



ESC Rights Initiative

## **Implementation of Economic, Social, and Cultural Rights in Ireland: Key Issues in Housing**

The right to housing is one of the cornerstones of economic, social and cultural rights. It is a right upon which many others are predicated. Without the safety provided by stable and secure shelter, it is very difficult for other rights to be realised, even progressively. The right to housing is protected under a number international laws and treaties, including the Universal Declaration of Human Rights, the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights (ICESCR). There is no right to housing enshrined in Irish law, though there are legislative and regulatory provisions relating to social housing. Ireland is currently experiencing a housing and homelessness crisis. A constitutional right to housing would require that, into the future, State policies and legislation would have to reasonably protect the right, in balance with other rights. Constitutional protection would give people justiciable rights that would enable them to challenge government policy and decisions that impinge upon the right to housing. In March 2014, the Constitutional Convention overwhelmingly voted to include in the Constitution enforceable economic, social and cultural rights, including specifically the right to housing.

### What does “the right to housing” mean?

*Article 11 of ICESR provides that that the State parties recognise the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.* The Committee on Economic Social and Cultural Rights in General Comment 4 on the right to adequate housing said that the right should not be interpreted in a narrow or restrictive sense “and should be seen as the right to live somewhere in security, peace and dignity”. The Committee said there are seven key aspects of the right including: legal security of tenure, availability of services, affordability, habitability, accessibility, location (access to employment, healthcare etc) and cultural adequacy.

### Accessibility

Ireland is experiencing severe housing shortages in many urban centres. In particular, the level of social housing output in recent years has contributed to lengthy waiting lists for such accommodation. Some households have been waiting over a decade for a local authority tenancy.

The private rented sector has become the de facto provider of social housing in the State. This has put increasing pressure on an already over-stretched sector. The majority of families entering homelessness had their last stable home in the private sector. Whereas previously families were becoming homeless because of rental increases and arrears, many

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are now entering emergency accommodation because their landlord is leaving the market and they are not in a position to compete for other tenancies.<sup>1</sup> While the *Rebuilding Ireland Action Plan for housing and homelessness* includes commitments aimed at reinvigorating development, for families residing in emergency accommodation such commitments must be progressed quickly. A right to housing would also empower citizens to demand an adequate provision of housing.

Discrimination in housing provision continues in particular for Travellers, those with a disability, and non-national households. For Travellers, State accommodation provision has been significantly lacking. Capital spending on Traveller-specific accommodation has decreased substantially. In 2013, the Irish Traveller Movement brought a collective complaint against the State. In May 2016, the European Committee on Social Rights found that the Government is violating Traveller rights under the European Social Charter. The Committee noted insufficient provision of accommodation, inadequate conditions, and a lack of safeguards for those threatened with eviction. A constitutional right to housing would have enabled a direct challenge of this failure before the Irish courts.

#### Affordability

In order for households to be able to access stable accommodation, they must be able to afford it. The average rate of rental inflation was 13.5% in the final quarter of 2016<sup>2</sup>. A constitutional right to housing would enable individuals to challenge the failure of rent supplement to meet market rent.

#### Habitability

While a number of regulatory standards have been introduced to ensure rental property is in a suitable condition, the reality is that many households continue to reside in substandard accommodation. In the rental sector, the severe shortage of affordable accommodation means that households are more likely to accept substandard conditions. In 2014, a collective complaint was lodged under the Revised European Social Charter on behalf of a number of Irish organisations. They claimed that the quality of social housing available in Ireland is substandard. Tenants in 20 different communities highlighted the conditions they were living in as well as the negative impacts. A constitutional right to housing would have enabled a direct challenge of this failure before the Irish courts.

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<sup>1</sup> See Focus Ireland Insights into Family Homelessness: <https://www.focusireland.ie/resource-hub/publications-and-partnerships/research/>

<sup>2</sup> Source: Daft.ie