

**Vilniaus universiteto Teisės fakulteto
Viešosios teisės katedra**

Ditės Elzbergaitės
V kurso, Tarptautinės ir Europos Sąjungos teisės
studijų šakos studentės

Magistro darbas

**EŽTK ir teisė į būstą: aiškinimo ribos ir poreikis socioekonominių teisių apsaugai
The ECHR and the Right to Housing: Limits of Interpretation and Emerging
Demands for Socio-Economic Protection**

Vadovas: doc. dr. Donatas Murauskas
Recenzentas: asist. dr. Inga Martinkutė

Vilnius
2026

LIST OF ABBREVIATIONS

Art./Arts.	Article/Articles
CESCR	The Committee on Economic, Social, and Cultural rights
ECHR	European Convention on Human Rights
ECSR	European Committee of Social Rights
ECtHR	European Court of Human Rights
ESC	Economic, social and cultural rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social, and Cultural Rights
Maastricht Guidelines	Maastricht Guidelines on Violations of Economic, Social and Cultural Rights
Prot.	Protocol
RESC	European Social Charter (revised)
UDHR	Universal Declaration of Human Rights
UN	United Nations

ANNOTATION AND KEYWORDS

This research analyses the extent to which the ECHR can ensure the protection of the right to housing in the context of the structural housing crisis in Europe. It examines the interpretation of relevant ECHR provisions, alongside standards developed under the ICESCR and the RESC. Doctrinal, comparative, empirical and contextual methods are used to assess treaty provisions, case law and academic literature. The research seeks to determine whether stronger housing-related protection can be developed under the ECHR in light of the socio-economic nature of the right to housing.

Keywords: right to housing, socio-economic rights, housing crisis, minimum core, evolutive interpretation

CONTENTS

INTRODUCTION	2
1. The Concept and Context of the Right to Housing	8
1.1. Normative concept of the Right to Housing	8
1.2. Socio-economic Nature of the Right to Housing	15
1.3. Structural Conditions shaping the Right to Housing in Europe	21
2. Codification and Jurisprudence of the Right to Housing in International Legal Instruments	28
2.1. The right to housing in the ICESCR	28
2.2. The right to housing in the RESC	35
2.3. Housing-related protection in the ECHR	42
3. Civil-Political Framework of the ECHR and the Structural Tension of Socio-Economic Interpretation	51
3.1. Civil-Political Foundations of the ECHR and the Structural Limits of Socio- Economic Interpretation	51
3.2. Recognition of a Right to Housing Under the ECHR in Light of Structural Conditions Shaping the Right to Housing in Europe	54
3.3. Comparative standards and their relevance for the protection of the right to housing under the ECHR	61
CONCLUSIONS	68
BIBLIOGRAPHY	70
SUMMARY	88

INTRODUCTION

Relevance of the topic. The right to housing has become one of the defining social and legal challenges in Europe. Once a concern confined to a limited segment of the population currently affects the vast majority of the society, extending well beyond the most vulnerable to include both lower and middle-income families¹. Unaffordable housing, inability to secure adequate housing, prolonged dependence on family homes, growing housing exclusion, and a notable rise in homelessness² have made housing insecurity a mainstream reality across Europe.

These pressures are not new: both the 2008 financial crisis and the COVID-19 pandemic³ exposed and deepened longstanding structural issues in European housing systems. Over the past decade, a gradual retreat of public authorities from safeguarding the right to housing through social policies has coincided with growing dependence on private markets to ensure access to accommodation⁴. This shift towards a market-driven approach has reinforced commodification of housing and significantly contributed to the crisis. As a result, access to adequate housing now depends increasingly on market forces rather than state regulation, effectively rendering any existing international human rights obligations concerning the right to housing largely declaratory and turning housing into a mechanism that perpetuates social and economic inequality⁵.

The severity of these developments is reflected in the unprecedented number of housing-related legal claims brought before both national and international dispute resolution bodies, including petitions to the ECtHR. The latter trend is a rather counterintuitive development, considering that the ECHR itself does not create a stand-

¹ SCHMID, Christoph U. (2020). The Right to Housing as a Right to Adequate Housing Options: Reviewing the Reasonableness of National Housing Policies in the Field of Alternative and Intermediate Tenures. *European Property Law Journal*, 9(2–3), p. 162 [online]. <https://doi.org/10.1515/eplj-2020-0006>.

² TAYLOR, O., LOUBIÈRE, S. and AUQUIER, P. (2020). Homelessness, Housing First, and the Right to Housing-Confronting Right and Reality. *Human Rights Review*, 21, p. 373 [online]. <https://doi.org/10.1007/s12142-020-00598-7>.

³ SCHMID, Christoph U. (2020). The Right to Housing as a Right to Adequate Housing Options: Reviewing the Reasonableness of National Housing Policies in the Field of Alternative and Intermediate Tenures. *European Property Law Journal*, 9(2–3), 157–178. <https://doi.org/10.1515/eplj-2020-0006>, p. 157.

⁴ DOMURATH, Irina and MAK, Chantal (2020). Private Law and Housing Justice in Europe. *Modern Law Review*. <https://doi.org/10.1111/1468-2230.12557>, p. 1191.

⁵ ATALAY, Serde (2024). Housing and Social Control: Reassessing the Protection Asymmetries of Article 8 of the European Convention on Human Rights. *Social & Legal Studies*, 34(3), p. 362 [online]. <https://doi.org/10.1177/09646639241232416>; SLINGENBERG, Lieneke and VOLS, Michel (2025). Introduction to the Special Issue: Social Control, Housing and the Law. *Social & Legal Studies*, 34(3) [online]. <https://doi.org/10.1177/09646639251329809>.

alone right to housing⁶. Despite this, several of ECHR articles, most notably Art. 8 and Art. 1 of Prot. 1, have been interpreted to cover various housing-related disputes⁷, such as in cases of forced evictions, homelessness and deprivation of property. This is also reflected in the Lithuanian context, where housing-related disputes have already reached the ECtHR, as illustrated by the case *Kaminskas v. Lithuania*⁸, in which the ECtHR examined under Art. 8 the proportionality of a demolition order affecting the applicant's home.

Given the important role that the ECtHR holds as a leading European human rights dispute resolution body⁹, there is a clear need for a more coherent theoretical framework capable of addressing the structural conditions of the housing crisis in Europe. Such a framework is also of practical importance, as it would enable more effective adjudication of housing-related disputes, particularly in situations where adequate protection is not ensured at the national level, a challenge faced by many Council of Europe states, including Lithuania. At present, however, the ECHR system is primarily designed to respond to individual grievances, which raises questions as to whether it is adequately equipped to engage with housing-related issues that are both systemic and socio-economic in nature. Against this background, this research seeks to clarify the scope and potential evolution of the right to housing under the ECHR.

Research aim. The aim of this research is to critically assess how the ECtHR interprets and applies Art. 8 and Art. 1 of Prot. 1 of the ECHR in housing-related disputes and to evaluate the extent to which its jurisprudence is capable of accommodating socio-economic dimensions of the right to housing. By examining both the doctrinal limits of the ECtHR's interpretive framework and the structural challenges posed by Europe's housing crisis, the research seeks to assess whether a more substantive form of housing protection can be articulated within the existing ECHR framework.

Research objectives. To achieve this aim, the research will pursue several research objectives:

⁶ KENNA, Padraic and SIMÓN-MORENO, Héctor (2019). Towards a Common Standard of Protection of the Right to Housing in Europe through the Charter of Fundamental Rights. *European Law Journal*, 25(6), p. 611 [online]. <https://doi.org/10.1111/eulj.12348>.

⁷ SCHMID, Christoph U. (2020). The Right to Housing as a Right to Adequate Housing Options: Reviewing the Reasonableness of National Housing Policies in the Field of Alternative and Intermediate Tenures. *European Property Law Journal*, 9(2–3), 157–178. <https://doi.org/10.1515/eplj-2020-0006>, p. 160.

⁸ *Kaminskas v. Lithuania* [ECHR], No. 44817/18, [04-08-2020].

⁹ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities*. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 77.

1. To conceptualise the European housing crisis as a structural social phenomenon and to contextualise its legal implications by identifying key categories of housing challenges.
2. To examine the codification and development of the right to housing under international legal instruments, in particular Art. 11(1) of the ICESCR and Art. 31 of the RESC, to establish the normative content of the right to housing.
3. To analyse the ECtHR's case law on housing-related disputes under Art. 8 and Art. 1 of Prot. 1 of the ECHR, focusing on the development of housing-related protection and state responsibility.
4. To assess the doctrinal limits of interpretation under the ECHR and its capacity to accommodate socio-economic dimensions of the right to housing within the existing ECHR framework.

Research object. This research examines the case law of the ECtHR concerning housing-related disputes under Art. 8 and Art. 1 of Prot. 1 of the ECHR. It focuses on how the ECtHR interprets and applies these provisions in addressing housing issues arising in the context structural housing challenges within the Council of Europe states. The research is confined to the ECtHR's jurisprudence and does not assess the functioning or effectiveness of national housing systems, regimes or policies, particularly given the diversity of approaches across Council of Europe states, as such analysis would require a comparative study exceeding the limits of this research. Instead, this research examines the doctrinal limits of the ECtHR's interpretation and assesses whether socio-economic aspects of the right to housing can be accommodated within the ECHR, which was primarily designed to protect civil and political rights. This is considered within the wider academic debate on the evolving boundaries of the ECHR, specifically whether and how the ECtHR can engage with socio-economic rights in the field of housing. Comparative insights from the ICESCR and the RESC are drawn to evaluate the interpretative guidance for articulating a more coherent and structured framework for the protection of the right to housing under the ECHR.

Research methodology. This research combines doctrinal, comparative, empirical, and contextual methods. The doctrinal analysis is focused on the ECtHR's jurisprudence under

Art. 8¹⁰ and Art. 1 of Prot. 1¹¹ of the ECHR, examining how the ECtHR interprets housing-related claims, defines the notion of “home”, and articulates positive and negative obligations relevant to the right to housing. The relevant case law was identified and structured primarily by reference to the ECtHR’s Art. 8 and Article 1 of Prot. 1 guides, which were used to determine the leading judgments, and was supplemented, where necessary, by targeted searches in the HUDOC database using keywords such as “housing”, “home”, “eviction”, “homelessness”, and “property”. This analysis was supported by a targeted review of academic literature, identified through databases including Taylor & Francis Online, Cambridge Core, Oxford Academic, SAGE Journals, SSRN, and HeinOnline, using search terms related to housing rights, eviction, property protection, and socio-economic rights. The comparative method was applied to examine the normative content of the right to housing under Art. 11(1) of the ICESCR¹² and Art. 31 of the RESC¹³. The empirical method consisted of a structured qualitative review of 4 CESCR General Comments, 13 individual communications and 14 concluding observations, as well as 21 ECSR collective complaints and 13 conclusions, and 65 ECtHR judgements, all used to identify the core elements of the right to housing. Finally, the contextual method was used to situate these findings within the European housing crisis in order to assess whether the ECtHR’s reasoning adequately engages with these structural conditions. Together, these methods enabled a structured assessment of how the right to housing is conceptualised and interpreted within the ECHR framework.

¹⁰ Article 8 of ECHR: “1. *Everyone has the right to respect for his private and family life, his home and his correspondence.* 2. *There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.*”

¹¹ Article 1 of Protocol 1 of ECHR: “*Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law. The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.*”

¹² Article 11(1) of ICESCR “*1. The States Parties to the present Covenant recognize 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 States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.*”

¹³ Article 31 of RESC: “*With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: 1 to promote access to housing of an adequate standard; 2 to prevent and reduce homelessness with a view to its gradual elimination; 3 to make the price of housing accessible to those without adequate resources.*”

Originality of the research. This research contributes to the existing body of human rights scholarship by offering a structured and up-to-date analysis of the right to housing within the framework of the ECHR. While the right to housing has been extensively developed in academic literature under Art. 11(1) of the ICESCR¹⁴ and Art. 31 of the RESC¹⁵, its protection under the ECHR has not been systematically conceptualised¹⁶. Existing scholarship has often approached housing either as part of broader debates on justiciability of socio-economic rights under the ECHR, or within broader international human rights instruments and housing policy debates, without treating the right to housing as a distinct object of doctrinal analysis within the ECHR system¹⁷. Earlier studies on socio-economic rights under the ECHR focused mainly on questions of justiciability of the social rights and the legitimacy of the ECtHR's interpretation, without addressing housing as a distinct socio-economic right¹⁸. More recent interdisciplinary studies approached housing from private-law, policy and economic perspectives¹⁹. This research addresses this gap by conceptualising the right to housing under Art. 8 and Art. 1 of Prot. 1 as a coherent doctrinal framework and examining its capacity to respond to the structural conditions of the housing crisis in Europe.

¹⁴ HOHMANN, Jessie (2022). A Right to Housing for the Victorian Charter of Human Rights and Responsibilities? Assessing Potential Models under the International Covenant on Economic, Social and Cultural Rights; the European Social Charter; and the South African Constitution. *Monash University. Journal contribution* [online]. <https://doi.org/10.26180/21606387.v2>; GAILIŪTĖ, Dovilė (2012). Right to housing in the jurisprudence of the European Committee of Social Rights. *Socialinių mokslų studijos*, 4(4).

¹⁵ NIC SHUIBHNE, Emma N; BRUIJN, L Michelle and VOLS, Michel (2023). Deconstructing the Eviction Protections Under the Revised European Social Charter: A Systematic Content Analysis of the Interplay Between the Right to Housing and the Right to Property. *Human Rights Law Review*, 23(4) [online]. <https://doi.org/10.1093/hrlr/ngad022>.

¹⁶ ATALAY, Serde (2024). Housing and Social Control: Reassessing the Protection Asymmetries of Article 8 of the European Convention on Human Rights. *Social & Legal Studies*, 34(3), p. 362 [online]. <https://doi.org/10.1177/09646639241232416>; KENNA, Padraic (2008). Housing Rights: Positive Duties and Enforceable Rights at the European Court of Human Rights. *European Human Rights Law Review*, 2 [online]. <https://ssrn.com/abstract=1744099>.

¹⁷ ZHU, Yushu; HOLDEN, Meg and SCHIFF, Rebecca (2024). Housing Vulnerability Reconsidered: Applications and Implications for Housing Research, Policy and Practice. *Housing, Theory and Society*, 41(4) [online]. <https://doi.org/10.1080/14036096.2024.2341840>; VOLS, Michel (2024). Conceptualising the Right to Housing. In: BRUIJN, M. and VAN TONGEREN, S. (eds.). *Navigating the Right to Housing: Exploring the Complex Landscape of Access, Occupancy and Exit Rights*. Vol. 5. Eleven International Publishing.

¹⁸ PALMER, Elizabeth (2009). Protecting Socio-Economic Rights Through the European Convention on Human Rights: Trends and Developments in the European Court of Human Rights. *Erasmus Law Review*, 2(4) [online]. <https://ssrn.com/abstract=1542674>; PALMER, Ellie (2010). Beyond arbitrary interference: the right to a home? Developing socio-economic duties in the European Convention on Human Rights. *Northern Ireland Legal Quarterly*, 61(3); DAHLBERG, Maija (2014). Should Social Rights Be Included in Interpretations of the Convention by the European Court of Human Rights? *European Journal of Social Security*, 16(3) [online]. <https://doi.org/10.1177/138826271401600304>.

¹⁹ DOMURATH, Irina and MAK, Chantal (2020). Private Law and Housing Justice in Europe. *Modern Law Review*. <https://doi.org/10.1111/1468-2230.12557>; TAYLOR, O., LOUBIÈRE, S. and AUQUIER, P. (2020). Homelessness, Housing First, and the Right to Housing—Confronting Right and Reality. *Human Rights Review*, 21 [online]. <https://doi.org/10.1007/s12142-020-00598-7>.

Key sources. This research is based on both primary and secondary legal sources. The primary sources include the case law of the ECtHR under Art. 8 and Art. 1 of Prot. 1, as jurisprudence of the CESCER (general comments, individual communications, and concluding observations) and the ECSR (collective complaints, decisions, and conclusions). Among the secondary sources, several authors provide the core conceptual, doctrinal and methodological foundations for the research. Jessie Hohmann²⁰ and Padraic Kenna²¹ establish the conceptual and comparative framework for understanding the right to housing as a human right in both international, European and national contexts. Michael Vols²² contributes a framework of the right to housing using the typology of access, occupancy and exit rights. Ingrid Leijten's²³ work provides detailed arguments how socio-economic dimensions could be integrated within the ECHR framework, laying the foundation for socio-economic interpretation. Finally, Kanstantsin Dzehtsiarou's²⁴ work on the evolutive interpretation of the ECtHR and European consensus provides the methodological framework for evaluating ECtHR's interpretative limits.

²⁰ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities*. London: Bloomsbury Publishing Plc. ProQuest Ebook Central.

²¹ DERDEK, Noria and KENNA, Padraic (2023). *The European and International Contribution to the Right to Housing: Standards, Litigation and Advocacy*. Brussels: FEANTSA, Abbé Pierre Foundation, University of Galway; KENNA, Padraic and SIMÓN-MORENO, Héctor (2019). Towards a Common Standard of Protection of the Right to Housing in Europe through the Charter of Fundamental Rights. *European Law Journal*, 25(6), p. 611 [online]. <https://doi.org/10.1111/eulj.12348>.

²² NIC SHUIBHNE, Emma N; BRUIJN, L Michelle and VOLS, Michel (2023). Deconstructing the Eviction Protections Under the Revised European Social Charter: A Systematic Content Analysis of the Interplay Between the Right to Housing and the Right to Property. *Human Rights Law Review*, 23(4) [online]. <https://doi.org/10.1093/hrlr/ngad022>; VOLS, Michel (2023). The Optional Protocol to the icescr, Homelessness and Moral Hazard: The Alternative Adequate Housing Requirement in the CESCER's Jurisprudence – an Incentive Not to Pay for Housing? *International Human Rights Law Review*, 12(1) [online]. <https://doi.org/10.1163/22131035-12010001>; FICK, Sarah and VOLS, Michel (2022). Horizontality and Housing Rights: Protection against Private Evictions from a European and South African Perspective. *European Journal of Comparative Law and Governance*, 9(2) [online]. <https://doi.org/10.1163/22134514-bja10027>; MOHAMMADI, Mohammad; WIELING, Martijn and VOLS, Michel (2025). An interpretable approach to detect case law on housing and eviction issues within the HUDOC database. *Artificial Intelligence and Law* [online]. <https://doi.org/10.1007/s10506-025-09439-9>.

²³ LEIJTEN, Ingrid (2018). *Core Socio-Economic Rights and the European Court of Human Rights*. Cambridge: Cambridge University Press; LEIJTEN, Ingrid. Defining the Scope of Economic and Social Guarantees in the Case Law of the ECtHR. In: BREMS, Eva and GERARDS, Janneke (eds) (2014). *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights*. Cambridge: Cambridge University Press.

²⁴ DZEHTSIAROU, Kanstantsin (2011). European Consensus and the Evolutive Interpretation of the European Convention on Human Rights. *German Law Journal*, 12(10) [online]. <https://doi.org/10.1017/S2071832200017533>; DZEHTSIAROU, Kanstantsin (2011). Does Consensus Matter? Legitimacy of European Consensus in the Case Law of the European Court of Human Rights. *Public Law*, July [online]. <https://ssrn.com/abstract=1944920>; DZEHTSIAROU, Kanstantsin (2010). Comparative Law in the Reasoning of the European Court of Human Rights. *University College Dublin Law Review*, 10 [online]. <https://doi.org/10.2139/ssrn.1703120>.

