can serve as a basis to develop legitimate housing rights benchmarks**. Together with the Fondation Abbé Pierre, we have elaborated a guide to the positive obligations of MS when it comes to housing⁵. These stem from case law from the European Court of Human Rights and the European Committee of Social Rights as well as the European Court of Justice. Positive obligations on MS already exist for housing quality; affordability; appeal and legal recourse to ensure the right to housing; statutory protection of the home; evictions; unfair terms; homelessness; shelter; Roma and travellers; foreign

⁴ A/HRC/RES/31/9

⁵ See FEANTSA and the Fondation Abbé Pierre (2016) [Housing Related Binding Obligations on States](#)



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nationals; community-based, informal and atypical housing. FEANTSA believes that these norms provide a starting point for elaborating housing benchmarks to support implementation of the Pillar.

On homelessness, the Commission's proposal for the Pillar states that "shelter shall be provided to those that are homeless, and shall be linked up to other social services in order to promote social integration" An example of a benchmark against which progress could be measured would be the goal of **no-one sleeping rough due to a lack of adequate alternatives adapted to their needs**. This goal is the first of 5 that FEANTSA identified as necessary for ending homelessness:

1. No one sleeping rough
2. No one living in emergency accommodation for longer than is an 'emergency'
3. No one living in transitional accommodation longer than is required for successful move-on
4. No one leaving an institution without housing options
5. No young people becoming homeless as a result of the transition to independent living

Similar targets on rough sleeping have been used in various Member States as a basis for elaborating more comprehensive policies. Such a goal would provide a basis for "upward social convergence" because no Member State has yet achieved it. It is important in this context to underline that temporary structures are not an adequate solution and must lead to secure housing and not allow the people concerned to fall back into difficulty. This has been established in decisions by the European Committee for Social Rights. Thus, "warehousing" homeless people in emergency accommodation would not be considered progress. This is particularly important given the fact that the Commission's proposal is already explicit about the need for social services and the promotion of integration.

5. Scale up innovative housing solutions

The EU can have considerable added value though supporting the identification and scale-up of innovations that support the implementation of housing rights. This could include innovations to tackle homelessness e.g. Housing First; innovative mechanisms for funding social housing; innovative solutions for meeting housing need, and for the prevention of homelessness. The EASI programme and the Social Investment Package have contributed to establishing a European dynamic on Housing First. In implementing the Pillar, the Commission and Member States could build on this and consolidate an EU "policy space" on spreading and embedding innovation for housing rights.

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