



UNESCO Chair on
the Right to Housing,
University Rovira i Virgili



UNIVERSITAT
ROVIRA I VIRGILI
Housing Chair



INTERNATIONAL CONFERENCE ON LEGAL ASPECTS OF HOUSING

**Ensuring the effective exercise of the right to housing in the EU.
Access to adequate and affordable housing for all**

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NUI Galway
OÉ Gaillimh

Housing Rights Values



- Dignity
- Adequate standard of living
- Welfare State
- Safety, Security, Belonging, Children
- Independent living
- Sustainable communities
- Consumer
- Redistribution



Values behind Housing Rights



UN, CoE & EU Instruments



STATE

Laws

Policies

**Public
spending/
Budgets**

**Regulatory
Systems**

People with housing rights ??



International Law - Rights to housing

- UDHR – Art. 25
- ICESCR – Art 11 and General Comments No. 4 & 7.
- ECHR – Arts. 3, 6, 8, 13, 14
- (R)ESC – Arts. 15, 16, 19, 23, 30, 31
- UN Sustainable Development Goals and other programmes
- EU Charter of Fundamental Rights Arts. 7, 34, 38, 47.

Access rights – to go in.....



Access

- Macro level – Access to market (money) and non-market (need) social housing - adequate supply of housing, credit, non-discrimination etc.
- Special access rules and priorities for groups such as children, people with disabilities, homeless, Travellers, refugees, domestic violence, emergencies (fire, flood etc.)
- Major rights issue is what extent (and type) of non-market provision exists for poor – affordability of market and non-market – allocation systems – segregation
- Art 16 & 31 RESC and GC 4.



While in



While in....

- Standards of repair and security of tenure, affordability – many national laws – enforceability?
- UNCESCR General Comment 4 – habitability, security, affordability, local, access to community facilities, transport, employment, services services, culturally adequate.
- Art 8 ECHR.

While in.....

Art 31 RESC - Tenants and occupiers must have access to affordable and impartial judicial and other remedies

ECSR Conclusions Slovenia 2003,p. 554.

“adequate housing” means that a dwelling is structurally secure, safe from a sanitary and health point of view, possesses all basic amenities such as water, heating, waste disposal, sanitation facilities, electricity, is not overcrowded, and has secure tenure supported by law”.



While in.....shelters

“... should be such as to enable living in keeping with human dignity, and that support should be routinely offered to help the persons within the facilities to attain the greatest possible degree of independence... people living under such conditions must be offered housing of an adequate standard within a reasonable time.”

FEANTSA v France (Complaint 39/2006)



Go out !!.....



Go out !!

- **UNCESCR General Comment 7 (1997)**
- Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State Party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available (paras. 15–16).

Loss of home - McCann v UK (2008) para 50

- **Art 8 ECHR** “The loss of one’s home is a most extreme form of interference with the right to respect for the home. Any person at risk of an interference of this magnitude should in principle be able to have the proportionality of the measure determined by an independent tribunal in the light of the relevant principles under Article 8 of the Convention, notwithstanding that, under domestic law, his right of occupation has come to an end.”



‘proportionality’ of eviction

- Art 8 ECHR – substantive and procedural protections against eviction
- Test:
 - ‘Interference’ pursues a legitimate aim
 - Is necessary in a democratic society
 - Is there a ‘pressing social need’
 - Is it proportionate to the legitimate aim pursued
- “Keeping People in Their Homes Bill 2017” (Ireland) – sets out 25 factors to be considered by a court in ordering loss of home