1. The Concept and Context of the Right to Housing

The importance people attach to the places they live in is clearly reflected in the abundance of idioms centred around the notion of “*home*”. Expressions such as “*there is no place like home*” capture the widely shared idea that one’s house signifies far more than merely physical shelter and facilitates the essential human requirement for a home²⁵, whether that be a space of refuge, privacy, security, safety or sanctity²⁶.

Despite the fundamental importance of safe and secure housing²⁷, it lacks a stable legal definition across jurisdictions. Instead, both the recognition and protection of the status of home are determined on a contextual, *ad hoc* basis and often readjusted to maintain the balance of competing interests²⁸. Without consensus as to the meaning, content, scope or even existence of the right to housing²⁹, outcomes of housing-related disputes are bound to diverge across and within European legal systems.

This chapter establishes the conceptual and contextual framework of the right to housing. It examines the normative concept of the right to housing (1.1), including its multi-dimensional character and its conceptualization through the typology of access, occupancy and exit rights. Then it considers the right’s socio-economic nature (1.2), focusing on the state obligations to respect, protect and fulfil the right. Finally, it situates the right within the broader European context (1.3), analysing the structural conditions shaping the housing crisis and their implications for legal protection.

1.1. Normative concept of the Right to Housing

The right to housing is not a novel right³⁰. Historically, the right to housing has developed closely connected to the protection of private property³¹, primarily through defining ownership of dwellings, regulating taxation related to housing and protecting the owners’ rights against interference with their property. From the outset, the right to housing

²⁵ KENNA, Padraic (2008). Globalization and housing rights. *Indiana Journal of Global Legal Studies*, 15(2), p. 397.

²⁶ OX O'MAHONY, Lorna (2007). *Conceptualising Home: Theories, Laws and Policies*. Oxford: Hart Publishing, p. 4.

²⁷ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 1.

²⁸ OX O'MAHONY, Lorna (2007). *Conceptualising Home: Theories, Laws and Policies*. Oxford: Hart Publishing, p. 4.

²⁹ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 1.

³⁰ KING, Peter (2003). Housing as a Freedom Right. *Housing Studies*, 18(5), p. 611 [online]. <https://doi.org/10.1080/02673030304259>.

³¹ KENNA, Padraic (2010). International Instruments on Housing. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 2(1), p. 11 [online]. [https://doi.org/10.1061/\(ASCE\)1943-4162\(2010\)2:1\(11\)](https://doi.org/10.1061/(ASCE)1943-4162(2010)2:1(11)).

has been a complex and interconnected right. Not only were multiple agents involved – the individual, the state and the public³² – but housing regulation also intersected with a range of legal rights and obligations, including tax law, property law, freedom of expression, and right to privacy. In other words, the realisation of the right to housing has always been inherently dependent on broader social, political and economic agendas.

Despite its interconnectedness with other rights and fields of law, the right to housing is grounded in the insistence that housing is itself fundamental, not merely instrumental, to the realisation of other needs and goods³³. There is consensus among human rights scholars that, without adequate housing, the exercise and enjoyment of other fundamental rights would be severely limited, if not impossible altogether³⁴. In this sense, the right to housing forms part of a network of mutually dependent and reinforcing human rights³⁵.

The fundamentality of the right to housing lies in its centrality to human dignity, providing a foundation for both physical survival and individual development³⁶. However, there is no unified definition of what constitutes a home, reflecting both the diversity of physical dwellings and the multiple meanings attached to home³⁷. As Lorna Fox O'Mahony observes, "*home is a complex and multi-dimensional interest, which includes financial, practical, social, psychological, cultural, politico-economic and emotional interests to its occupiers*"³⁸. Consequently, each of these elements carries independent significance, and enjoyment of home can only be fully realised where most of these elements are satisfied.

Home is commonly conceptualised through the formula "*home = house + X*"³⁹. The right to housing, therefore, first arises from the existence of a house as a physical structure.

³² HOHMANN, Jessie M. Property and the Right to Housing: Synergies and Tensions. In: GRAHAM, Nicole; DAVIES, Margaret and GODDEN, Lee (eds.) (2022). *The Routledge Handbook of Property, Law and Society*. London: Routledge, p. 128.

³³ *Ibid*; MOONS, Nico (2018). *The Right to housing in law and society* [online]. New York: Routledge, p. 1-2. DOI: 10.4324/9781315106939.

³⁴ HEFFERNAN, Tracy; FARADAY, Fay and ROSENTHAL, Peter (2015). Fighting for the Right to Housing in Canada. *Journal of Law and Social Policy*, 24, p. 11 [online]. <https://doi.org/10.60082/0829-3929.1207>; QUINTIÁ PASTRANA, Andrei and VOLS, Michel (2024). Tracing the Right to Access to Housing: Insights from Human Rights Theory and Practice. *European Journal of Homelessness*, 18(2), p. 42 [online]. <https://research.rug.nl/en/publications/tracing-the-right-to-access-to-housing-insights-from-human-rights/>.

³⁵ WILSON, Stuart. The right to adequate housing. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 183-184. DOI: 10.4337/9781788974172.

³⁶ KENNA, Padraic (2011). Housing and human rights. In: SMITH, S. J. (ed.). *International Encyclopedia of Housing and Home* [online]. Oxford: Elsevier, p. 2. <https://doi.org/10.13025/23308>.

³⁷ MOORE, Jeanne (2000). Placing Home in Context. *Journal of Environmental Psychology*, 20(3), p. 208 [online]. <https://doi.org/10.1006/jevp.2000.0178>.

³⁸ OX O'MAHONY, Lorna (2007). *Conceptualising Home: Theories, Laws and Policies*. Oxford: Hart Publishing, p. 145.

³⁹ *Ibid*, p. 155.

As a material space, houses shield individuals from environmental conditions and physical threats⁴⁰. A roof over one's head, whether permanent or temporary, constitutes a physical dwelling⁴¹ and serves as shelter from the elements and guarantees safety⁴².

The "X" in the equation encompasses the additional meanings and elements that transform a house into a home. Around Europe, the significance of home as a financial investment has increasingly defined its primary understanding⁴³. Whether rented or owned, housing represents one of the greatest expenditures⁴⁴ and constitutes a particularly large portion of household budgets, especially for lower-income individuals or families⁴⁵.

These economic dimensions are inseparable from other aspects of home. Home functions a psychological space for privacy, personal development and family life⁴⁶, forms part of one's identity⁴⁷, community and social status⁴⁸. It influences social integration, as access to educational institutions, employment opportunities, public services and communal facilities varies by location⁴⁹. Research also shows a direct link of housing on one's health⁵⁰. Home, therefore, carries emotional, social, physical, and symbolic significance⁵¹.

Flowing from this understanding, the right to housing has developed as an important human right through international, regional, constitutional, and national legal frameworks⁵².

⁴⁰ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 4-5.

⁴¹ STADLER, Sophie L. and COLLINS, Damian (2023). Assessing Housing First Programs from a Right to Housing Perspective. *Housing Studies*, 38(9), p. 1722 [online]. <https://doi.org/10.1080/02673037.2021.1982873>.

⁴² BRATT, Rachel G. (2022). A Right to Housing: A Compelling Idea and an Elusive Reality. *The Plan Journal*, 7(2), p. 287-288 [online]. <https://doi.org/10.15274/tpj.2022.07.02.04>.

⁴³ OX O'MAHONY, Lorna (2007). *Conceptualising Home: Theories, Laws and Policies*. Oxford: Hart Publishing, p. 147.

⁴⁴ ALEXANDER, Lisa (2018). Bringing Home the Right to Housing to Advance Urban Sustainability. *Texas A&M Journal of Property Law*, 4(2), p. 70 [online]. <https://doi.org/10.37419/JPL.V4.I2.1>.

⁴⁵ BRATT, Rachel; STONE, Michael and HARTMAN, Chester (eds.) (2006). *A Right to Housing: Foundation for a New Social Agenda*. Philadelphia: Temple University Press, p. 180.

⁴⁶ KENNA, Padraic (2011). Housing and human rights. In: SMITH, S. J. (ed.). *International Encyclopedia of Housing and Home* [online]. Oxford: Elsevier, p. 2. <https://doi.org/10.13025/23308>.

⁴⁷ OX O'MAHONY, Lorna (2007). *Conceptualising Home: Theories, Laws and Policies*. Oxford: Hart Publishing, p. 167.

⁴⁸ KENNA, Padraic (2011). Housing and human rights. In: SMITH, S. J. (ed.). *International Encyclopedia of Housing and Home* [online]. Oxford: Elsevier, p. 3-4. <https://doi.org/10.13025/23308>.

⁴⁹ BRATT, Rachel; STONE, Michael and HARTMAN, Chester (eds.) (2006). *A Right to Housing: Foundation for a New Social Agenda*. Philadelphia: Temple University Press, p. 2.

⁵⁰ CLAIR, Amy; REEVES, Aaron; LOOPSTRA, Rachel et al. (2016). The impact of the housing crisis on self-reported health in Europe: Multilevel longitudinal modelling of 27 EU countries. *European Journal of Public Health*, 26(5), p. 791-792 [online]. <https://doi.org/10.1093/eurpub/ckw071>.

⁵¹ MOORE, Jeanne (2000). Placing Home in Context. *Journal of Environmental Psychology*, 20(3), p. 212 [online]. <https://doi.org/10.1006/jevp.2000.0178>.

⁵² KENNA, Padraic (2010). International Instruments on Housing. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 2(1), p. 11 [online]. [https://doi.org/10.1061/\(ASCE\)1943-4162\(2010\)2:1\(11\)](https://doi.org/10.1061/(ASCE)1943-4162(2010)2:1(11)).

It is now an integral part of the UN and European human rights instruments, first formally recognised in Art. 25(1) of the 1948 Universal Declaration of Human Rights⁵³ as part of the right to adequate standard of living⁵⁴. Although not legally binding⁵⁵, the UDHR is widely regarded as the normative foundation for subsequent instruments⁵⁶, many of which replicate its formulation of the right⁵⁷.

The right to housing was subsequently codified in 1966 Covenant on Economic, Social and Cultural Rights. Art. 11(1) of ICESCR recognises “*the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing*”. As of 2026, the ICESCR has 72 signatories and 173 state parties⁵⁸, reflecting its near-universal ratification. The inclusion of the right to housing within the ICESCR confirmed its integral importance within ESC rights on a similar footing to civil and political rights⁵⁹ at the international level.

Although not always framed explicitly as a distinct right to housing, housing-related protection is also present in other UN treaties. For example, International Convention on the Elimination of All Forms of Racial Discrimination⁶⁰, Convention on the Elimination of All Forms of Discrimination against Women⁶¹, Convention on the Rights of the Child⁶², and International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families⁶³.

Similarly, subsequent regional human rights instruments also included the right to housing. Currently, the right to housing is a crucial part of ESC rights within the European, Inter-American and African human rights instruments⁶⁴.

⁵³ UNITED NATIONS (1948). *Universal Declaration of Human Rights*. Resolution 217 A (III), Art. 25(1).

⁵⁴ Office of the United Nations High Commissioner for Human Rights and UN-Habitat (2009). *The Right to Adequate Housing*. Fact Sheet No. 21/Rev.1 [online]. Geneva: United Nations, p. 1.

⁵⁵ FITZPATRICK, Suzanne; BENGTTSSON, Bo and WATTS, Beth (2014). Rights to Housing: Reviewing the Terrain and Exploring a Way Forward. *Housing, Theory and Society*, 31(4), p. 457 [online]. <https://doi.org/10.1080/14036096.2014.923506>.

⁵⁶ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 15.

⁵⁷ *Ibid*, p. 16-17.

⁵⁸ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtldsg_no=IV-3&chapter=4&clang=en.

⁵⁹ Commissioner for Human Rights (Council of Europe) (2008). *Housing Rights: The Duty to Ensure Housing for All* [online]. <https://rm.coe.int/16806da793>, p. 6.

⁶⁰ International Convention on the Elimination of All Forms of Racial Discrimination (1965). *United Nations Treaty Series*, vol. 660, p. 195.

⁶¹ Convention on the Elimination of All Forms of Discrimination against Women (1979). *United Nations Treaty Series*, vol. 1249, p. 13.

⁶² Convention on the Rights of the Child (1989). *United Nations Treaty Series*, vol. 1577, p. 3.

⁶³ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990). *United Nations Treaty Series*, vol. 2220, p. 3.

⁶⁴ KENNA, Padraic (2008). Globalization and housing rights. *Indiana Journal of Global Legal Studies*, 15(2), p. 436; KENNA, Padraic (2010). International Instruments on Housing. *Journal of Legal Affairs and Dispute*

A crucial conceptual distinction must be drawn between the right to housing and housing rights, which are often used incorrectly or interchangeably. Jessie Hohmann argues that the distinction lies primarily in the source of these rights: the right to housing is a human right, codified or implied into international and regional human rights treaties⁶⁵. Housing rights, by contrast, refer to legal entitlements arising from domestic law within particular national legal systems⁶⁶.

Other scholars, such as Peter King, extended this distinction by emphasizing the normative foundation of these concepts. According to him, the right to housing is grounded in moral justification, whereas housing rights are statutory in nature⁶⁷. Housing rights describe what a society has or ought to have in the field of housing, whilst the right to housing functions as a justificatory argument explaining why there such rights should exist in the first place⁶⁸.

For the purposes of this research, the reference will consistently be made to the right to housing. The right to housing is understood as derived from international or regional human rights instruments and providing a normative framework guiding the development and evaluation of housing rights within national legal systems⁶⁹. The emphasis on the guiding function is intentional, as the right to housing is conceived as independent of specific political regimes, housing laws, policies or market arrangements and applies to all individuals regardless of their citizenship, legal status, or other affiliations⁷⁰.

There is no fixed definition of the content of the right to housing. Rather, it is best understood as a bundle of interconnected rights⁷¹. Following the typology proposed by

Resolution in Engineering and Construction, 2(1), p. 11-12 [online]. [https://doi.org/10.1061/\(ASCE\)1943-4162\(2010\)2:1\(11\)](https://doi.org/10.1061/(ASCE)1943-4162(2010)2:1(11)).

⁶⁵ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 5.

⁶⁶ *Ibid*, p. 6.

⁶⁷ KING, Peter (2003). Housing as a Freedom Right. *Housing Studies*, 18(5), p. 663 [online]. <https://doi.org/10.1080/02673030304259>.

⁶⁸ *Ibid*.

⁶⁹ KENNA, Padraic (2011). Housing and human rights. In: SMITH, S. J. (ed.). *International Encyclopedia of Housing and Home* [online]. Oxford: Elsevier, p. 3. <https://doi.org/10.13025/23308>.

⁷⁰ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 6.

⁷¹ VOLS, Michel and KUSUMAWATI, Erna Dyah (2020). The International Right to Housing, Evictions and the Obligation to Provide Alternative Accommodation: A Comparison of Indonesia and the Netherlands. *Asia-Pacific Journal on Human Rights and the Law*, 21(2), p. 238-239 [online]. <https://doi.org/10.1163/15718158-21020003>.

Michel Vols⁷², the right to housing can be divided into three types of rights: access, occupancy and exit rights:

	Scope	Key challenges
Access rights	Ability to obtain housing through lawful means (ownership, rental, etc.)	Lack of appropriate, affordable housing; exclusion from social housing; discrimination in accessing housing
Occupancy rights	Ability to use and enjoy housing in conditions ensuring dignity, privacy and habitability	Substandard housing conditions, overcrowding, interference with housing
Exit rights	Regulation of loss of housing, including involuntary evictions	Forced evictions, displacement, loss of housing

Source: Compiled by the author, based on the analysis presented in Chapter 1.1.

The boundaries between access, occupancy and exit rights are not rigid and frequently overlap⁷³. The purpose of this typology is not to impose strict categorical distinctions but rather to use it as a hermeneutic tool⁷⁴ for analysing the interconnected bundle of interests protected by the right to housing.

Despite the longstanding inclusion of the right to housing among fundamental human rights, the scope and content of the right to housing remain contested. This can be partially explained by several perceived weaknesses.

First, the right is characterised by normative uncertainty. There is no universal definition of the right to housing and its content varies depending on the legal instrument in question. Even with expanding body of jurisprudence, it remains difficult to clearly identify the scope of the right and the obligations corresponding to it⁷⁵. The difficulty does not stem from moral or theoretical justification for the right, as the extensive recognition of economic and social rights within international and domestic legal systems has largely

⁷² VOLS, Michel (2024). Conceptualising the Right to Housing. In: BRUIJN, M. and VAN TONGEREN, S. (eds.). *Navigating the Right to Housing: Exploring the Complex Landscape of Access, Occupancy and Exit Rights*. Vol. 5. Eleven International Publishing, p. 2.

⁷³ QUINTIÁ PASTRANA, Andrei and VOLS, Michel (2024). Tracing the Right to Access to Housing: Insights from Human Rights Theory and Practice. *European Journal of Homelessness*, 18(2), p. 44 [online]. <https://research.rug.nl/en/publications/tracing-the-right-to-access-to-housing-insights-from-human-rights/>.

⁷⁴ VOLS, Michel (2024). Conceptualising the Right to Housing. In: BRUIJN, M. and VAN TONGEREN, S. (eds.). *Navigating the Right to Housing: Exploring the Complex Landscape of Access, Occupancy and Exit Rights*. Vol. 5. Eleven International Publishing, p. 9.

⁷⁵ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 121.

settled that debate⁷⁶. Rather the concern lies in the abstract manner in which the right is articulated, which risks disconnecting it from the values it is intended to protect⁷⁷. The open-ended formulation of the right often fails to translate these foundational concerns into a coherent normative standard.

This abstraction leads to a second weakness: the limited connection between the right to housing and the social context in which its violations arise. While the right is undeniably broad and abstract in its nature⁷⁸, a human rights framework that does not engage with the conditions of housing insecurity offers limited protection to those most affected⁷⁹. This idea has been challenged by Malcolm Langford, who argues that the abstract phrasing of socio-economic rights, including the right to housing, is not fundamentally different from that of civil and political rights and is an advantage, due to its flexibility and capacity to accommodate to diverse circumstances and historical developments⁸⁰.

A third overarching challenge concerns the enforceability of the right to housing. While housing rights are enforced through domestic legal mechanisms, it remains contested whether the right to housing, as a normative concept, requires direct enforceability. Some scholars, including Suzanne Fitzpatrick, caution that permitting courts to determine the scope and content of broad socio-economic rights risks transferring policy-making authority from democratically elected institutions to unelected judges⁸¹. Given the resource-intensive nature of housing policy, this concern is particularly salient.

This argument is commonly framed in terms of the separation of powers. Allowing courts to adjudicate issues of social policy is said to undermine this principle, as such decisions are traditionally reserved for democratically accountable executive bodies⁸².

⁷⁶ YOUNG, Katharine G. (2019). Waiting for Rights: Progressive Realization and Lost Time. In: YOUNG, Katharine G. (ed.) (2019). *The Future of Economic and Social Rights*. Cambridge: Cambridge University Press, p. 656-657.

⁷⁷ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 121.

⁷⁸ FITZPATRICK, Suzanne; BENGTTSSON, Bo and WATTS, Beth (2014). Rights to Housing: Reviewing the Terrain and Exploring a Way Forward. *Housing, Theory and Society*, 31(4), p. 459 [online]. <https://doi.org/10.1080/14036096.2014.923506>.

⁷⁹ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 134.

⁸⁰ LANGFORD, Malcolm (2009). The Justiciability of Social Rights: From Practice to Theory. In: LANGFORD, Malcolm (ed.) (2009). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press, p. 30.

