

Housing Rights Seminar

4 December 2015

11:00 to 4:00

Doughty Street Chambers
53-54 Doughty St, London WC1N 2LS

Social assistance and free movement

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Austerity and fiscal constraints have an effect on housing issues and migration issues.

_ Free movement between all the European countries (Schengen as a free movement area) = free movement for citizens and their family members. Schengen removal of internal borders is for internal citizens.

_ Free movement provided by Directive 2004/38/EC: it allows cash benefits, coordination of social security regulation; but this coordination doesn't make any provision for housing.

We pick out what we can in European law for European migrants with free movement, since the European Union has no legislative competence on housing rights.

For third country nationals, they depend on immigration European law (which has little to say with housing rights > would be dealt with domestic law).

United Kingdom: right to social assistance = right to access to housing benefits (tax credits) > without this, it's very difficult to access right to free movement in the UK.

Home Office policies: send back to home country. It contravenes the right to free movement. The safeguards against expulsion exist but for people who are not troubling the state for benefits.

Is that really lawful? Possibility to ask for damages (unlawful detention, loss of European Union Treaty rights). About the job seeker statute: job seeker in European law would mean efforts and a chance to be employed (to be verified). Under United Kingdom law, job seeker statute gives the right to reside in the UK, but not the right to social assistance.

Expulsion of European homeless citizens breaches European rights (not the case for third country residents): the right to free movement, to take up work, to be award damages for abuse of those rights.

Idea: to create a "floor", a principle, a set of housing rights/minimum standards: housing rights has to be no less than that in any context, has to be common to all persons regardless of their migration status. It has to be attractive to the recipients of these arguments (arguments on advocacy: what are you about to do with these people, because they are here).

The Calais example: as a result of our inability to allow services for migrants, we are seeing the creation of continue camp/slum.

The Home Office is treating European homeless citizens like third country nationals (not in conformity with European law).