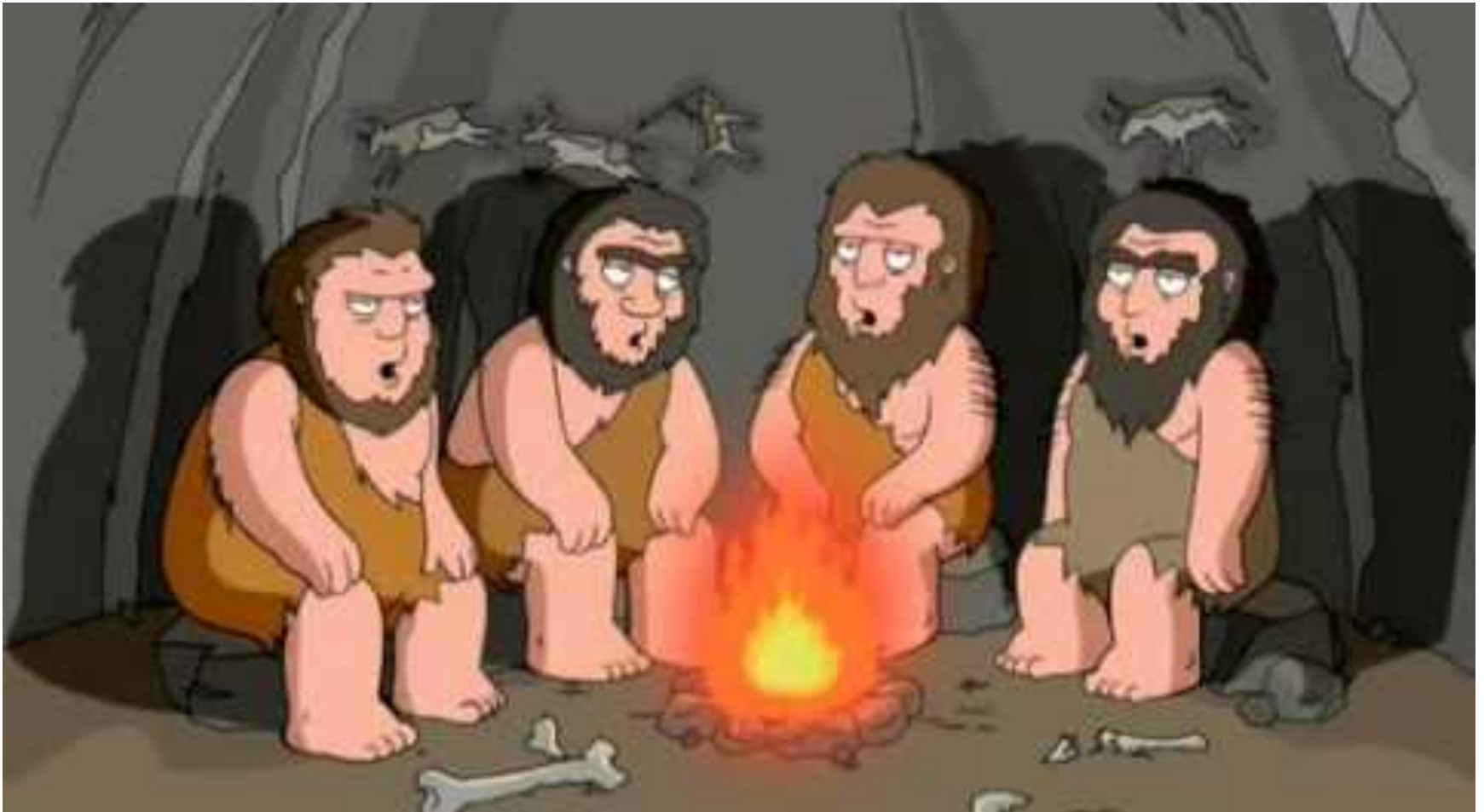


Loss of home -Yordanova v Bulgaria (2012), para 118

‘Since Article 8 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, where general social and economic policy considerations have arisen in the context of Article 8 itself, the scope of the margin of appreciation depends on the context of the case, with particular significance attaching to the extent of the intrusion into the personal sphere of the applicant’...



To a new one.....




To a new one

“Even when an eviction is justified, authorities must adopt measures to re-house or financially assist the persons concerned.” (*FEANTSA v. France*, Complaint No 39/2006 § 88 and 89). **ART 31. RESC.**

Ceesay Ceesay v. Spain (2013) “Which are the measures that the domestic authorities intend to implement with regards to the applicants, particularly the children, in light of their vulnerability, in order to prevent the alleged violation of Article 3 and 8 of the Convention? [ECHR] In particular, which are the arrangements regarding housing and social care envisaged by the domestic authorities?”