⁸¹ FITZPATRICK, Suzanne; BENGTTSSON, Bo and WATTS, Beth (2014). Rights to Housing: Reviewing the Terrain and Exploring a Way Forward. *Housing, Theory and Society*, 31(4), p. 460 [online]. <https://doi.org/10.1080/14036096.2014.923506>.

⁸² LANGFORD, Malcolm (2009). The Justiciability of Social Rights: From Practice to Theory. In: LANGFORD, Malcolm (ed.) (2009). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press, p. 31.

However, this position too has been extensively critiqued for overstating the implications of judicial review. Courts are constitutionally empowered to review the realisation of rights, inter alia ESC rights, and their engagement with questions of social policy forms part of their legitimate institutional role⁸³. Moreover, in modern democratic systems, governance is already characterised by overlapping functions between branches of power, rendering a rigid division between legislative, executive, and judicial powers increasingly theoretical⁸⁴.

Finally, limited public awareness further constrains the effectiveness of the right to housing⁸⁵. Where individuals are unable to name their grievances in legal terms, violations are unlikely to be translated into claims. As a result, many instances of otherwise prevalent housing insecurity remain legally invisible.

In conclusion, while the right to housing is firmly established as a fundamental human right grounded in human dignity, its normative content remains contested and dependent on specific legal instruments, *ad hoc* circumstances, and structural weaknesses.

1.2. Socio-economic Nature of the Right to Housing

As the right to housing was initially included with other ESC rights in the ICESCR, it is commonly classified as a socio-economic right⁸⁶. This terminology is not accidental. Socio-economic rights are the preferred classification of the right to housing due to its inextricable links between the economic policy, social policy and law⁸⁷. Ultimately, however, this classification has limited significance, as all ESC rights are understood to share common structural characteristics.

Historically, ESC rights were considered, and to some extent still are, rights of a so-called second-class status in comparison to civil and political rights⁸⁸. Understanding the origins of this distinction is important as it to this day continues to shape contemporary perception of justiciability of socio-economic rights.

⁸³ LANGFORD, Malcolm (2009). The Justiciability of Social Rights: From Practice to Theory. In: LANGFORD, Malcolm (ed.) (2009). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press, p. 31.

⁸⁴ *Ibid*, p. 32.

⁸⁵ Commissioner for Human Rights (Council of Europe) (2008). *Housing Rights: The Duty to Ensure Housing for All* [online]. <https://rm.coe.int/16806da793>, p. 6.

⁸⁶ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 7.

⁸⁷ O'CONNELL, Paul (2012). *Vindicating Socio-Economic Rights: International Standards and Comparative Experiences* [online]. London: Routledge, p. 4. DOI: 10.4324/9780203126653.

⁸⁸ O'CONNELL, Paul (2025). Socio-Economic Rights Redux. *King's Law Journal*, 36(2), p. 315 [online]. <https://doi.org/10.1080/09615768.2025.2567047>.

The UDHR adopted an inclusive approach by incorporating both civil and political rights as well as ESC rights within a single instrument⁸⁹. Its preamble explicitly affirms that “*recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world*”. Thus, human dignity is a basis for all human rights without any differentiation.

However, by 1950s it became abundantly clear that the states could not agree on how to translate the entirety of the UDHR’s rights in a single binding treaty⁹⁰. The ideological tensions of the Cold War played a decisive role⁹¹. While Western states prioritised only a minimum list of enforceable civil and political rights, the Eastern bloc states supported the inclusion of ESC rights within the binding treaty. As consensus could not be reached, two separate treaties – the ICCPR and the ICESCR – were adopted in 1966. This bifurcation reflected a political compromise⁹² aimed at overcoming the deadlock.

The divergence between civil and political rights and ESC rights was further entrenched in the design of monitoring and enforcement mechanisms within the respective treaties. The ICCPR provided for state reporting, individual communications and complaint procedures⁹³. By contrast, prior to the adoption of the Optional Protocol to the ICESCR⁹⁴ in 2008, the ICESCR relied solely on state reporting, offering no avenue for individual redress⁹⁵. The late introduction of the Optional Protocol to the ICESCR contributed to its limited uptake, which, to date, has resulted in ratification by only 31 states, among which

⁸⁹ RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). The Development of Economic, Social, and Cultural Rights in International Law. In: RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). *Economic, Social, and Cultural Rights in International Law: Contemporary Issues and Challenges* [online]. Oxford: Oxford University Press, p. 6. DOI: <https://doi.org/10.1093/acprof:oso/9780199685974.001.0001>.

⁹⁰ RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). The Development of Economic, Social, and Cultural Rights in International Law. In: RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). *Economic, Social, and Cultural Rights in International Law: Contemporary Issues and Challenges* [online]. Oxford: Oxford University Press, p. 6. DOI: <https://doi.org/10.1093/acprof:oso/9780199685974.001.0001>.

⁹¹ LANGFORD, Malcolm (2009). Closing the Gap? An Introduction to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. *Nordic Journal of Human Rights*, 27(1), p. 3-4.

⁹² *Ibid.*

⁹³ RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). The Development of Economic, Social, and Cultural Rights in International Law. In: RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). *Economic, Social, and Cultural Rights in International Law: Contemporary Issues and Challenges* [online]. Oxford: Oxford University Press, p. 7. DOI: <https://doi.org/10.1093/acprof:oso/9780199685974.001.0001>.

⁹⁴ Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008). *United Nations Treaty Series*, vol. 2922, p. 19.

⁹⁵ PORTER, Bruce (2020). Interdependence of human rights. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 303. DOI: 10.4337/9781788974172.

only a handful are European⁹⁶. Additionally, the enduring relevance of ideological divisions is illustrated by a telling fact that despite an almost identical number of state parties to both the ICESCR and the ICCPR, the United States of America is not a party to the ICESCR⁹⁷.

A similar bifurcation can be observed at the European level. While social rights have a long history in Europe and the region traditionally places greater emphasis on protection of ESC rights than laissez-faire doctrine or utilitarian policies represented by the United States of America and People's Republic of China respectively⁹⁸, the divide remains significant. The ECHR emerged as the main regional human rights instrument with strong focus on civil and political rights, while ESC rights were codified separately in the much less well-known RESC⁹⁹.

The distinctions between these two categories of rights have been examined extensively in legal scholarship¹⁰⁰ and there is broad agreement that the traditional hierarchy between civil and political and ESC rights is conceptually irrelevant. Contemporary scholars accentuate the interdependence and indivisibility of human rights, rejecting the idea that ESC rights derive their validity from civil and political rights¹⁰¹.

Rather than categorising rights, a more analytically helpful approach is to examine the types of obligations each right generates. Leading scholars such as Sandra Fredman or Katherine Young argue all human rights generate multiple obligations¹⁰². The prevailing doctrinal framework identifies at least three core obligations: the duty to avoid depriving individual of a right, duty to protect individual from deprivation of their right and duty to aid the deprived¹⁰³. These are more commonly referred to as the states' duty to respect, to protect and to fulfil a certain right.

In the context of housing, international and regional human rights instruments, including the ICESCR, the ECHR and the RESC, require states to recognise, respect, protect and fulfil the right to housing, while complying with “*minimum core*” obligations and ensuring its progressive realization¹⁰⁴. As clarified in the 1997 Maastricht Guidelines¹⁰⁵, these obligations flow directly from the international right to housing¹⁰⁶ and can be distinguished according to their core elements and corresponding forms of violation:

	Core obligation	Forms of violation
Obligation to respect	Refrain direct or indirect interference with the right to housing ¹⁰⁷	Positive measures that undermine the enjoyment of the right to housing (e.g.

⁹⁶ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-3-a&chapter=4&clang=_en.

⁹⁷ https://treaties.un.org/Pages/ViewDetails.aspx?src=IND&mtmsg_no=IV-3&chapter=4.

¹⁰⁷ GUTTERMAN, Alan S. (2023). *Older Persons' Right to Adequate Housing* [online]. SSRN, p. 11. <https://ssrn.com/abstract=4250574>.

		forced evictions, denial of security of tenure, discriminatory practices, or legal or administrative barriers.
Obligation to protect	Prevent third parties from interfering with the right to housing and ensure compliance with housing-related human rights standards	Failure to regulate non-state actors' (e.g. regulation of housing markets, preventing private forced evictions, prohibiting discrimination, providing effective remedies)
Obligation to fulfil	Take positive measures to ensure effective enjoyment of the right to housing	Failure to adopt positive measures (e.g. national housing strategy, economic and social support, measures aimed at ensuring access to adequate housing)

Source: Compiled by the author, based on the analysis presented in Chapter 1.2.

As is evident, this triad of obligations encompasses both immediate obligations and more resource-dependent obligations that may be realised progressively over time¹⁰⁸. In the context of ESC rights, this distinction is reflected in the concepts of minimum core

⁹⁹ FREDMAN, Sandra (2018). The Right to Housing. In: FREDMAN, Sandra. *Comparative Human Rights Law* [online]. Oxford: Oxford University Press, p. 265. <https://doi.org/10.1093/oso/9780199689408.003.0009>.

¹⁰⁰ O'CONNELL, Paul (2011). The Death of Socio-Economic Rights. *Modern Law Review*, 74(4), p. 532-533. <https://ssrn.com/abstract=1878803>.

¹⁰¹ PORTER, Bruce (2020). Interdependence of human rights. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 304. DOI: 10.4337/9781788974172.

¹⁰² FREDMAN, Sandra. Challenging the Divide: Socio-economic Rights as Human Rights. In: FREDMAN, Sandra (2018). *Comparative Human Rights Law* [online]. Oxford: Oxford University Press, p. 66. <https://doi.org/10.1093/oso/9780199689408.003.0009>; YOUNG, Katharine G. (2012). *Constituting Economic and Social Rights* [online]. Oxford: Oxford University Press, p. 100. DOI: [10.1093/acprof:oso/9780199641932.001.0001](https://doi.org/10.1093/acprof:oso/9780199641932.001.0001).

¹⁰³ BILCHITZ, David (2010). The Ruggie Framework. *SUR*, 7(12), p. 205 [online]. <https://sur.conectas.org/en/the-ruggie-framework/>.

¹⁰⁴ KENNA, Padraic (2010). International Instruments on Housing. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 2(1), p. 12 [online]. [https://doi.org/10.1061/\(ASCE\)1943-4162\(2010\)2:1\(11\)](https://doi.org/10.1061/(ASCE)1943-4162(2010)2:1(11)).

¹⁰⁵ INTERNATIONAL COMMISSION OF JURISTS (1997). *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights* [online]. <https://www.refworld.org/policy/legalguidance/icjurists/1997/63964>.

¹⁰⁶ QUINTIÁ PASTRANA, Andrei and VOLS, Michel (2024). Tracing the Right to Access to Housing: Insights from Human Rights Theory and Practice. *European Journal of Homelessness*, 18(2), p. 50 [online]. <https://research.rug.nl/en/publications/tracing-the-right-to-access-to-housing-insights-from-human-rights/>.

¹⁰⁷ GUTTERMAN, Alan S. (2023). *Older Persons' Right to Adequate Housing* [online]. SSRN, p. 11. <https://ssrn.com/abstract=4250574>.

¹⁰⁸ JORDAN, Mark (2024). Contesting housing inequality: Housing rights and social movements. *The Modern Law Review*, 87(1), p. 60 [online]. <https://doi.org/10.1111/1468-2230.12828>.

obligations and progressive realization, both of which have been extensively debated in relation to the right to housing¹⁰⁹.

Minimum core obligations is a key concept in the development of ESC rights¹¹⁰. Initially, minimum core obligations sought to define the essential content of these rights¹¹¹. However, this approach has been widely criticised for the mere fact that it is rather an impossible task¹¹² to determine a universally applicable minimum standard of a right across states with vastly different levels of development¹¹³. A minimum core suitable for developed economies would be unattainable for developing states, while minimal standard tailored to developing states may be insufficient to wealthier states, thus overlooking a huge group of housing-insecure individuals.

In response, supporters of minimum core concept argued that it is to be understood as a duty to secure the most urgent survival interests protected by the right¹¹⁴. The underlying rationale here that, regardless of differences between the states, the survival of its people must be realised without any delays¹¹⁵. Applied to the right to housing, this reasoning suggests that even where states are unable to realise the full content of the right, they remain obliged to secure its most essential elements, such as access to shelter, thus protecting those in the most urgent need.

Faced with these arguments, scholarly focus shifted from defining minimum core content to identifying minimum core obligations. That is, attention was directed to understanding what actions states are required to take instead of holding them liable for not meeting specific results¹¹⁶. Such approach is particularly visible in the right to housing.

This proceduralisation has led to criticism of the right to housing as a programmatic right, realised primarily through governmental action rather than being a directly

¹⁰⁹ KENNA, Padraic (2010). International Instruments on Housing. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 2(1), p. 13 [online]. [https://doi.org/10.1061/\(ASCE\)1943-4162\(2010\)2:1\(11\)](https://doi.org/10.1061/(ASCE)1943-4162(2010)2:1(11)).

¹¹⁰ KENNA, Padraic (2011). Housing and human rights. In: SMITH, S. J. (ed.). *International Encyclopedia of Housing and Home* [online]. Oxford: Elsevier, p. 7-8. <https://doi.org/10.13025/23308>.

¹¹¹ YOUNG, Katharine G. (2012). *Constituting Economic and Social Rights* [online]. Oxford: Oxford University Press, p. 67. DOI: [10.1093/acprof:oso/9780199641932.001.0001](https://doi.org/10.1093/acprof:oso/9780199641932.001.0001).

¹¹² FREDMAN, Sandra. Challenging the Divide: Socio-economic Rights as Human Rights. In: FREDMAN, Sandra (2018). *Comparative Human Rights Law* [online]. Oxford: Oxford University Press, p. 69. <https://doi.org/10.1093/oso/9780199689408.003.0009>.

¹¹³ *Ibid*, p. 70.

¹¹⁴ BILCHITZ, David (2003). Towards a Reasonable Approach to the Minimum Core: Laying the Foundations for Future Socio-Economic Rights Jurisprudence. *South African Journal on Human Rights*, 19(1), p. 11-12 [online]. <https://doi.org/10.1080/19962126.2003.11865170>.

¹¹⁵ *Ibid*, p. 12.

¹¹⁶ YOUNG, Katharine G. (2012). *Constituting Economic and Social Rights* [online]. Oxford: Oxford University Press, p. 75. DOI: [10.1093/acprof:oso/9780199641932.001.0001](https://doi.org/10.1093/acprof:oso/9780199641932.001.0001).

enforceable entitlement¹¹⁷. The concern lies not in the requirement of state action itself, but in the risk that the normative substance of the right becomes dependent on the adequacy of that action¹¹⁸. In context of the right to housing, this is particularly visible in the interpretation of the ICESCR, where the initial efforts to define substantive adequacy of housing shifted toward assessment of the adequacy of state policies regarding housing¹¹⁹. As a result, the normative focus of the right risks moving away from the objective it is intended to secure, in this case that being adequate housing, and instead becomes centred on whether the measures adopted by the state are procedurally appropriate.

Closely connected to this is the principle of progressive realization of rights, another predominant aspect of ESC rights, which sometimes overlaps with the concept of minimum core¹²⁰. It allows states to implement these rights over time depending upon availability of necessary resources, in contrast to the immediate obligations typically associated with civil and political rights¹²¹.

Progressive realization, contrary to common critique, does not diminish the normative importance of the right. Rather, it distinguishes between different types of obligations and corresponding forms of state conduct. This makes the realization of the right twofold: states are under an immediate obligation to take steps towards the fulfilment of the right, while the specific measures adopted to achieve that objective may be adapted to the circumstances of the state, e.g. availability of resources, time, effective government institutions¹²² and even international cooperation¹²³. In other words, progressive realisation imposes immediate obligations of conduct without imposing immediate obligations of result, which

¹¹⁷ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 129.

¹¹⁸ *Ibid*, p. 131-132.

¹¹⁹ *Ibid*, p. 131-132.

¹²⁰ CHOWDHURY, Joie (2020). Unpacking the minimum core and reasonableness standards. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 251. DOI: 10.4337/9781788974172.

¹²¹ YOUNG, Katharine G. (2012). *Constituting Economic and Social Rights* [online]. Oxford: Oxford University Press, p. 71. DOI: [10.1093/acprof:oso/9780199641932.001.0001](https://doi.org/10.1093/acprof:oso/9780199641932.001.0001).

¹²² YOUNG, Katharine G. (2019). Waiting for Rights: Progressive Realization and Lost Time. In: YOUNG, Katharine G. (ed.) (2019). *The Future of Economic and Social Rights*. Cambridge: Cambridge University Press, p. 659.

¹²³ SEPÚLVEDA CARMONA, Magdalena (2014). Alternatives to Austerity: A Human Rights Framework for Economic Recovery. In: NOLAN, Aoife (ed.). *Economic and Social Rights after the Global Financial Crisis*. Cambridge: Cambridge University Press, p. 25.

may be achieved over time¹²⁴. This framework ensures a degree of accountability¹²⁵ without undermining effective implementation.

To conclude, the classification of the right to housing as a socio-economic right does not diminish its normative importance but explains the structural tensions surrounding its enforceability, scope, and implementation.

1.3. Structural Conditions shaping the Right to Housing in Europe

It would be difficult to overlook the scale of the contemporary housing crisis. Globally, an estimated 1.6 billion people currently lack access to adequate housing¹²⁶ and basic services, and projections suggest that this figure will reach 3 billion by 2030¹²⁷. Europe is not exempt from these developments. As early as the 2010s, the Commissioner for Human Rights of the Council of Europe observed rapidly growing numbers of individuals across Europe experiencing severe housing insecurity¹²⁸.

These developments cannot be explained solely by crises such as the Global Financial Crisis of 2007-2008 or even the COVID-19 pandemic, although they both acted as important catalysts¹²⁹. Instead, they reflect long-standing structural dynamics whose effects have become increasingly clear over time. Responses at the global level have frequently been characterised by paralysis and reactivity, leaving the underlying structural conditions largely unaddressed¹³⁰. In turn, national level responses also tend to be fragmented and reactive, failing to address the systemic nature of the problem.

These structural dynamics are particularly visible in the development of housing prices across Europe. Rather than reflecting short-term fluctuations, data from the past decade indicates a consistent increase in housing prices.

¹²⁴ CORKERY, Allison and SAIZ, Ignacio (2020). Progressive realization using maximum available resources: the accountability challenge. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 278. DOI: 10.4337/9781788974172.

¹²⁵ YOUNG, Katharine G. (2019). Waiting for Rights: Progressive Realization and Lost Time. In: YOUNG, Katharine G. (ed.) (2019). *The Future of Economic and Social Rights*. Cambridge: Cambridge University Press, p. 660.

¹²⁶ UNITED NATIONS (20 October 2023). *UN expert urges action to end global affordable housing crisis* [online]. <https://www.ohchr.org/en/press-releases/2023/10/un-expert-urges-action-end-global-affordable-housing-crisis>.

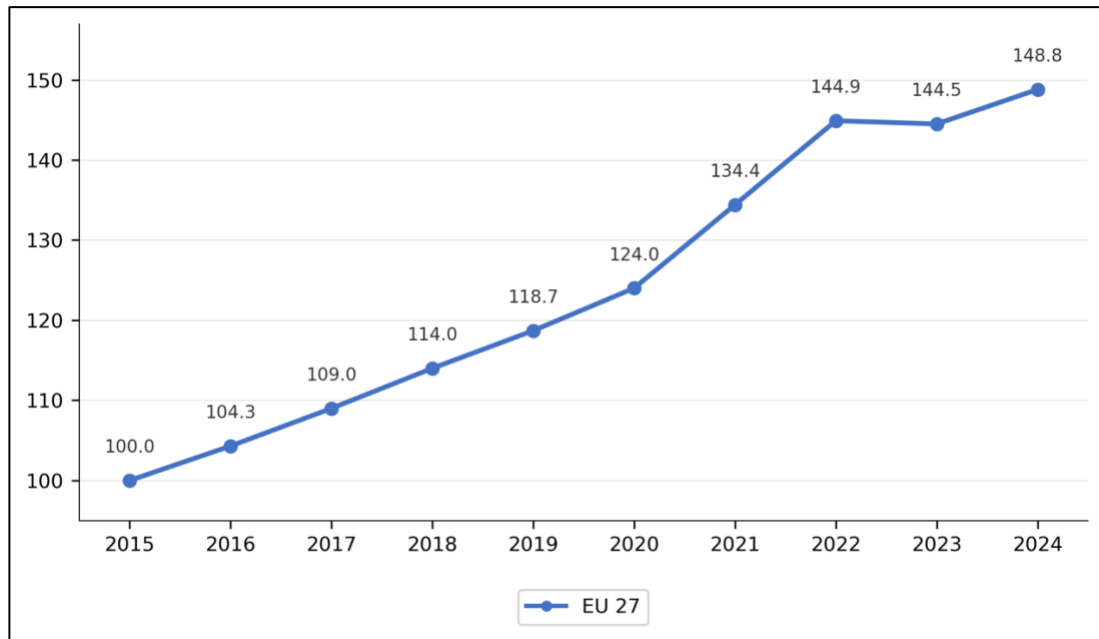
¹²⁷ LANGFORD, Malcolm. Making it Matter: Understanding the Impact of the Right to Housing. In: VOLS, Michel; SHUIBHNE, Niamh Nic and PASTRANA, Andrea Quintia (eds.) (2026). *The Impact of the Right to Housing in Times of Crisis*. Cheltenham: Edward Elgar [online], p. 1. <https://ssrn.com/abstract=5275581>.

¹²⁸ Commissioner for Human Rights (Council of Europe) (2008). *Housing Rights: The Duty to Ensure Housing for All* [online]. <https://rm.coe.int/16806da793>, p. 3.

¹²⁹ ÇELİK, Özlem (2024). Cracking the Housing Crisis: Financialization, the State, Struggles, and Rights. *Housing Studies*, 39(6), p. 1385 [online]. <https://doi.org/10.1080/02673037.2024.2333569>.

¹³⁰ LANGFORD, Malcolm. Making it Matter: Understanding the Impact of the Right to Housing. In: VOLS, Michel; SHUIBHNE, Niamh Nic and PASTRANA, Andrea Quintia (eds.) (2026). *The Impact of the Right to Housing in Times of Crisis*. Cheltenham: Edward Elgar [online], p. 1. <https://ssrn.com/abstract=5275581>.

Figure 1. House price index in the EU 27 countries, 2015–2024 (2015 = 100)



Source: Compiled by the author, based on Eurostat data. Available online: https://ec.europa.eu/eurostat/databrowser/view/prc_hpi_a/default/line?lang=en&category=hous.hous_econ.hous_prc.hous_prc_hpi

As illustrated in Figure 1, housing prices in the European Union have increased steadily between 2015 and 2024, rising from the baseline value of 100 to 148.8. This represents an increase of nearly 50% within less than a decade. The trend is notably consistent, with no meaningful dips even in the aftermath of major external shocks such as the COVID-19 pandemic or the Russian invasion of Ukraine. While Figure 1 is limited to EU Member States and therefore does not encompass the full list of states of the Council of Europe, it nonetheless provides a representative indication of a broader regional trend.

The housing crisis is no longer confined to specific vulnerable groups but increasingly affects the entire society. Data indicates that approximately 39% of European cities are already unaffordable, as average incomes are insufficient to cover rent or mortgage costs, with 47% of cities projected to become unaffordable soon, leaving only 14% currently accessible to their residents¹³¹. In a context where demand for housing already exceeds supply and is expected to continue rising, these figures demonstrate that housing insecurity is both widespread and intensifying. This underscores the urgency of addressing the structural drivers of the housing crisis.

¹³¹ EUROCITIES (2025). *The state of housing affordability in European cities* [online]. <https://monitor.eurocities.eu/housing-affordability/>.

While the data presented above illustrates the sustained increase in housing prices, prices in themselves do not necessarily constitute the core of the housing crisis. Rather, the critical issue lies in the growing disconnect between housing costs and purchasing power. In many European states, income growth has not kept pace with rising housing prices, resulting in a widening gap between what individuals can afford and the cost of accessing housing. This divergence reinforces the structural nature of the crisis, as it reflects not only market dynamics, but also the diminishing capacity of individuals to secure adequate housing within these economic conditions.

But rising fees is just part of the issue and the housing crisis can in no way be diluted to the issue of cost. While unaffordability, inhabitability, scarcity of housing are the most visible features of the housing crisis, it is the failure to recognise, understand and address the systemic issues that entrenches a self-perpetuating cycle of housing exclusion¹³². While ESC rights play a crucial role in addressing inequality and poverty, simply reiterating their importance without confronting the structural conditions¹³³ remains insufficient to tackle the crisis to say the least. In this context, three processes conceptualise the housing crisis in Europe: privatization, commodification and financialization.

To understand how the crisis has gotten to this point where it is visible to most of the public and not just those most affected, it is necessary to examine the transformations of contemporary housing since the 1970s. From this period onward, several waves of privatization reshaped housing across many jurisdictions. According to the Special Rapporteur on the Right of Adequate Housing, the latest wave, which began in 2012, continues to persist to this day¹³⁴. Thus, one of the key processes – privatization began to enrol. Privatization refers to gradual transfer of responsibility for housing from public authorities to private actors and goods and services traditionally ensured by the state are increasingly delegated to the market¹³⁵. In combination with globalization, this shift has subjected housing to unprecedented pressure from private actors encouraging the reduction of public services and the commercialization of essential social goods such as housing¹³⁶.

These developments did not arise unexpectedly. Scholars have long warned of the consequences associated with the expansion of neo-liberal governance over the past four

¹³² O'CONNELL, Paul (2025). Socio-Economic Rights Redux. *King's Law Journal*, 36(2), p. 316 [online]. <https://doi.org/10.1080/09615768.2025.2567047>.

¹³³ *Ibid.*

¹³⁴ UNITED NATIONS (2018). *Report of the Special Rapporteur on extreme poverty and human rights*. General Assembly, Seventy-third session, A/73/396, p. 4.

¹³⁵ *Ibid.*

¹³⁶ KENNA, Padraic (2005). *Housing Rights and Human Rights* [online]. Brussels: FEANTSA, p. 8.

decades¹³⁷. Neo-liberalism, characterised by market-oriented regulatory transformations¹³⁸, promotes a binary opposition between the state (portrayed as inefficient and restrictive) and the market (framed as means to efficiency and individual freedom)¹³⁹. Particularly in Europe, governments increasingly facilitated market expansion by encouraging investment in housing while also retreating from policies that recognised housing as a social good¹⁴⁰.

It is therefore unsurprising that, within such a binary framework, the market is constructed as the most desirable mechanism for accessing housing, while state-provided housing is increasingly devalued and associated with those lacking sufficient purchasing power. This shift not only alters the structure of housing provision but also reduces the capacity of states to intervene effectively in housing markets. As responsibility is transferred to private actors, the ability of public authorities to ensure access to housing as a social good becomes increasingly constrained.

Defining consequence of this shift has been the progressive commodification of housing¹⁴¹. Commodification essentially relates to the widely spread idea that goods or services are to be given a price which a user must pay in order to take advantage of¹⁴². In other words, economic value of the item trumps its other uses such as material or ethical¹⁴³. In the context of housing that manifests in treating one's home primarily as an asset to be traded, leveraged, inherited or mortgaged¹⁴⁴. While globalization has spread this process globally, it has been particularly prominent in Europe, where homeownership has always been perceived as a safeguard of stability.

¹³⁷ AALBERS, Manuel B. (2015). The Great Moderation, the Great Excess and the Global Housing Crisis. *International Journal of Housing Policy*, 15(1), p. 47 [online]. <https://doi.org/10.1080/14616718.2014.997431>.

¹³⁸ ZHU, Yushu, HOLDEN, Meg and SCHIFF, Rebecca (2024). Housing Vulnerability Reconsidered: Applications and Implications for Housing Research, Policy and Practice. *Housing, Theory and Society*, 41(4), p. 417 [online]. <https://doi.org/10.1080/14036096.2024.2341840>.

¹³⁹ O'CONNELL, Paul (2011). The Death of Socio-Economic Rights. *Modern Law Review*, 74(4), p. 535 [online]. <https://ssrn.com/abstract=1878803>.

¹⁴⁰ FARHA, Leilani and SCHWAN, Kaitlin. The human right to housing in the age of financialization. In: DAVIS, Martha F.; KJAERUM, Morten and LYONS, Amanda (eds) (2021). *Research Handbook on Human Rights and Poverty*. Cheltenham: Edward Elgar Publishing, p. 385-386.

¹⁴¹ AALBERS, Manuel B. (2015). The Great Moderation, the Great Excess and the Global Housing Crisis. *International Journal of Housing Policy*, 15(1), p. 52 [online]. <https://doi.org/10.1080/14616718.2014.997431>.

¹⁴² HERMANN, Christoph. Consequences of Commodification. In: HERMANN, Christoph (2021). *The Critique of Commodification: Contours of a Post-Capitalist Society* [online]. New York: Oxford University Press, p. 63. DOI: 10.1093/oso/9780197576755.003.0004.

¹⁴³ FU, Samantha and VELASCO, Gabi (2023). *Decommodification and Its Role in Advancing Housing Justice* [online]. Washington, DC: Urban Institute, p. 2. <https://www.urban.org/sites/default/files/2023-02/Decommodification%20and%20Its%20Role%20in%20Advancing%20Housing%20Justice.pdf>.

¹⁴⁴ KENNA, Padraic (2011). Housing and human rights. In: SMITH, S. J. (ed.). *International Encyclopedia of Housing and Home* [online]. Oxford: Elsevier, p. 9. <https://doi.org/10.13025/23308>.

However, this stability is quite illusory. Once housing is treated as a commodity, it becomes like any other good or service to be sold and bought on the market for a price contingent on supply-demand¹⁴⁵. Housing markets are therefore just as prone to booms and busts just as any other asset market¹⁴⁶ and housing prices are closely tied to broader economic and political shifts and crises just as it would with any other commodity¹⁴⁷. As prices fluctuate within largely deregulated markets, access to housing becomes contingent only on one's on purchase power, excluding those unable to meet the market demands¹⁴⁸.

Consequently, rather than regulating the housing markets directly, states increasingly rely on indirect measures, such as subsidies or financial assistance, to enable access to housing for the most disadvantaged through the market itself. In doing so, states do not fundamentally challenge the underlying market logic, but instead choose to operate within it, reinforcing a system in which access to housing is determined primarily by economic power rather than social need. This transformation creates a fundamental tension between the logic of the market and the logic of human rights. While human rights are grounded in the notion of dignity, housing markets allocate housing solely based on one's ability to pay, thereby structurally excluding those without sufficient economic resources.

This exclusion is further exacerbated by the financialization of housing. That is the growing dominance of financial and corporate actors in the realm of housing¹⁴⁹. In practical terms, this shift is reflected in the increasing ownership of housing by investors, corporations and financial entities, rather than by individuals. Financialization has transformed housing into means for global capital accumulation, with real estate now worth nearly 60% of all global assets¹⁵⁰. As a result, the housing market is particularly appealing to those willing and able to invest as it generates massive profit for global investors¹⁵¹ and

¹⁴⁵ O'CONNELL, Paul (2025). Socio-Economic Rights Redux. *King's Law Journal*, 36(2), p. 316 [online]. <https://doi.org/10.1080/09615768.2025.2567047>.

¹⁴⁶ KENNA, Padraic (2010). International Instruments on Housing. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 2(1), p. 11 [online]. [https://doi.org/10.1061/\(ASCE\)1943-4162\(2010\)2:1\(11\)](https://doi.org/10.1061/(ASCE)1943-4162(2010)2:1(11)).

¹⁴⁷ ÇELİK, Özlem (2024). Cracking the Housing Crisis: Financialization, the State, Struggles, and Rights. *Housing Studies*, 39(6), p. 1385 [online]. <https://doi.org/10.1080/02673037.2024.2333569>.

¹⁴⁸ HERMANN, Christoph. Consequences of Commodification. In: HERMANN, Christoph (2021). *The Critique of Commodification: Contours of a Post-Capitalist Society* [online]. New York: Oxford University Press, p. 63. DOI: 10.1093/oso/9780197576755.003.0004.

¹⁴⁹ UNITED NATIONS (2017). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. Human Rights Council, Thirty-fourth session, A/HRC/34/51, p. 3.

¹⁵⁰ FARHA, Leilani and SCHWAN, Kaitlin. The human right to housing in the age of financialization. In: DAVIS, Martha F.; KJAERUM, Morten and LYONS, Amanda (eds) (2021). *Research Handbook on Human Rights and Poverty*. Cheltenham: Edward Elgar Publishing, p. 390.

¹⁵¹ *Ibid*, p. 385-386.

so housing is increasingly removed from the realm of human rights and entrenched in market exchange and profit maximization¹⁵².

These processes remain ongoing and self-enforcing. Privatization, commodification and financialization of housing have become structural features of contemporary housing systems, making transformative change increasingly difficult¹⁵³. Even significant economic crises tend to impose costs primarily on the individuals (through introduced austerity measures¹⁵⁴ and reduced social protection¹⁵⁵) rather than dismantling the system itself¹⁵⁶. As housing is increasingly treated as a commodity and a valuable financial asset, rising prices attract further investments, which in turn drives prices even higher, creating a feedback loop that keeps reinforcing existing market dynamics.

So far, any regulatory interference with the market has been framed as ideologically leaning or imposing on the private property¹⁵⁷. The tension is heightened in the context of socio-economic rights which are contingent on resources for which the states have the discretion over¹⁵⁸ and ultimately require to overlook set patterns of land ownership, wealth distribution and property relations¹⁵⁹. Additionally, the persistent belief that the market can regulate individuals' right to housing has produced this crisis¹⁶⁰ and continues to shape it by positioning economic rationality of capitalism as antithetical to socio-economic rights¹⁶¹, dismantling any real effort to halt this crisis.

¹⁵² O'CONNELL, Paul (2025). Socio-Economic Rights Redux. *King's Law Journal*, 36(2), p. 322 [online]. <https://doi.org/10.1080/09615768.2025.2567047>.

¹⁵³ AALBERS, Manuel B. (2015). The Great Moderation, the Great Excess and the Global Housing Crisis. *International Journal of Housing Policy*, 15(1), p. 55 [online]. <https://doi.org/10.1080/14616718.2014.997431>.

¹⁵⁴ WAY, Sally-Anne, LUSIANI, Nicholas and SAIZ, Ignacio (2014). Economic and Social Rights in the 'Great Recession': Towards a Human Rights-Centred Economic Policy in Times of Crisis. In: RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). *Economic, Social, and Cultural Rights in International Law: Contemporary Issues and Challenges* [online]. Oxford: Oxford University Press, p. 86. <https://doi.org/10.1093/acprof:oso/9780199685974.003.0003>.

¹⁵⁵ YOUNG, Katharine G. (2012). Constituting Economic and Social Rights [online]. Oxford: Oxford University Press, p. 288. DOI: 10.1093/acprof:oso/9780199641932.001.0001.

¹⁵⁶ KENNA, Padraic and SIMON-MORENO, Hector (2019). Towards a Common Standard of Protection of the Right to Housing in Europe through the Charter of Fundamental Rights. *European Law Journal*, 25(6), p. 609 [online]. <https://doi.org/10.1111/eulj.12348>.

¹⁵⁷ SALOMON, Margot E. (2023). Emancipating Human Rights: Capitalism and the Common Good. *Leiden Journal of International Law*, 36(4), p. 860 [online]. <https://doi.org/10.1017/S0922156523000316>.

¹⁵⁸ JORDAN, Mark (2024). Contesting housing inequality: Housing rights and social movements. *The Modern Law Review*, 87(1), p. 61 [online]. <https://doi.org/10.1111/1468-2230.12828>.

¹⁵⁹ WILSON, Stuart. The right to adequate housing. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 181. DOI: 10.4337/9781788974172.

¹⁶⁰ ROLNIK, Raquel and RABINOVICH, Lidia (2014). Late-Neoliberalism: The Financialisation of Homeownership and the Housing Rights of the Poor. In: NOLAN, Aoife (ed.). *Economic and Social Rights after the Global Financial Crisis*. Cambridge: Cambridge University Press, p. 57.

¹⁶¹ SALOMON, Margot E. (2023). Emancipating Human Rights: Capitalism and the Common Good. *Leiden Journal of International Law*, 36(4), p. 857 [online]. <https://doi.org/10.1017/S0922156523000316>.

The detrimental effects of financialization and commodification of housing have been explicitly recognised by the Council of Europe itself. In its October 2026 resolution, the Parliamentary Assembly “*deplores the financialization of housing, which is treated as a commodity rather than a human right and a social good,*” and calls upon member states to counter these developments by reaffirming housing as a human right rather than a commodity¹⁶². This recognition is rather significant as it demonstrates that the systemic issues underlying the right to housing are not merely theoretical but are considered as important at the institutional level too.

Finally, it is worth noting that within this structural framework of the housing crisis, certain groups of people are disproportionately affected. International human rights instruments explicitly identify such groups as women¹⁶³, children¹⁶⁴ and migrants¹⁶⁵ and persons with disabilities¹⁶⁶ as facing heightened vulnerability. Additionally, ethnic and religious minorities, particularly the Roma, and older persons are increasingly encountering barriers to access housing¹⁶⁷. The sheer breadth of affected groups suggests that housing insecurity is no longer confined to traditionally marginalised populations. Across Europe, even in economically advanced states¹⁶⁸, individuals and households from a wide range of socio-economic backgrounds struggle to access adequate housing¹⁶⁹. This amplifies the idea that the housing crisis is systematic and structural.

This expansion of vulnerability underscores the systemic nature of the housing crisis. Rather than representing isolated *ad hoc* failures, systemic housing insecurity reflects structural conditions that undermine the effective enjoyment of the right to housing. These conditions pose fundamental challenges to existing human rights frameworks.

¹⁶² COUNCIL OF EUROPE (2025). *Analysis and guidelines to guarantee the right to housing*. Parliamentary Assembly, Resolution 2626, para. 6.

¹⁶³ Convention on the Elimination of All Forms of Discrimination against Women (1979). *United Nations Treaty Series*, vol. 1249, p. 13.

¹⁶⁴ Convention on the Rights of the Child (1989). *United Nations Treaty Series*, vol. 1577, p. 3.

¹⁶⁵ International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990). *United Nations Treaty Series*, vol. 2220, p. 3.

¹⁶⁶ Convention on the Rights of Persons with Disabilities (2006). *United Nations Treaty Series*, vol. 2515, p. 3.

¹⁶⁷ Commissioner for Human Rights (Council of Europe) (2008). *Housing Rights: The Duty to Ensure Housing for All* [online]. <https://rm.coe.int/16806da793>, p. 3.

¹⁶⁸ UBAREVIČIENĖ, Rūta and AIDUKAITĖ, Jolanta (2026). Housing Provision: A Comparative Study of Housing Availability, Accessibility, and Adequacy in EU Member States. *Journal of International and Comparative Social Policy*, p. 1 [online]. <https://doi.org/10.1017/ics.2025.10087>.