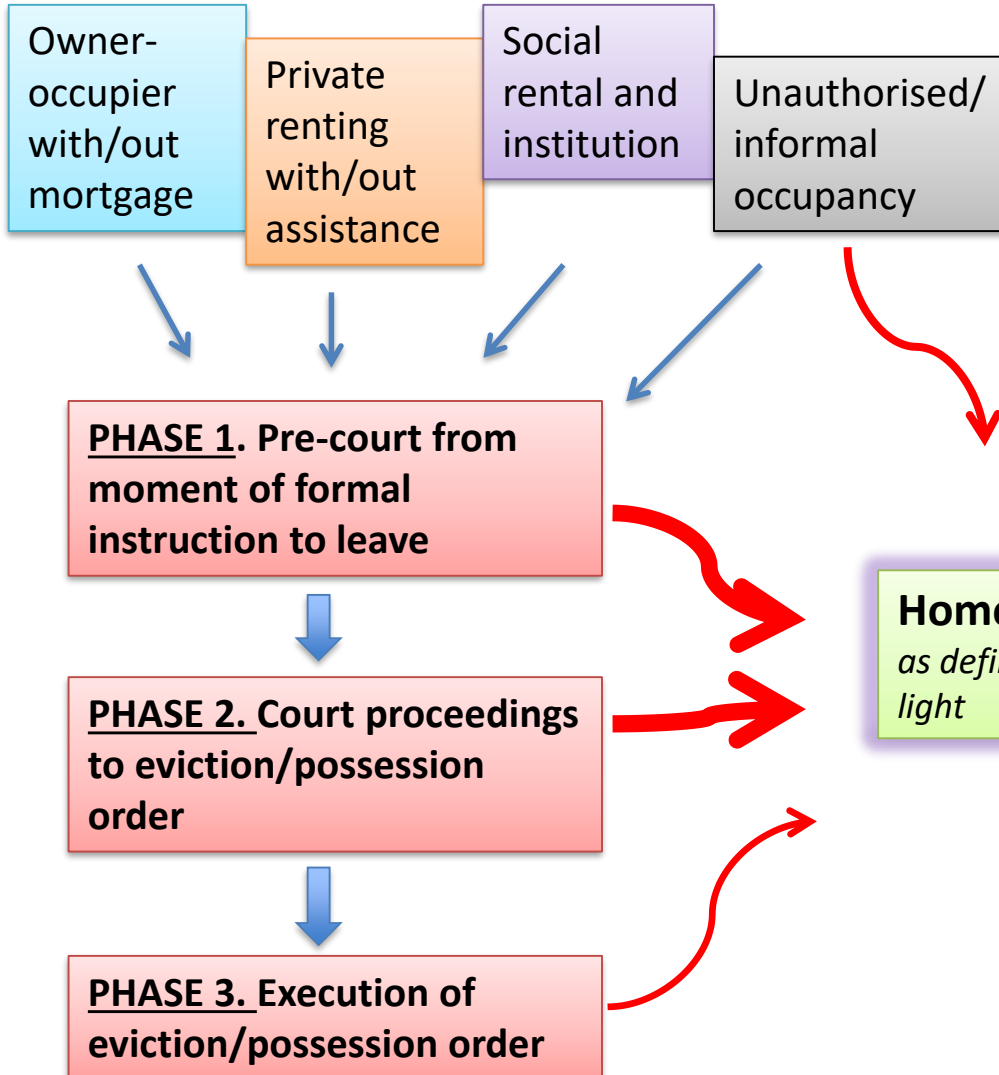




***EU Pilot Project -
Promoting protection of
the right to housing –
Homelessness prevention
in the context of eviction
VT/2013/056***



Judicially Approved Evictions

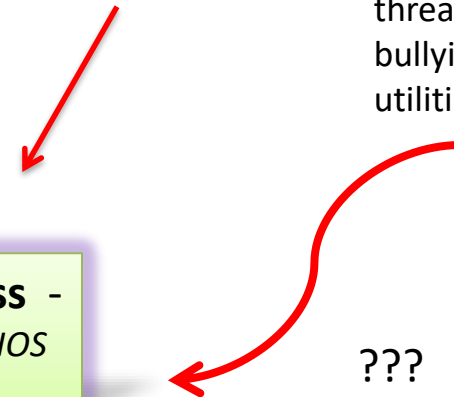


Non-judicially Approved Evictions

Legal
Notaries
Administrations
Police
Auction houses

Illegal

Usually linked to housing black market/unauthorised occupancy (often use or threat of force, bullying, cutting off utilities, etc.)



???

Ensuring effective housing rights in EU

- No HARMONISED right to housing,
- All Member States (MS) accept UN ICESCR - Article 11.
- All 28 MS - ECHR Articles 6 and 8
- 18 MS have ratified the European Social Charter
- National constitutions of EU 27 – prohibit “violation of dwelling”
- EU Charter of Fundamental Rights applies in all 28 MS – bringing most human rights into binding EU law
- YET, Protection of right to housing is poorly developed overall – role of courts?

Ensuring effective housing rights in EU

- Developing housing rights today?
 - Key role of social movements - ‘rights talk’ can empower social movements
 - Enable campaigning groups to conceptualise their demands in a socially acceptable and internationally coherent way
 - We can compare experiences