¹⁶⁹ LEIJTEN, Ingrid and DE BEL, Kaisa (2020). Facing financialization in the housing sector: A human right to adequate housing for all. *Netherlands Quarterly of Human Rights*, 38(2), p. 95 [online]. <https://doi.org/10.1177/0924051920923855>.

2. Codification and Jurisprudence of the Right to Housing in International Legal Instruments

Although the right to housing is widely recognised in international and regional human rights instruments, its content, corresponding obligations, and the scope of protection afforded to individuals vary considerably depending on the instrument.

Given that the scope of this research extends to Council of Europe states, three human rights instruments are of primary importance: the ICESCR (2.1), as the most comprehensive global standard, the RESC (2.2), as the regional instrument dedicated to ESC rights, and the ECHR (2.3), as a highly developed and widely accepted human rights instrument with a primary focus on civil and political rights, within which housing-related protection has evolved through judicial interpretation.

Accordingly, this chapter examines how the right to housing is codified and interpreted across these three instruments, applying the typology set out in Chapter 1.1 to assess housing-related protection through the dimensions of access, occupancy and exit rights, and the corresponding obligations to respect, protect and fulfil the right to housing.

2.1. The right to housing in the ICESCR

The ICESCR was adopted in 1966 and entered into force in 1976. More than fifty years later, it remains the most definitive source on ESC rights. Since its adoption, the ICESCR first enabled a dual mechanism for clarification of state responsibilities and accountability¹⁷⁰: General Comments, which provide authoritative interpretations of the ICESCR and specify states' obligations, and State Reporting procedure, which culminates with Concluding Observations in which the CESCR addresses its concerns and issues recommendations for the states¹⁷¹.

With the adoption of the Optional Protocol to the ICESCR in 2008 and its entry into force in 2013, three additional mechanisms were introduced for the protection of ESC rights: the individual complaints procedure, inter-state complaints and the inquiry procedure¹⁷². The most prominent of these has become the individual complaints procedure, which allows both individuals and groups of individuals to submit claims alleging violations of their ESC rights to the CESCR. The importance of the CESCR's Views in

¹⁷⁰ IKAWA, Daniela. The International Covenant on Economic, Social and Cultural Rights and the Optional Protocol. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 14. DOI: 10.4337/9781788974172.

¹⁷¹ *Ibid*, p. 15.

¹⁷² *Ibid*, p. 16.

response to communications is further demonstrated by the significant number of cases concerning the right to housing, which make up over 75% of the CESCR's jurisprudence¹⁷³.

Flowing from this framework, states have both general and specific obligations¹⁷⁴, as elaborated in CESCR's General Comments, Concluding Observations to State Reports and Views. General obligations define how specific obligations under the ICESCR are to be realised. Art. 2(1) of the ICESCR sets out four key obligations: to take steps, to utilise maximum available resources, to achieve progressively the full realization of rights, and to do so by employing all appropriate means¹⁷⁵. Art. 2(2) of the ICESCR further requires that no form of discrimination interferes with enjoyment of rights under the ICESCR¹⁷⁶.

These general obligations must be concretised in light of the right to housing. Art. 11(1) substantiates what is the most important: "*The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent*". The interpretation of Art. 11(1) must therefore be read together with Art. 2(1) of the ICESCR. To take appropriate steps means to employ all appropriate means, particularly the adoption of legislative measures, directed towards the full realization of the right¹⁷⁷.

Both progressive realisation and appropriate steps are essential concepts given the nature of ESC rights. These rights cannot generally be achieved immediately, thus, the states are afforded a certain margin to implement them. Nevertheless, they are obliged to adopt deliberate, targeted measures that would be concretely oriented towards the full realization of rights¹⁷⁸. In other words, state action must demonstrate genuine movement towards the realization of the right¹⁷⁹.

¹⁷³ VOLS, Michel (2023). The Optional Protocol to the ICESCR, Homelessness and Moral Hazard: The Alternative Adequate Housing Requirement in the CESCR's Jurisprudence – an Incentive Not to Pay for Housing? *International Human Rights Law Review*, 12(1), 1–25 [online]. <https://doi.org/10.1163/22131035-12010001>, p. 23.

¹⁷⁴ IKAWA, Daniela. The International Covenant on Economic, Social and Cultural Rights and the Optional Protocol. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 18. DOI: 10.4337/9781788974172.

¹⁷⁵ SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline. Article 2(1): Progressive Realization of ICESCR Rights. In: SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline (2014). *The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials* [online]. Oxford: Oxford University Press, p. 136. DOI: 10.1093/law/9780199640300.003.0003.

¹⁷⁶ LECKIE, Scott. The human right to adequate housing. In: EIDE, Asbjørn; KRAUSE, Catarina and ROSAS, Allan (eds.) (2001). *Economic, Social and Cultural Rights: A Textbook*. Second Revised Edition. Dordrecht: Martinus Nijhoff Publishers, p. 153.

¹⁷⁷ UNITED NATIONS (1990). *General comment No. 3: The nature of States parties' obligations (art. 2, para. 1, of the Covenant)*. Committee on Economic, Social and Cultural Rights, p. 2, para. 9.

¹⁷⁸ *Ibid*, p. 2-3, para. 9.

¹⁷⁹ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 18.

Art. 2(1) further requires that these steps be taken to the maximum of available resources¹⁸⁰. Resources must not be understood narrowly as financial means alone but also as encompassing fairness and effectiveness governance systems, administrative institutions, dispute resolution mechanisms and related systemic structures¹⁸¹. Additionally, this refers to resources both within a state and those available from the international community through international cooperation¹⁸².

While progressive realization permits gradual implementation, the CESCR maintains that there are minimum core obligations to be ensured. Failure to meet these minimum core obligations constitutes a prima facie violation of the ICESCR¹⁸³. Although the precise content of the minimum core obligations may vary depending on available resources¹⁸⁴, the essential levels of each right must be guaranteed at the very least¹⁸⁵.

Additionally, non-discrimination must be ensured in the implementation of all general obligations pursuant to Art. 2(2), particularly in relation to “*race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status*”. In principle, this obligation is aimed at protecting the very poorest and the most marginalised¹⁸⁶. While the right to housing is formally held by every person, it must be subject to particularly close scrutiny where the most vulnerable groups are concerned¹⁸⁷.

¹⁸⁰ International Covenant on Economic, Social and Cultural Rights (1966). *United Nations Treaty Series*, vol. 993, p. 3, Art. 2(1).

¹⁸¹ SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline. Article 2(1): Progressive Realization of ICESCR Rights. In: SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline (2014). *The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials* [online]. Oxford: Oxford University Press, p. 144. DOI: 10.1093/law/9780199640300.003.0003.

¹⁸² UNITED NATIONS (1990). *General comment No. 3: The nature of States parties' obligations (art. 2, para. 1, of the Covenant)*. Committee on Economic, Social and Cultural Rights, p. 3-4, para. 13.

¹⁸³ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 18.

¹⁸⁴ UNITED NATIONS (1990). *General comment No. 3: The nature of States parties' obligations (art. 2, para. 1, of the Covenant)*. Committee on Economic, Social and Cultural Rights, p. 3, para. 10.

¹⁸⁵ IKAWA, Daniela. The International Covenant on Economic, Social and Cultural Rights and the Optional Protocol. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 19. DOI: 10.4337/9781788974172.

¹⁸⁶ SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline. Article 11: The Right to an Adequate Standard of Living. In: SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline (2014). *The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials* [online]. Oxford: Oxford University Press, p. 937. DOI: 10.1093/law/9780199640300.003.0013.

¹⁸⁷ HOHMANN, Jessie M. (2020). *The Forgotten Right to Continuous Improvement of Living Conditions in Article 11(1) of the International Covenant on Economic, Social and Cultural Rights: Seeking the Roots of the Right in International Law* [online]. SSRN Electronic Journal. DOI: 10.2139/ssrn.3668638, p. 12.

The specific obligations under the ICESCR are the traditionally categorised as the obligations to respect, protect and fulfil¹⁸⁸. In the context of the right to housing, these obligations must be assessed in relation to the access, occupancy and exit rights typology.

Before turning to these specific obligations, the scope and content of the right to adequate housing must be clarified. In General Comment No. 4¹⁸⁹, the CESCR identified seven elements of adequacy under Art. 11(1) of the ICESCR: legal security of tenure; availability of services, materials facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy¹⁹⁰. While adequacy is influenced by social, economic, cultural, climatic, ecological factors¹⁹¹, these seven elements ensure that the concept retains a minimum normative structure.

Within the realm of access rights, the obligations to respect, protect and fulfil can be identified, albeit with varying degrees of clarity. The obligation to respect requires states to refrain from discriminatory actions that directly or indirectly result in denial of equal enjoyment of ESC rights¹⁹². In practice, this dimension has most clearly manifested in the CESCR's concerns regarding discrimination faced by persons of immigrant background¹⁹³, ethnic and national minorities¹⁹⁴, and particularly Roma communities across multiple states¹⁹⁵. Beyond the prohibition of discrimination, however, the CESCR has not

¹⁸⁸ DERDEK, Noria and KENNA, Padraic (2023). *The European and International Contribution to the Right to Housing: Standards, Litigation and Advocacy*. Brussels: FEANTSA; Abbé Pierre Foundation; University of Galway, p. 12.

¹⁸⁹ WILSON, Stuart. The right to adequate housing. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 186. DOI: 10.4337/9781788974172.

¹⁹⁰ UNITED NATIONS (1991). *General comment No. 4: The right to adequate housing (art. 11 (1) of the Covenant)*. Committee on Economic, Social and Cultural Rights, p. 2-3, para. 8.

¹⁹¹ *López Albán et al. v. Spain* [CESCR], Communication No. 37/2018, [2019-10-11]. E/C.12/66/D/37/2018, p. 10, para. 9.3; *Sara Vázquez Guerreiro v. Spain* [CESCR], Communication No. 70/2018, [2023-10-09]. E/C.12/74/D/70/2018, p. 11-12, para. 9.1.

¹⁹² UNITED NATIONS (2005). *General comment No. 16 (2005): The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights)*. Committee on Economic, Social and Cultural Rights, p. 4, para. 18.

¹⁹³ UNITED NATIONS (2005). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Norway*. Economic and Social Council, E/C.12/1/Add.109, p. 2, para. 10.

¹⁹⁴ UNITED NATIONS (2008). *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Belgium*. Economic and Social Council, E/C.12/BEL/CO/3, p. 3, para. 14; UNITED NATIONS (2014). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Finland*. Economic and Social Council, E/C.12/FIN/CO/6, p. 4, para. 12.

¹⁹⁵ UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Lithuania*. Economic and Social Council, E/C.12/LTU/CO/3, p. 2-3, para. 10; UNITED NATIONS (2024). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Romania*. Economic and Social Council, E/C.12/ROU/CO/6, p. 4, para. 18; UNITED NATIONS (2004). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Spain*. Economic and Social Council, E/C.12/1/Add.99, p. 2, para. 9.

systematically developed a more detailed negative obligation in relation to access. In this sense, the CESCR has limited itself to a very narrow application of access rights.

The obligations to protect and fulfil are more explicitly articulated. Accordingly, states must ensure that private actors do not discriminate against individuals on prohibited grounds and must guarantee equal treatment in housing policies. In this regard, the CESCR has emphasised the importance of anti-discrimination legislation in the housing sector¹⁹⁶. This is a relatively clearly defined obligation, allowing states a degree of discretion in choosing the means of its implementation.

Under the obligation to fulfil, states are required to increase the availability of adequate and affordable housing, particularly through expanding the supply of social housing¹⁹⁷, to adopt measures addressing long waiting lists for social housing¹⁹⁸, to provide social support and subsidies enabling individuals to access the housing market¹⁹⁹, and to review existing housing policies to ensure they meet the housing needs of the population²⁰⁰. The CESCR has clarified that access to social housing must be granted without discrimination, including undocumented migrants²⁰¹ and individuals who previously occupied property unlawfully²⁰². This reflects the understanding that commodified housing markets structurally exclude individuals lacking sufficient purchasing power, thereby placing a responsibility on the state to ensure access through social housing.

Turning to occupancy rights, the obligations to respect and protect have not yet been articulated within the ICESCR framework. The obligation to fulfil receives greater attention. The CESCR has consistently emphasised the habitability of housing, including

¹⁹⁶ UNITED NATIONS (2008). *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Hungary*. Economic and Social Council, E/C.12/HUN/CO/3, p. 6-7, para. 45.

¹⁹⁷ UNITED NATIONS (2024). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Romania*. Economic and Social Council, E/C.12/ROU/CO/6, p. 7, para. 36; UNITED NATIONS (2016). *Concluding observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland*. Economic and Social Council, E/C.12/GBR/CO/6, p. 9, para. 50.

¹⁹⁸ UNITED NATIONS (2013). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Belarus*. Economic and Social Council, E/C.12/BLR/CO/4-6, p. 7, para. 23.

¹⁹⁹ UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Portugal*. Economic and Social Council, E/C.12/PRT/CO/5, p. 6, para. 26.

²⁰⁰ UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: France*. Economic and Social Council, E/C.12/FRA/CO/5, p. 8-9, para. 42.

²⁰¹ *Yaureli Carolina Infante Díaz v. Spain* [CESCR], Communication No. 134/2019, [2023-02-27]. E/C.12/73/D/134/2019, p. 8, para. 10.

²⁰² *López Albán et al. v. Spain* [CESCR], Communication No. 37/2018, [2019-10-11]. E/C.12/66/D/37/2018, p. 14-15, para. 17; *El Ayoubi et al v. Spain* [CESCR], Communication No. 54/2018, [2021-02-19]. E/C.12/69/D/54/2018, p. 14-15, para. 17; *Josefa Hernández Cortés and Ricardo Rodríguez Bermúdez v. Spain* [CESCR], Communication No. 26/2018, [2022-10-10]. E/C.12/72/D/26/2018, p. 12-13, para. 13; *Zaira Salazar Motos and Luis Miguel Rodríguez Vázquez v. Spain* [CESCR], Communication No. 165/2019, [2025-02-14]. E/C.12/77/D/165/2019, p. 10, para. 11.

access to proper sanitation and essential services²⁰³ such as running water and sewerage²⁰⁴. States must also consider particular needs of specific groups, for example, national policies should enable older persons to remain in their homes as long as possible through assisted restoration and improvement of their homes²⁰⁵. Where housing conditions are uninhabitable, states are under direct obligation to adopt corrective measures²⁰⁶. Furthermore, through subsidies and support schemes, states must ensure that individuals are able to meet their housing-related financial obligations²⁰⁷. The CESCR thus adopts a broad understanding of habitability, extending beyond basic living conditions to include the elements necessary to sustain a dignified standard of living.

The most developed jurisprudence under the ICESCR concerns exit rights, particularly arbitrary evictions. As early as in 1997, in the General Comment No. 7, the CESCR recognised that forced evictions are widespread and affect both developed and developing economies²⁰⁸. States must refrain from carrying out forced evictions and must ensure that third parties do not do so²⁰⁹, thus clearly outlining the obligations to respect and protect. As the ultimate bearer of responsibility under the ICESCR, the state remains accountable even where forced evictions rise from private contractual disputes²¹⁰.

Effective fulfilment of exit rights requires the adoption of legislative measures regulating evictions that “*provide the greatest possible security of tenure to occupiers of houses and land, conform to the Covenant and are designed to control strictly the circumstances under which evictions may be carried out*”²¹¹. States must establish a legal framework that conforms to international standards²¹². Where evictions are carried out,

²⁰³ UNITED NATIONS (1995). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Portugal*. Economic and Social Council, E/C.12/1995/4, p. 3, para. 14.

²⁰⁴ UNITED NATIONS (2008). *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Hungary*. Economic and Social Council, E/C.12/HUN/CO/3, p. 4, para. 22; UNITED NATIONS (2015). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Italy*. Economic and Social Council, E/C.12/ITA/CO/5, p. 8, para. 44.

²⁰⁵ *Lorne Joseph Walters v. Belgium* [CESCR], Communication No. 61/2018, [2021-10-12]. E/C.12/70/D/61/2018, p. 13, para. 42.

²⁰⁶ UNITED NATIONS (2016). *Concluding observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland*. Economic and Social Council, E/C.12/GBR/CO/6, p. 9, para. 50.

²⁰⁷ UNITED NATIONS (1995). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Ukraine*. Economic and Social Council, E/C.12/1995/15, p. 2, para. 6.

²⁰⁸ UNITED NATIONS (1997). *General comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions*. Committee on Economic, Social and Cultural Rights, p. 2, para. 4.

²⁰⁹ *Ibid.*, p. 2, para. 8.

²¹⁰ *Mohamed Ben Djazia and Naouel Bellili v. Spain* [CESCR], Communication No. 5/2015, [2017-06-20]. E/C.12/61/D/5/2015, p. 10, para. 14.

²¹¹ UNITED NATIONS (1997). *General comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions*. Committee on Economic, Social and Cultural Rights, p. 3, para. 9.

²¹² UNITED NATIONS (2015). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Italy*. Economic and Social Council, E/C.12/ITA/CO/5, p. 7, para. 42.

those affected must receive sufficient and reasonable notice and have access to judicial remedies²¹³ and legal aid where necessary²¹⁴. Evictions may be justified only in the most exceptional circumstances²¹⁵ and only after genuine consultation with those concerned²¹⁶. For an eviction to be justifiable, it must be provided for by law, pursue the general welfare in democratic society, be proportionate and necessary to the aim pursued, and its benefits must outweigh the impact on the enjoyment of the right to housing²¹⁷. This is a highly detailed and individual-centred framework.

A distinct and closely related issue within the exit dimension is homelessness. States are required to adopt immediate measures to address homelessness, including through allocation of funds, provision of reception facilities, prohibition of criminalization of homelessness²¹⁸, and development of long-term strategies for homeless individuals²¹⁹. Where evictions are unavoidable, the state must secure adequate alternative housing that meets the specific needs of the individuals concerned²²⁰. In no circumstances may evictions result in homelessness²²¹, regardless of whether the eviction was carried out by state authorities or private individuals²²². This too reflects a holistic approach to homelessness, focusing not only on immediate responses but also on long-term solutions aimed at preventing its recurrence.

²¹³ UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: France*. Economic and Social Council, E/C.12/FRA/CO/5, p. 8-9, para. 42; *Rosario Gómez-Limón Pardo v. Spain* [CESCR], Communication No. 52/2018, [2020-03-05]. E/C.12/67/D/52/2018, p. 10, para. 14.

²¹⁴ *I.D.G. v. Spain* [CESCR], Communication No. 2/2014, [2015-06-17]. E/C.12/55/D/2/2014, p. 13, para. 12.

²¹⁵ *Mohamed Ben Djazia and Naouel Bellili v. Spain* [CESCR], Communication No. 5/2015, [2017-06-20]. E/C.12/61/D/5/2015, p. 10, para. 13.

²¹⁶ *Mohamed Ben Djazia and Naouel Bellili v. Spain* [CESCR], Communication No. 5/2015, [2017-06-20]. E/C.12/61/D/5/2015, p. 15, para. 21; *Hamid Saydawi and Masir Farah v. Italy* [CESCR], Communication Nos. 226/2021 and 227/2021, [2024-02-16]. E/C.12/75/D/226/2021 and E/C.12/75/D/227/2021, p. 13, para. 10.

²¹⁷ *El Goumari et al v. Spain* [CESCR], Communication No. 85/2018, [2021-02-18]. E/C.12/69/D/85/2018, p. 10-11, para. 8; *Soraya Moreno Romero and Children v. Spain* [CESCR], Communication No. 48/2018, [2021-02-22]. E/C.12/69/D/48/2018, p. 10-11, para. 12.

²¹⁸ UNITED NATIONS (2016). *Concluding observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland*. Economic and Social Council, E/C.12/GBR/CO/6, p. 9-10, para. 52.

²¹⁹ UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Lithuania*. Economic and Social Council, E/C.12/LTU/CO/3, p. 9-10, para. 51.

²²⁰ *Lorne Joseph Walters v. Belgium* [CESCR], Communication No. 61/2018, [2021-10-12]. E/C.12/70/D/61/2018, p. 15, para. 16.

²²¹ UNITED NATIONS (1997). *General comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions*. Committee on Economic, Social and Cultural Rights, p. 4, para. 16.

²²² *Mohamed Ben Djazia and Naouel Bellili v. Spain* [CESCR], Communication No. 5/2015, [2017-06-20]. E/C.12/61/D/5/2015, p. 11, para. 15.

This analysis reveals an uneven doctrinal development across the access, occupancy and exit rights to housing. For clarity, the ICESCR framework may be summarised as follows:

	Obligation to respect	Obligation to protect	Obligation to fulfil
Access	States must refrain from discriminatory actions resulting in denial of equal enjoyment of ESC rights	States must prevent private actors, including landlords, from discriminating	States must expand social housing, reduce excessive waiting lists, provide subsidies and social support, review housing policies, and adopt anti-discrimination legislation
Occupancy	N/A	N/A	States must ensure habitability and essential services, adopt corrective measures for uninhabitable housing, and provide financial support enabling payment of housing-related obligations
Exit	States must refrain from forced evictions	States must prevent forced evictions by private actors	States must regulate evictions and ensure security of tenure, provide judicial remedies and legal aid, guarantee genuine consultation, and secure adequate alternative accommodation

Source: Compiled by the author, based on the analysis presented in Chapter 2.1.

2.2. The right to housing in the RESC

Within the Council of Europe system, the historical bifurcation of civil and political and ESC rights remains visible in the existence of two separate instruments – the ECHR and the RESC. This structural division has also generated a practical hierarchy: the RESC has gained broader recognition only in recent years²²³ and the equal standing of economic

²²³ BRILLAT, Régis. The Supervisory Machinery of the European Social Charter: Recent Developments and their Impact. In: DE BÚRCA, Gráinne; DE WITTE, Bruno and OGERTSCHNIG, Larissa (eds) (2005). *Social Rights in Europe* [online]. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199287994.003.0003>, p. 31.

and social rights alongside civil and political rights remains aspirational rather than fully realised²²⁴.

The original European Social Charter was adopted in 1961. However, following the political and legal transformations of the early 1990s, the instrument was revised and modernised, resulting in adoption of the RESC in 1996²²⁵. The RESC contains an expanded and updated catalogue of socio-economic rights²²⁶. As of 2026, 36 of 46 Council of Europe states have ratified it²²⁷.

Nevertheless, ratification does not imply full acceptance of all RESC provisions. Under Art. A of the RESC, states are required “*to consider itself bound by at least six of the following nine articles of Part II of this Charter: Articles 1, 5, 6, 7, 12, 13, 16, 19 and 20*”²²⁸. This “*à la carte ratification*”²²⁹ system has resulted in significant fragmentation in the level of protection afforded to economic and social rights, including the right to housing.

The RESC operates through two enforcement mechanisms: a state reporting procedure, resulting in conclusions adapted by the ECSR, and a collective complaints procedure²³⁰, contingent upon ratification of the Additional Protocol to the European Social Charter²³¹. As of 2026, only 16 Council of Europe states have ratified the Additional Protocol to the RESC²³². Unlike the CESCR, the ECSR does not issue general comments. Instead, its authoritative interpretation of the RESC²³³ emerges exclusively through its conclusions on state reports and its quasi-judicial decisions in collective complaints, where both the

²²⁴ ALSTON, Philip. Assessing the Strengths and Weaknesses of the European Social Charter's Supervisory System. In: DE BURCA, Gráinne; DE WITTE, Bruno and OGERTSCHNIG, Larissa (eds) (2005). *Social Rights in Europe* [online]. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199287994.003.0004>, p. 47.

²²⁵ LUKAS, Karin (2021). *The Revised European Social Charter: An Article by Article Commentary*. Elgar Commentaries series. [online]. Cheltenham: Edward Elgar Publishing, p. 3. DOI: 10.4337/9781789903645.

²²⁶ O’CINNEIDE, Colm. The European system. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 51. DOI: 10.4337/9781788974172.

²²⁷ <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty=163>.

²²⁸ European Social Charter (revised) (1996). *European Treaty Series*, No. 163, Art. A.

²²⁹ DERDEK, Noria; and KENNA, Padraic (2023). *The European and International Contribution to the Right to Housing: Standards, Litigation and Advocacy*. Brussels: FEANTSA; Abbé Pierre Foundation; University of Galway, p. 34.

²³⁰ O’CINNEIDE, Colm. The European system. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 48. DOI: 10.4337/9781788974172.

²³¹ Additional Protocol to the European Social Charter (1988). *European Treaty Series*, No. 128.

²³² <https://www.coe.int/en/web/conventions/full-list?module=signatures-by-treaty&treaty=158>.

²³³ KHALIQ, Urfan and CHURCHILL, Robin. The European Committee of Social Rights: Putting Flesh on the Bare Bones of the European Social Charter. In: LANGFORD, Malcolm (ed.) (2009). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press, p. 428.

complaining organizations and the respondent states submit written arguments in adversarial process²³⁴.

The right to housing is expressly protected in Art. 31 of the RESC²³⁵ but it is not among the provisions that states must mandatorily accept, resulting in limited ratification. Consequently, Art. 16 of the RESC, which protects family life, has broader acceptance and has assumed practical relevance in housing-related complaints before the ECSR. Although arts. 16 and 31 of the RESC differ in their scope, the ECSR has recognised that they may generate overlapping obligations and has interpreted concepts such as adequate housing and forced eviction consistently under both provisions²³⁶.

Art. 31 of the RESC obliges states to adopt measures designed to: (i) promote access to housing of an adequate standard; (ii) prevent and reduce homelessness; (iii) make the price of housing accessible. The structure of Art. 31 establishes positive obligations²³⁷, requiring active state engagement to secure effective enjoyment the right to housing²³⁸.

At the same time, Art. 31 does not impose an obligation of result²³⁹. Rather, compliance is assessed in terms of whether the implementation of the right to housing is practical and effective²⁴⁰. The ECSR has specified that conformity with Art. 31 requires states to: (i) adopt necessary legal, financial, and operational means to ensure steady progress; (ii) collect and maintain relevant statistical data; (iii) regularly review the impact of strategies

²³⁴ O'CINNEIDE, Colm. The European system. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 52. DOI: 10.4337/9781788974172.

²³⁵ European Social Charter (revised) (1996). *European Treaty Series*, No. 163, Art. 31.

²³⁶ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 53; *European Roma Rights Centre (ERRC) v. Greece* [ECSR], Collective Complaint No. 15/2003, [2004-12-08]. cc-15-2003-dmerits-en, para. 17; *Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), Magistrats Européens pour la Démocratie et les Libertés (MEDEL), Confederación Sindical de Comisiones Obreras (CCOO) and International Movement ATD Fourth World v. Spain* [ECSR], Complaint No. 206/2022, [2024-09-11]. cc-206-2022-dmerits-en, para. 113.

²³⁷ DERDEK, Noria; and KENNA, Padraic (2023). *The European and International Contribution to the Right to Housing: Standards, Litigation and Advocacy*. Brussels: FEANTSA; Abbé Pierre Foundation; University of Galway, p. 33.

²³⁸ *European Roma Rights Centre (ERRC) v. France* [ECSR], Collective Complaint No. 51/2008, [2009-10-19]. cc-51-2008-dmerits-en, para. 47; *European Roma Rights Centre (ERRC) v. Bulgaria* [ECSR], Collective Complaint No. 31/2005, [2006-10-18]. cc-31-2005-dmerits-en, para. 35.

²³⁹ DERDEK, Noria; and KENNA, Padraic (2023). *The European and International Contribution to the Right to Housing: Standards, Litigation and Advocacy*. Brussels: FEANTSA; Abbé Pierre Foundation; University of Galway, p. 35.

²⁴⁰ *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece* [ECSR], Complaint No. 173/2018, [2021-01-26]. cc-173-2018-dmerits-en, para. 112.

adopted; (iv) establish timetables and avoid indefinite postponement; (v) assess the impact of policies on different categories of persons, particularly the most vulnerable²⁴¹.

This reflects an attempt by the ECSR to outline structured general obligations, which are not explicitly framed as “*minimum core*” obligations, yet serve a similar function in establishing essential benchmarks of compliance. While some scholars argue that the RESC rights are not progressive in nature²⁴², the ECSR has clarified that where the realization of these rights is complex and resource-dependent, the states should “*take measures that allows 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*”²⁴³. In this sense, Art. 31 operates similarly to model of progressive realization of the ICESCR²⁴⁴, even if it does not mention this term explicitly. In addition, the ECSR recognises a margin of appreciation afforded to States in determining the concrete means of implementation²⁴⁵, especially where the balancing of general interests, specific group interests, and resource constraints is required²⁴⁶.

The ECSR consistently aligns its interpretations of Art. 31 with broader human rights standards, including the jurisprudence of its sister-treaty ECHR²⁴⁷. Like the ECHR, the RESC is treated a living instrument, interpreted considering contemporary legal developments at both international and national levels²⁴⁸. It thus operates not as a closed system but one of interrelation with others²⁴⁹. Together, these elements suggest that the

²⁴¹ COUNCIL OF EUROPE (2022). *Digest of the Case Law of the European Committee of Social Rights*. Strasbourg: Council of Europe, p. 200; *International Movement ATD Fourth World v. France* [ECSR], Collective Complaint No. 33/2006, [2007-12-05]. cc-33-2006-dmerits-en, para. 60.

²⁴² KHALIQ, Urfan and CHURCHILL, Robin. The European Committee of Social Rights: Putting Flesh on the Bare Bones of the European Social Charter. In: LANGFORD, Malcolm (ed.) (2009). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press, p. 430.

²⁴³ *International Association Autism-Europe v. France* [ECSR], Collective Complaint No. 13/2002, [2003-11-04]. cc-13-2002-dmerits-en, para. 53.

²⁴⁴ COUNCIL OF EUROPE (1996). *Explanatory Report to the European Social Charter (Revised)*. Strasbourg: Council of Europe, para. 118.

²⁴⁵ *European Roma and Travellers Forum (ERTF) v. France* [ECSR], Collective Complaint No. 64/2011, [2012-01-24]. cc-64-2011-dmerits-en, para. 95.

²⁴⁶ LUKAS, Karin (2021). *The Revised European Social Charter: An Article by Article Commentary*. Elgar Commentaries series. [online]. Cheltenham: Edward Elgar Publishing, p. 330. DOI: 10.4337/9781789903645.

²⁴⁷ GAILIŪTĖ, Dovilė (2012). Right to housing in the jurisprudence of the European Committee of Social Rights. *Socialinių mokslų studijos*, 4(4), p. 1610.

²⁴⁸ *World Organisation against Torture (OMCT) v. Ireland* [ECSR], Collective Complaint No. 18/2003, [2004-12-07]. cc-18-2003-dmerits-en, para. 55.

²⁴⁹ AKANDJI-KOMBÉ, Jean-François. The Material Impact of the Jurisprudence of the European Committee of Social Rights. In: DE BÚRCA, Gráinne; DE WITTE, Bruno and OGERTSCHNIG, Larissa (eds) (2005). *Social Rights in Europe* [online]. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199287994.003.0006>, p. 89.

interpretation of Art. 31 develops in constant interaction with broader human rights standards and evolving social and economic conditions.

Within the realm of access rights, obligations to protect and fulfil are the most clearly developed. Under Art. E of the RESC²⁵⁰, the ECSR has consistently emphasised the prohibition of discrimination in access to housing²⁵¹. This protection is particularly significant for disadvantaged groups²⁵², including the Roma²⁵³ and other traveller communities²⁵⁴. As no specific obligation to establish a particular legal framework is prescribed, states retain a very broad margin of appreciation in determining how non-discrimination is ensured in practice.

The obligation to fulfil primarily concerns affordability. The ECSR has required states to assess affordability from the perspective of the poorest applicants²⁵⁵. Housing is deemed affordable when households can meet initial and ongoing housing costs while maintaining a socially accepted minimum standard of living within the relevant society²⁵⁶. Housing benefit systems, including allowances and loan schemes, constitute an integral component of this assessment²⁵⁷. In addition, fulfilment of access rights requires states to ensure availability of social housing²⁵⁸ and prevent excessive waiting periods²⁵⁹. Where access mechanisms fail to operate effectively, States must ensure the availability of affordable, effective judicial and non-judicial remedies for tenants, occupiers and landlords²⁶⁰. While no obligation to provide housing exists, this highlights the dual role of states in facilitating

²⁵⁰ European Social Charter (revised) (1996). *European Treaty Series*, No. 163, Art. E.

²⁵¹ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - Greece - Article 31-3*. 2019/def/GRC/31/3/EN, p. 2.

²⁵² *European Roma Rights Centre (ERRC) v. Italy* [ECSR], Complaint No. 244/2025, [2025-07-02]. cc-244-2025-dadmissandimmed-en, para. 36.

²⁵³ *European Roma Rights Centre (ERRC) v. Italy* [ECSR], Collective Complaint No. 27/2004, [2005-12-07]. cc-27-2004-dmerits-en, para. 36.

²⁵⁴ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - France - Article 31-2*. 2019/def/FRA/31/2/EN, p. 2.

²⁵⁵ *European Federation of National Organisations working with the Homeless (FEANTSA) v. Slovenia* [ECSR], Collective Complaint No. 53/2008, [2009-09-08]. cc-53-2008-dmerits-en, para. 72.

²⁵⁶ *European Federation of National Organisations working with the Homeless (FEANTSA) v. France* [ECSR], Collective Complaint No. 39/2006, [2007-12-05]. cc-39-2006-dmerits-en, para. 122; EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2003). *Conclusions 2003 - Sweden - Article 31-3*. 2003/def/SWE/31/3/EN, p. 1.

²⁵⁷ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Norway - Article 31-3*. 2023/def/NOR/31/3/EN, p. 2.

²⁵⁸ *International Movement ATD Fourth World v. France* [ECSR], Collective Complaint No. 33/2006, [2007-12-05]. cc-33-2006-dmerits-en, para. 95.

²⁵⁹ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - Greece - Article 31-3*. 2019/def/GRC/31/3/EN, p. 1.

²⁶⁰ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - Greece - Article 31-3*. 2019/def/GRC/31/3/EN, p. 1; EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - Turkey - Article 31-1*. 2019/def/TUR/31/1/EN, p. 2.

access either through financial support to participate in the market or, where required, through the provision of social housing.

Within the occupancy rights, the obligations to protect and fulfil also dominate. The obligation to protect requires states to regulate and supervise landlords and sanction for inadequate rental conditions²⁶¹. This includes the establishment of urban development rules and maintenance obligations for landlords²⁶². States also must protect individuals against crime²⁶³, particularly in settlements. Here too, while the specific means of regulation are left to the discretion of the state, the ECSR makes clear that a minimum standard of habitability must be ensured and effectively applied.

Obligation to fulfil concerns the adequacy of housing. In defining adequacy, the ECSR draws upon the CESCR's General Comment No. 4²⁶⁴, while developing its own jurisprudence. Adequate housing must include access to safe drinking water²⁶⁵, heating, electricity, waste disposal, and sanitary facilities²⁶⁶, must avoid overcrowding and provide secure tenure²⁶⁷. Housing must be structurally secure and safe from a health and sanitation perspective²⁶⁸, and located in a place which ensures access to employment, education, healthcare and public services²⁶⁹. Importantly, the ECSR's reliance on standards developed by the CESCR in defining adequacy demonstrates how interconnected these instruments are and how they contribute to a coherent framework.

Exit rights are too characterised only by obligations to protect and fulfil. The obligation to protect requires the existence of legal safeguards against forced evictions carried out by

²⁶¹ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Lithuania - Article 31-1*. 2023/def/LTU/31/1/EN, p. 2; EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Turkey - Article 31-1*. 2023/def/TUR/31/1/EN, p. 2.

²⁶² EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2003). *Conclusions 2003 - France - Article 31-1*. 2003/def/FRA/31/1/EN, p. 3.

²⁶³ *Centre on Housing Rights and Evictions (COHRE) v. Italy* [ECSR], Collective Complaint No. 58/2009, [2010-06-25]. cc-58-2009-dmerits-en, para. 68.

²⁶⁴ *Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), Magistrats Européens pour la Démocratie et les Libertés (MEDEL), Confederación Sindical de Comisiones Obreras (CCOO) and International Movement ATD Fourth World v. Spain* [ECSR], Complaint No. 206/2022, [2024-09-11]. cc-206-2022-dmerits-en, para. 81.

²⁶⁵ *European Roma Rights Centre (ERRC) v. Portugal* [ECSR], Collective Complaint No. 61/2010, [2011-06-30]. cc-61-2010-dmerits-en, para. 36.

²⁶⁶ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Ukraine - Article 31-1*. 2023/def/UKR/31/1/EN, p. 1.

²⁶⁷ *European Roma Rights Centre (ERRC) v. Italy* [ECSR], Complaint No. 244/2025, [2025-07-02]. cc-244-2025-dadmissandimmed-en, para. 34.

²⁶⁸ *Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), Magistrats Européens pour la Démocratie et les Libertés (MEDEL), Confederación Sindical de Comisiones Obreras (CCOO) and International Movement ATD Fourth World v. Spain* [ECSR], Complaint No. 206/2022, [2024-09-11]. cc-206-2022-dmerits-en, para. 80.

²⁶⁹ *Médecins du Monde - International v. France* [ECSR], Collective Complaint No. 67/2011, [2012-09-11]. cc-67-2011-dmerits-en, para. 61.

private actors²⁷⁰. Domestic law on evictions must ensure consultation with affected persons, reasonable notice, prohibition of night or winter evictions, and access to legal remedies and legal aid²⁷¹. Evictions must be carried out with due respect for human dignity and must follow provision of alternative accommodation by the state where necessary²⁷². The effectiveness of such safeguards ultimately depends on their practical enforceability, namely the extent to which violations can be effectively adjudicated and remedied.

The obligation to fulfil requires states to provide sufficient shelters or other types of emergency accommodation²⁷³, meeting security, health and hygiene standards²⁷⁴, irrespective of residence status²⁷⁵. The state also must have a law which prohibits eviction from shelters or emergency accommodation²⁷⁶. In exceptional circumstances, such as pandemics or financial crises, States must adopt temporary measures, including moratoria on evictions, to prevent irreversible harm²⁷⁷. This aspect may, however, raise concerns for states regarding the risk of prolonged reliance on emergency accommodation if such measures are implemented without adequate long-term housing strategies.

Reducing homelessness is another important aspect of exit rights. To achieve this goal, the measures must be both at short-term and long-term levels²⁷⁸. While temporary shelter is needed immediately, it is not a lasting solution, thus, long-term accommodation suited to individual's needs has to be granted by the state if needed²⁷⁹. Additionally, measures to address the root causes of homelessness are needed to help individuals overcome their

²⁷⁰ NIC SHUIBHNE, Emma N; BRUIJN, L Michelle and VOLS, Michel (2023). Deconstructing the Eviction Protections Under the Revised European Social Charter: A Systematic Content Analysis of the Interplay Between the Right to Housing and the Right to Property. *Human Rights Law Review*, 23(4), ngad022 [online], p. 9-12. <https://doi.org/10.1093/hrlr/ngad022>.

²⁷¹ *European Federation of National Organisations working with the Homeless (FEANTSA) v. France* [ECSR], Collective Complaint No. 39/2006, [2007-12-05]. cc-39-2006-dmerits-en, para. 86.

²⁷² *Centre on Housing Rights and Evictions (COHRE) v. France* [ECSR], Collective Complaint No. 63/2010, [2011-06-28]. cc-63-2010-dmerits-en, para. 42.

²⁷³ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - Portugal - Article 31-2*. 2019/def/PRT/31/2/EN, p. 3.

²⁷⁴ *European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France* [ECSR], Complaint No. 114/2015, [2018-01-24]. cc-114-2015-dmerits-en, para. 174.

²⁷⁵ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - Italy - Article 31-2*. 2019/def/ITA/31/2/EN, p. 3.

²⁷⁶ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Sweden - Article 31-2*. 2023/def/SWE/31/2/EN, p. 3.

²⁷⁷ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Norway - Article 31-2*. 2023/def/NOR/31/2/EN, p. 2.

²⁷⁸ *Defence for Children International (DCI) v. The Netherlands* [ECSR], Collective Complaint No. 47/2008, [2009-10-20]. cc-47-2008-dmerits-en, para. 46.

²⁷⁹ *International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece* [ECSR], Complaint No. 173/2018, [2021-01-26]. cc-173-2018-dmerits-en, para. 118.

difficulties through granting them independence²⁸⁰ and ensuring they do not return to situation of homelessness²⁸¹. In many respects, this approach closely reflects the obligations regarding homelessness articulated by the CESC.

To conclude, there are great differences across the access, occupancy and exit rights to housing. For clarity, the RESC framework may be summarised as follows:

	Obligation to respect	Obligation to protect	Obligation to fulfil
Access	N/A	States must prevent discrimination by private actors, including landlords, and ensure effective judicial and non-judicial remedies	States must expand access to affordable housing, including social housing; reduce excessive waiting periods; provide housing benefits and subsidies; and ensure effective judicial and non-judicial remedies
Occupancy	N/A	States must regulate and supervise private landlords, enforce housing standards, sanction inadequate housing, and protect residents against crime and unsafe living conditions	States must ensure housing adequacy, including habitability, essential services, structural safety, secure tenure, and adequate location
Exit	N/A	States must prevent forced evictions by private actors and ensure legal safeguards, consultation, reasonable notice, and access to legal remedies and legal aid	States must establish a legislative framework regulating evictions, provide emergency shelter, and adopt short- and long-term measures to reduce and prevent homelessness

Source: Compiled by the author, based on the analysis presented in Chapter 2.2

2.3. Housing-related protection in the ECHR

Although the ECHR does not explicitly recognise a right to housing, housing-related disputes have frequently arisen before the ECtHR, and it has adjudicated complaints

²⁸⁰ *Conference of European Churches (CEC) v. the Netherlands* [ECSR], Complaint No. 90/2013, [2014-07-01]. cc-90-2013-dmerits-en, para. 136.

²⁸¹ *European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands* [ECSR], Collective Complaint No. 86/2012, [2014-07-02]. cc-86-2012-dmerits-en, para. 107.

relating to the right to housing through Arts. 8²⁸² and Art. 1 of Prot. 1²⁸³ of the ECHR. Art. 8 of the ECHR has attracted particular attention because it expressly refers to the right to respect for one's "home" in Art. 8(1). In order to determine when this protection is engaged, it is first necessary to clarify the concept of "home" under the ECHR.

The ECtHR has consistently held that the concept of home is autonomous, meaning that it does not depend on domestic legal classifications but rather factual circumstances of the case²⁸⁴. Its existence is determined by the presence of sufficient and continuous links between the individual and the place in question²⁸⁵, evidenced by the facts of the case²⁸⁶.

Such links may be demonstrated through a variety of factual indicators²⁸⁷, including the length of residence²⁸⁸, absence of alternative accommodation²⁸⁹, the lack of abandonment of the property²⁹⁰, the payment of utilities and maintenance fees²⁹¹, or the use of several residences interchangeably²⁹². Importantly, the ECtHR has clarified that a dwelling may qualify as home, irrespective of whether the person owns the property²⁹³ or occupies it lawfully under domestic law²⁹⁴. Consequently, the physical forms that may constitute a home vary significantly and extend beyond traditional residences to include caravans²⁹⁵, cabins and bungalows²⁹⁶ holiday homes²⁹⁷, and other forms of accommodation aligning with the idea that the notion of "home" is inherently contextual and heavily shaped by a range of multiple factors, such as economic, cultural, climatic, ecological.

²⁸² European Convention on Human Rights, as amended by Protocols Nos. 11, 14 and 15 (1950). *European Treaty Series*, No. 005, Art. 8.

²⁸³ European Convention on Human Rights, as amended by Protocols Nos. 11, 14 and 15 (1950). *European Treaty Series*, No. 005, Art. 1 of Protocol 1.

²⁸⁴ ISTREFI, Kushtrim; RATNIECE, Zane; and KAMBER, Krešimir (2025). *The Companion to the European Convention on Human Rights* [online]. Leiden: Brill | Nijhoff. <https://doi.org/10.1163/9789004541559>, p. 414; *Chiragov and Others v. Armenia* [ECHR], No. 13216/05, [16-06-2015], para. 206.

²⁸⁵ NIELD, Sarah (2013). Article 8 Respect for the Home: A Human Property Right? *King's Law Journal*, 24(2), p. 149 [online]. <https://doi.org/10.5235/09615768.24.2.147>; *Bjedov v. Croatia* [ECHR], No. 42150/09, [29-05-2012], para. 57; *Kaminskas v. Lithuania* [ECHR], No. 44817/18, [04-08-2020], para. 42.

²⁸⁶ *McCann v. the United Kingdom* [ECHR], No. 19009/04, [13-05-2008], para. 46.

²⁸⁷ ATALAY, Serde (2024). Housing and Social Control: Reassessing the Protection Asymmetries of Article 8 of the European Convention on Human Rights. *Social & Legal Studies*, 34(3), p. 367 [online]. <https://doi.org/10.1177/09646639241232416>.

²⁸⁸ *Faulkner and McDonagh v. Ireland* [ECHR], Nos. 30391/18 and 30416/18, [08-03-2022], para. 91.

²⁸⁹ *Prokopovich v. Russia* [ECHR], No. 58255/00, [18-11-2004], para. 38.

²⁹⁰ *Blečić v. Croatia* [ECHR], No. 59532/00, [29-07-2004], para. 52.

²⁹¹ *Prokopovich v. Russia* [ECHR], No. 58255/00, [18-11-2004], para. 37.

²⁹² *Demades v. Turkey* [ECHR], No. 16219/90, [31-07-2003], para. 32.

²⁹³ *Menteş and Others v. Turkey* [ECHR], No. 23186/94, [28-11-1997].

²⁹⁴ *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 103; *Buckley v. the United Kingdom* [ECHR], No. 20348/92, [25-09-1996], paras. 52-54.

²⁹⁵ *Chapman v. the United Kingdom* [ECHR], No. 27238/95, [18-01-2001], para. 73.

²⁹⁶ *Winterstein and Others v. France* [ECHR], No. 27013/07, [17-10-2013], para. 141.

²⁹⁷ *Samoylova v. Russia* [ECHR], No. 49108/11, [14-12-2021], para. 66.

What emerges clearly from this jurisprudence is that the ECtHR views the concept of home under Art. 8 as central to an individual's existence. Its protection aims to safeguard elements such as identity, self-determination, physical and mental well-being and relationships with others²⁹⁸, all of which are closely connected to stability of one's home. In this sense, the ECtHR's understanding aligns with the formula widely recognised by human rights scholarship describing home as "*house + X*"²⁹⁹, where the "*X*" reflects social, psychological and other dimensions that extend beyond the physical structure of a dwelling.

As a result, the existence of a home under Art. 8 does not depend on legal title. Nevertheless, this conceptualisation creates significant overlap with Art. 1 of Prot. 1, which protects property and possessions, including homes. The key distinction is that Art. 1 of Prot. 1 requires a right or proprietary interest in the property³⁰⁰. By contrast, under Art. 8 the protection of a home may arise even in the absence of formal property rights. Conversely, it is also possible for a person to possess property without that property constituting their home if sufficient and continuous ties are absent³⁰¹.

Despite recognising the fundamental importance of housing, the ECtHR remains cautious in recognizing the right to housing. The ECtHR is overtly aware it is closely connected to economic and social policy choices made at the national level and generally refrains from intervention in such matters, respecting decisions adopted by the states, which are presumed to possess unique knowledge of their societies' needs³⁰². The ECtHR is wary not to impose obligations that would place an excessive burden on States.

Consequently, the margin of appreciation afforded to states in housing matters is relatively wide³⁰³, although its scope ultimately depends on specific circumstances of each case³⁰⁴ and the degree of interference with private life. This also explains why the margin

²⁹⁸ REMICHE, Adélaïde (2012). Yordanova and Others v Bulgaria: The Influence of the Social Right to Adequate Housing on the Interpretation of the Civil Right to Respect for One's Home. *Human Rights Law Review*, 12(4), p. 795 [online]. <https://doi.org/10.1093/hrlr/ngs033>; *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 118.

²⁹⁹ OX O'MAHONY, Lorna (2007). *Conceptualising Home: Theories, Laws and Policies*. Oxford: Hart Publishing, p. 155.

³⁰⁰ COUNCIL OF EUROPE / EUROPEAN COURT OF HUMAN RIGHTS (2025). *Guide on Article 1 of Protocol No. 1 to the European Convention on Human Rights: Protection of property* [online]. Strasbourg: Council of Europe, para. 279; *Surugiu v. Romania* [ECHR], No. 48995/99, [20-4-2004], para. 63.

³⁰¹ *Khamidov v. Russia* [ECHR], No. 72118/01, [15-11-2007], para. 128.

³⁰² *Connors v. the United Kingdom* [ECHR], No. 66746/01, [27-05-2004], para. 82; *Mellacher and Others v. Austria* [ECHR], Nos. 10522/83, 11011/84 and 11070/84, [19-12-1989], para. 45.

³⁰³ CALZOLARI, Valentina; and BARNES, Jonathan (2009). Chapter 6. The Right To Housing Under The Echr. In: *Human Rights as Indivisible Rights* [online]. Leiden: Brill|Nijhoff. <https://doi.org/10.1163/ej.9789004160514.i-348.29>, p. 128.

³⁰⁴ *L.F. v. the United Kingdom* [ECHR], No. 19839/21, [24-05-2022], para. 40.

of appreciation tends to be narrower under Art. 8 than under Art. 1 of Prot. 1³⁰⁵. The ECtHR continues to emphasise that national authorities are generally better placed than an international judge to be making such complex social assessments³⁰⁶, upholding the foundational principle of subsidiarity within the ECHR system³⁰⁷.

This approach is further reflected in the structure of Articles 8 and 1 of Prot. 1, both of which incorporate internal tests for assessing the justification of interferences³⁰⁸. When examining whether an interference with Art. 8 is permissible, the ECtHR considers whether (i) the interference is in accordance with the law, (ii) pursues a legitimate aim of the ones enlisted in Art. 8(2), (iii) is necessary in a democratic society³⁰⁹. The latter requirement is satisfied only where the interference responds to a pressing social need and remains proportionate to the legitimate aim pursued³¹⁰.

Even within this framework, the wide margin of appreciation remains visible. Although the ECtHR retains the ultimate authority to determine whether the reasons provided by national authorities are sufficient³¹¹, it is primarily for the state to assess the necessity for interference³¹². The role of the ECtHR is limited to reviewing whether the state has exercised its margin of appreciation in a manner compatible with the ECHR³¹³, once again highlighting the limited extent to which the ECtHR is willing to intervene in order to ensure states' compliance.

A similar proportionality framework also operates under Art. 1 of Prot. 1, which requires that any deprivation of property must be (i) lawful and (ii) pursue a legitimate aim by means reasonably proportionate to the aim sought to be realised³¹⁴. In assessing lawfulness under this provision, the ECtHR largely uses the same test as under Art. 8 of

³⁰⁵ COUNCIL OF EUROPE / EUROPEAN COURT OF HUMAN RIGHTS (2025). *Guide on Article 8 of the European Convention on Human Rights: Right to respect for private and family life, home and correspondence* [online]. Strasbourg: Council of Europe, para. 497; *Gladysheva v. Russia* [ECHR], No. 7097/10, [06-12-2011], para. 93.

³⁰⁶ CLEMENTS, Luke; and SIMMONS, Alan (2009). *European Court of Human Rights: Sympathetic Unease*. In: LANGFORD, Malcolm (ed.). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press, p. 410.

³⁰⁷ *Handyside v. the United Kingdom* [ECHR], No. 5493/72, [07-12-1976], para. 48.

³⁰⁸ *Paketova and Others v. Bulgaria* [ECHR], Nos. 17808/19 and 36972/19, [04-10-2022], para. 150.

³⁰⁹ ATALAY, Serde (2024). Housing and Social Control: Reassessing the Protection Asymmetries of Article 8 of the European Convention on Human Rights. *Social & Legal Studies*, 34(3), p. 366 [online]. <https://doi.org/10.1177/09646639241232416>.

³¹⁰ *Ghailan and Others v. Spain* [ECHR], No. 36366/14, [23-3-2021], para. 62.

³¹¹ *Buckland v. the United Kingdom* [ECHR], No. 40060/08, [18-09-2012], para. 63; *Zrilić v. Croatia* [ECHR], No. 46726/11, [3-10-2013], para. 62.

³¹² ATALAY, Serde (2024). Housing and Social Control: Reassessing the Protection Asymmetries of Article 8 of the European Convention on Human Rights. *Social & Legal Studies*, 34(3), p. 371 [online]. <https://doi.org/10.1177/09646639241232416>.

³¹³ *Stankova v. Slovakia* [ECHR], No. 7205/02, [09-10-2007], para. 59.

³¹⁴ *Beyeler v. Italy* [ECHR], No. 33202/96, [5-1-2000], para. 108-109.

ECHR³¹⁵. Moreover, this analysis incorporates the broader ECHR requirement of maintaining a fair balance between competing interests³¹⁶.

As is clear from this, when addressing the housing-related claims under Arts. 8 and 1 of Prot. 1, the ECtHR does not on the familiar concepts of socio-economic rights, such as minimum core obligations or progressive realization. Instead, it relies primarily on the doctrines of margin of appreciation and proportionality when adjudicating claims that indirectly engage socio-economic dimensions of the right to housing under the ECHR.

Having examined the doctrinal framework through which the ECtHR approaches such claims, it is now possible to assess the substantive scope of housing-related protection under the ECHR. Although the case law in this area is not systematically organised, it nevertheless allows for the development of a relatively coherent analytical framework.

Within the realm of access rights, the ECtHR's jurisprudence concerning the obligation to respect remains relatively limited. In principle, states are required to refrain from interference³¹⁷ to individuals' ability to access housing. However, the ECtHR has not elaborated on this obligation in detail.

More explicit guidance can be found with regard to the obligation to protect. In particular, the ECtHR has emphasised that access to housing must not be subject to any discriminatory treatment. Domestic legislation governing access to housing must therefore operate without discrimination. For example, the ECtHR has held that excluding individuals in homosexual relationships from accessing housing may violate the ECHR³¹⁸. In other words, where domestic legislation excludes groups of people from access to housing, rent allowances or other housing-related subsidies, the state may be found to have violated the ECHR³¹⁹. In addition, states must ensure effective enforcing enforcement of judicial decisions³²⁰, particularly when they concern access to housing.

The obligation to fulfil access to housing has been addressed by the ECtHR in a more nuanced manner. On one hand, the ECtHR has identified limited situations in which states may be required to take positive action. Assistance may be required where there exists a

³¹⁵ COUNCIL OF EUROPE / EUROPEAN COURT OF HUMAN RIGHTS (2025). *Guide on Article 1 of Protocol No. 1 to the European Convention on Human Rights: Protection of property* [online]. Strasbourg: Council of Europe, para. 124.

³¹⁶ *Saliba v. Malta* [ECHR], No. 4251/02, [08-11-2005], oara, 36.

³¹⁷ *Marzari v. Italy* [ECHR], No. 36448/97, [04-05-1999].

³¹⁸ *Karner v. Austria* [ECHR], No. 40016/98, [24-07-2003], para. 41; *Kozak v. Poland* [ECHR], No. 13102/02, [02-03-2010], para. 83-84.

³¹⁹ CALZOLARI, Valentina; and BARNES, Jonathan (2009). Chapter 6. The Right To Housing Under The Echr. In: *Human Rights as Indivisible Rights* [online]. Leiden: Brill | Nijhoff. <https://doi.org/10.1163/ej.9789004160514.i-348.29>, p. 127.

³²⁰ *Shmatova and Others v. Russia* [ECHR], No. 36539/08, [11-2-2020], para. 23.

direct and immediate link between the measures sought by the individual and their private life³²¹. Thus, where individuals are unable to access housing due to medical conditions or disabilities, the state may be required to remove barriers preventing such access in order to safeguard individual's dignity³²² and private life³²³. Given the limited number of cases addressing this issue, this remains an area in which the ECtHR's jurisprudence appears relatively underdeveloped.

While this might seem rather promising, the ECtHR has repeatedly emphasised the limits of this obligation. The ECHR does not guarantee the right to be provided with a home³²⁴ nor the right to live in a particular location³²⁵. It is also quite clear that Art. 8 does not “*guarantee the right to have one's housing problems solved by the authorities*”³²⁶. Consequently, the ECHR does not establish a right to regulated rent in the private market³²⁷. In certain circumstances, rent regulation itself has even been regarded as potentially disrupting the fair balance between the interests of the community and the protection of property rights³²⁸. Leading scholars have therefore unsurprisingly concluded that the ECtHR does not establish a general obligation to ensure access to housing³²⁹, hence not even considering any systemic constraints such as market failures or housing shortages.

A similar approach is evident in relation to social housing. The ECtHR has generally examined claims concerning social housing insofar the domestic legislation expressly provides for it³³⁰. Where applicants do not prove a legal entitlement under domestic law, applications requesting access to social housing are typically declared inadmissible³³¹. This explains why the ECtHR has not developed any standards concerning social housing, such as requirements relating to adequacy, availability, or the length of waiting periods.

The protection of occupancy rights constitutes one of the least controversial dimensions of housing protection under the ECHR. Given that both Art. 8 and Art. 1 of Prot. 1 as primarily impose negative obligations, it follows that once an individual occupies

³²¹ QUINTIÁ PASTRANA, Andrei; and VOLS, Michel (2024). Tracing the Right to Access to Housing: Insights from Human Rights Theory and Practice. *European Journal of Homelessness*, 18(2), p. 55.

³²² *Marzari v. Italy* [ECHR], No. 36448/97, [04-05-1999].

³²³ *O'Rourke v. the United Kingdom* [ECHR], No. 39022/97, [26-6-2001].

³²⁴ *Chapman v. the United Kingdom* [ECHR], No. 27238/95, [18-01-2001], para. 99; *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 130.

³²⁵ *Garib v. the Netherlands* [ECHR], No. 43494/09, [06-11-2017], para. 141.

³²⁶ *Faulkner and McDonagh v. Ireland* [ECHR], Nos. 30391/18 and 30416/18, [08-03-2022], para. 98.

³²⁷ *Straka and Others v. Slovakia* [ECHR], Nos. 11809/12 and 35284/13, [04-11-2014], para. 71.

³²⁸ *Bittó and Others v. Slovakia* [ECHR], No. 30255/09, [28-01-2014], para. 116.

³²⁹ QUINTIÁ PASTRANA, Andrei; and VOLS, Michel (2024). Tracing the Right to Access to Housing: Insights from Human Rights Theory and Practice. *European Journal of Homelessness*, 18(2), p. 58.

³³⁰ *Vinniychuk v. Ukraine* [ECHR], No. 34000/07, [20-10-2016], para. 53.

³³¹ *Kvasņevskis and Others v. Latvia* [ECHR], No. 50853/06, [04-09-2018], para. 61.

a dwelling that qualifies as their home, the state must respect that and refrain from unjustified interference. It must be noted, however, that this only applies where the individual already has existing housing.

With regard to the obligation to protect, the state may incur responsibility where interference with the enjoyment of the home originates from private actors and the state fails to respond adequately once it becomes aware of such interference³³². Such breaches can be both physical and non-physical. Physical intrusions may include unauthorised entry³³³, vandalism³³⁴ or other forms of direct interference. Non-physical interference concerns excessive smells³³⁵, noises, or any other nuisances³³⁶, where they exceed levels normally acceptable within residential neighbourhoods. In this sense, these obligations operate primarily in a reactive manner, triggered by individual complaints, rather than imposing a proactive duty to establish and enforce a comprehensive regulatory framework.

In relation to the obligation to fulfil, the ECtHR has emphasised the importance of effective enforcement of court decisions³³⁷. Although the ECtHR has not developed a detailed catalogue of habitability obligations, it has nevertheless recognised that some minimum living conditions must be ensured. So far access to safe drinking water³³⁸ has been identified as critical. Moreover, states are expected to adopt legislative frameworks capable of ensuring the effective enjoyment of the right to housing by vulnerable groups, including communities of Roma origin, and to facilitate ways in which different groups of people may traditionally wish to live³³⁹, thereby reinforcing the principle that diverse forms of housing and ways of living fall within the scope of protection under Art. 8.

The final dimension concerns exit rights. In this context, the primary obligation imposed on the state is the obligation to respect, requiring public authorities to refrain from unjustified interference with an individual's existing housing situation. The ECtHR has repeatedly emphasised that "*the loss of one's home is a most extreme form of interference with the right to respect for the home*"³⁴⁰. In addition, the obligation to protect requires

³³² *Moldovan and Others v. Romania* (No. 2) [ECHR], Nos. 41138/98 and 64320/01, [12-07-2005], para. 95.

³³³ *Cyprus v. Turkey* [ECHR], No. 25781/94, [10-05-2001], para. 294; *National Federation of Sportspersons' Associations and Unions (FNASS) and Others v. France* [ECHR], Nos. 48151/11 and 77769/13, [18-01-2018], para. 154.

³³⁴ *Osman v. the United Kingdom* [ECHR], No. 23452/94, [28-10-1998], para. 129.

³³⁵ *López Ostra v. Spain* [ECHR], No. 16798/90, [09-12-1994], para. 58.

³³⁶ *Kapa and Others v. Poland* [ECHR], Nos. 75031/13, 75282/13, 75286/13 and 75292/13, [14-10-2021], para. 151; *Moreno Gómez v. Spain* [ECHR], No. 4143/02, [16-11-2004], para. 53.

³³⁷ *Cvijetić v. Croatia* [ECHR], No. 71549/01, [26-02-2004], para. 51; *Pibernik v. Croatia* [ECHR], No. 75139/01, [04-03-2004], para. 70.

³³⁸ *Hudorovič and Others v. Slovenia* [ECHR], Nos. 24816/14 and 25140/14, [10-03-2020], para. 116.

³³⁹ *Chapman v. the United Kingdom* [ECHR], No. 27238/95, [18-01-2001], para. 96.

³⁴⁰ *Čosić v. Croatia* [ECHR], No. 28261/06, [15-01-2009], para. 22.

States to safeguard individuals from forced evictions carried out by private actors by establishing an adequate legal framework and procedural safeguards governing evictions³⁴¹. However, there are no precise requirements as to the content of such a framework.

The obligation to fulfil is significantly more as the ECtHR explicitly stated that “*the scope of any positive obligation to house the homeless is limited*”³⁴². Nevertheless, in exceptional circumstances, Art. 8 may give rise to a positive obligation to provide shelter to particularly vulnerable individuals³⁴³. A related form of responsibility may arise where the state itself is directly responsible for the loss of housing, e.g. in situations where individuals’ homes were destroyed by state actions³⁴⁴. In such cases, the obligation to provide housing may operate as a form of remedial compensation for the deprivation of housing³⁴⁵. Importantly, however, such obligations remain exceptional and do not extend to all individuals experiencing housing need. At the same time, the ECtHR has emphasised that when determining appropriate responses to the loss of housing, states must take into account the disadvantaged position of particularly vulnerable groups³⁴⁶.

With regard to alternative housing, the ECtHR has avoided recognizing a general right to be provided with another form of accommodation. Nevertheless, the ECtHR has indicated in several cases that, when implementing eviction measures, authorities must consider the risk that affected individuals may become homeless³⁴⁷. Additionally, it has noted that, if possible, arrangements for alternative shelter should be made³⁴⁸. Although the ECtHR has not clearly articulated the distinction, this suggests different levels of state responsibility. Shelter, which generally implies temporary accommodation with lower habitability standards, imposes a significantly lighter burden on the state than the provision of alternative housing, which typically requires more durable long-term housing solutions.

Irrespective of these distinctions, the ECtHR requires that individuals facing eviction have access to an impartial tribunal capable of assessing the proportionality and reasonableness of the eviction³⁴⁹. Such procedural safeguards are essential, and their

³⁴¹ *Jansons v. Latvia* [ECHR], No. 1434/14, [08-09-2022], para. 89.

³⁴² *Hudorovič and Others v. Slovenia* [ECHR], Nos. 24816/14 and 25140/14, [10-03-2020], para. 114.

³⁴³ *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 130.

³⁴⁴ *Selçuk and Asker v. Turkey* [ECHR], Nos. 23184/94 and 23185/94, para. 86

³⁴⁵ CLEMENTS, Luke; and SIMMONS, Alan (2009). European Court of Human Rights: Sympathetic Unease. In: LANGFORD, Malcolm (ed.). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press, p. 413.

³⁴⁶ *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 132.

³⁴⁷ *Ibid*, para. 126; *Tuleshov and Others v. Russia* [ECHR], No. 32718/02, [24-05-2007], para. 53; *Gladysheva v. Russia* [ECHR], No. 7097/10, [06-12-2011], para. 96.

³⁴⁸ *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 133.

³⁴⁹ *Čosić v. Croatia* [ECHR], No. 28261/06, [15-01-2009], para. 22.

absence constitutes a violation of the ECHR³⁵⁰. What is more, it is not sufficient for such safeguards to exist merely in theory as they must also be functioning in practice as well³⁵¹.

Considering the significant differences across access, occupancy, and exit dimensions of housing protection, the ECHR framework may be summarised as follows:

	Obligation to respect	Obligation to protect	Obligation to fulfil
Access	States must refrain from discriminatory restrictions in access to housing, housing benefits, or related subsidies	States must prevent discrimination in access to housing by private actors, and ensure effective enforcement of judicial decisions concerning housing rights	States may be required to remove barriers preventing access to housing where there is a direct and immediate link to private life, particularly for persons with disabilities or serious medical conditions
Occupancy	States must refrain from unjustified interference with the enjoyment of one's home and property	States must protect residents against interference by private actors, including physical and non-physical interference	States must ensure enforcement of judicial decisions protecting housing rights, adopt legislation safeguarding vulnerable groups, and ensure minimum habitability standards such as access to safe drinking water
Exit	States must refrain from disproportionate eviction, recognising that the loss of one's home constitutes the most extreme interference with the right to respect for the home	States must establish legal safeguards regulating evictions, ensure fair procedures, and provide access to an impartial tribunal to assess proportionality and reasonableness of eviction	States may in exceptional circumstances be required to provide shelter to particularly vulnerable individuals and must consider the risk of homelessness and possible arrangements for rehousing when carrying out evictions

Source: Compiled by the author, based on the analysis presented in Chapter 2.3

³⁵⁰ FREDMAN, Sandra (2018). The Right to Housing. In: FREDMAN, Sandra. *Comparative Human Rights Law* [online]. Oxford: Oxford University Press, p. 280. <https://doi.org/10.1093/oso/9780199689408.003.0009>.

³⁵¹ *Jansons v. Latvia* [ECHR], No. 1434/14, [08-09-2022], para. 89.

3. Civil-Political Framework of the ECHR and the Structural Tension of Socio-Economic Interpretation

This chapter argues that, although the ECHR does not recognise a direct right to housing, its interpretative framework can accommodate a clearer and more structured protection of housing-related interests under Art. 8. It first examines the civil-political foundations of the ECHR and the limits these impose on socio-economic interpretation (3.1). It then explores how, within these limits, the right to housing may nonetheless be doctrinally conceptualised, identifying through which doctrinal tools such protection can be articulated (3.2). Finally, having established that the right to housing may fall within the scope of ECHR, the chapter turns to comparative standards developed under the ICESCR and the RESC to clarify the substantive content of the right to housing, structured through access, occupancy and exit rights (3.3).

3.1. Civil-Political Foundations of the ECHR and the Structural Limits of Socio-Economic Interpretation

The bifurcation of rights at the international level following the creation of all-encompassing UDHR, under which both civil and political as well as ESC rights were incorporated³⁵², was later reflected in the adoption of two separate instruments: the ICCPR and the ICESCR in 1966. A similar institutional division emerged within the Council of Europe system. Civil and political rights were codified in the ECHR, while ESC rights were incorporated in the RESC.

To this day, the RESC is often regarded as comparatively weaker and less influential human rights protection mechanism within the Council of Europe system³⁵³. The reasons for this are numerous and extend beyond the scope of this research. Nevertheless, it is important to acknowledge the existing landscape of human rights protection in Europe. As noted by multiple scholars, the ECHR occupies a particularly central position within the European human rights architecture, primarily because it imposes binding obligations on

³⁵² RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). The Development of Economic, Social, and Cultural Rights in International Law. In: RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). *Economic, Social, and Cultural Rights in International Law: Contemporary Issues and Challenges* [online]. Oxford: Oxford University Press, p. 6. DOI: <https://doi.org/10.1093/acprof:oso/9780199685974.001.0001>.

³⁵³ O'CINNEIDE, Colm. The European system. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 65. DOI: 10.4337/9781788974172.

states to align their domestic law with the ECHR standards³⁵⁴. Through the mechanism of individual applications and binding judgements of the ECtHR, the ECHR has developed into one of the most effective systems of human rights protection at the regional level³⁵⁵.

At its core the ECHR remains a civil and political rights instrument, containing only a limited number of provisions that touch upon ESC rights, most notably the right to education and the protection of property. The ECHR was originally conceived as a system primarily concerned with negative obligations, requiring states to refrain from unjustified interference with individual rights.

Nevertheless, it cannot be said that the ECHR has no relevance for ESC rights. For a considerable period, the ECtHR has consistently emphasised in its jurisprudence that the ECHR “*does not guarantee socio-economic rights*”³⁵⁶. This position reflected the prevailing understanding that socio-economic rights should primarily be realised through economic policy and social programmes aimed at improving individual’s living conditions, ensuring access to resources and participation in the market³⁵⁷. Such matters were traditionally considered to fall outside the scope of legally enforceable individual rights.

This approach was also consistent with the text of the ECHR, which does not explicitly recognise socio-economic rights³⁵⁸. In addition, the ECtHR was mindful not to intrude into the domain of the RESC, which to this day is considered as the primary treaty for the protection of ESC rights within the Council of Europe system.

However, the separation between categories of rights has increasingly been regarded as artificial. The ECtHR, faced with applications in which the effective enjoyment of civil and political rights inevitably involved “*implications of a social or economic nature*”³⁵⁹, gradually acknowledged that there is no strict or watertight division between different categories of rights³⁶⁰ and that no real distinction between the civil and social spheres of rights can be made³⁶¹. While the ECHR does not establish autonomous ESC rights, the

³⁵⁴ O’CINNEIDE, Colm. The European system. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 53. DOI: 10.4337/9781788974172.

³⁵⁵ MILAŠIŪTĖ, Vygantė (2020). Socioekonominių teisių apsauga pagal EŽTK. *Teisė*, 115, p. 45.

³⁵⁶ *Bulgakova v. Russia* [ECHR], No. 69524/01, [18-01-2007], para. 21; *Pančenko v. Latvia* [ECHR], No. 40772/98, [28-10-1999].

³⁵⁷ DE LONDRAS, Fiona and DZEHTSIAROU, Kanstantsin (2018). *Great Debates on the European Convention on Human Rights*. London: Palgrave Macmillan, p. 150.

³⁵⁸ MILAŠIŪTĖ, Vygantė (2020). Socioekonominių teisių apsauga pagal EŽTK. *Teisė*, 115, p. 45.

³⁵⁹ *Airey v. Ireland* [ECHR], No. 6289/73, [09-10-1979], para. 26.

³⁶⁰ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 67.

³⁶¹ LEIJTEN, Ingrid (2018). *Core Socio-Economic Rights and the European Court of Human Rights*. Cambridge Studies in European Law and Policy. Cambridge: Cambridge University Press, p. 41.

ECtHR has accepted that ESC rights may become relevant where they are necessary for ensuring the effective protection of civil and political rights. Housing-related applications illustrate this particularly clearly.

Following the bifurcation where civil and political rights are primarily protected under the ECHR while socio-economic rights are addressed within the RESC framework, it may appear counterintuitive that the right to housing, traditionally regarded as a socio-economic right, should also be assessed from the perspective of the ECHR. In practice, however, the ECHR has evolved into an indirect source of ESC rights protection³⁶². Housing insecurity frequently affects interests protected under Art. 8 of the ECHR, including private life, family life and home. As a result, the ECtHR has been required to address housing-related applications even in the absence of an explicit right to housing within the ECHR³⁶³.

Leading scholars such as Ingrid Leijten have observed that this approach creates significant doctrinal difficulties: due to its incremental and case-by-case engagement with ESC issues, the ECtHR has been unable to articulate with sufficient clarity which aspects of socio-economic rights fall within the scope of ECHR and what specific obligations arise for states in this context³⁶⁴. This uncertainty has been further reinforced by the ECtHR's position that "*in spheres involving the application of social or economic policies, there is authority that the margin of appreciation is wide*"³⁶⁵. As a result, the ECtHR has acknowledged that the effective enjoyment of ECHR rights may depend on ESC rights, yet the scope and structure of such protection remain fragmented³⁶⁶ and ill-defined³⁶⁷.

Against this background, the question is not whether ESC rights should be directly incorporated into the ECHR framework. As the prevailing scholarly consensus suggests, the ECHR does not establish autonomous socio-economic rights. Rather, the issue is whether rights protected under the ECHR may entail socio-economic dimensions within

³⁶² O'CINNEIDE, Colm. The European system. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 54. DOI: 10.4337/9781788974172.

³⁶³ HOHMANN, Jessie (2013). *The Right to Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central, p. 67.

³⁶⁴ LEIJTEN, Ingrid (2018). *Core Socio-Economic Rights and the European Court of Human Rights*. Cambridge Studies in European Law and Policy. Cambridge: Cambridge University Press, p. 81.

³⁶⁵ *Connors v. the United Kingdom* [ECHR], No. 66746/01, [27-05-2004], para. 82.

³⁶⁶ LEIJTEN, Ingrid. Defining the Scope of Economic and Social Guarantees in the Case Law of the ECtHR. In: BREMS, Eva and GERARDS, Janneke (eds.) (2014). *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights*. Cambridge: Cambridge University Press, p. 117.

³⁶⁷ PALMER, Ellie (2009). Protecting Socio-economic Rights Through the European Convention on Human Rights: Trends and Developments in the European Court of Human Rights. *Erasmus Law Review*, 2(4), p. 399.

them. In other words, the relevant question is whether indirect protection of socio-economic rights can exist through the interpretation ECHR provisions³⁶⁸. Regarding housing, this question arises most prominently under Art. 8 of the ECHR and Art. 1 of Prot. 1, raising the issue of whether and to what extent these provisions may entail housing-related protection and corresponding positive or negative obligations for states.

3.2. Recognition of a Right to Housing Under the ECHR in Light of Structural Conditions Shaping the Right to Housing in Europe

Having established that socio-economic rights, including the right to housing, are to some extent indirectly addressed in the ECtHR's case law, it is necessary to examine whether structural conditions affecting housing in Council of Europe states justify moving beyond this indirect protection towards a clearer and more explicit recognition of the right to housing under the ECHR, and through which doctrinal means such recognition may be achieved.

Housing insecurity in Europe is increasingly defined by structural developments rather than isolated individual disputes. These developments challenge the traditional framework of ECHR adjudication, which has historically focused on concrete harm caused by identifiable state actions. At the same time, recent case law of the ECtHR has begun to acknowledge that certain contemporary risks arise not from single acts but from complex structural conditions, as illustrated, for example, in the ECtHR's recent climate change case law³⁶⁹. Against this background, the potential recognition of housing-related protection under the ECHR must be examined through the ECtHR's interpretative methods. In particular, three doctrinal developments appear relevant: the ECtHR's assessment of structural harm, the evolutive interpretation of the ECHR and the role of European and international consensus in defining the scope of rights.

These considerations must be situated within the broader transformation of housing systems across Council of Europe states. As discussed in Chapter 1.3., processes of privatization, commodification and financialization increasingly shape the right to housing. At the same time, as illustrated in Chapter 2.2., the ECtHR's existing case law has primarily engaged with housing in the context of individual claims and specific interferences. This contrast highlights a structural tension between the nature of contemporary housing challenges and the individualised logic of ECHR adjudication, raising the question of whether the ECtHR's interpretative framework can adequately respond to such conditions.

³⁶⁸ MILAŠIŪTĖ, Vygantė (2020). Socioekonominių teisių apsauga pagal EŽTK. *Teisė*, 115, p. 45.

³⁶⁹ *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [ECHR], No. 53600/20, [09-04-2024].

From the outset, the housing crisis is a complex phenomenon for which no single causal explanation can be provided. This is further exacerbated by the scale of it, affecting a huge part of the population³⁷⁰, as well as by the diversity of actors involved, including public authorities, landlords, tenants, homeowners and informal occupants. The regulation of housing therefore constitutes a fundamentally polycentric issue, involving multiple interconnected legal relationships, rights and interests.

Consequently, there is rarely a single correct regulatory response capable of addressing housing insecurity without simultaneously affecting other protected interests, such as property rights. This complexity also complicates the identification of clear causal links between specific state actions and alleged violations. In many cases, the conditions leading to housing insecurity arise from a combination of regulatory frameworks, market developments and long-term policy choices rather than a single identifiable act.

In such circumstances, addressing such violations may prove particularly challenging. The causal link between state conduct and the violation may not always be immediately apparent, and even where it exists, it may fail to capture the broader structural context in which the violation occurs. Without adequately considering the systemic context of domestic housing policies and regulatory frameworks, the ECtHR risks framing structural housing problems as unfortunate social reality rather than as issues capable of engaging state responsibility³⁷¹.

Hence, housing insecurity should therefore be understood as a systemic phenomenon. It persists over time and affects significant segments of the population across multiple states. Although national policies naturally contribute to housing outcomes, the contemporary housing crisis also reflects broader global developments affecting housing markets. Estimates suggest that by 2030 more than a third of the world's population may experience housing insecurity³⁷², with many more individuals living in precarious housing conditions. Without structural responses, these pressures are not only likely to persist but are surely going to intensify over time.

³⁷⁰ LANGFORD, Malcolm. Making it Matter: Understanding the Impact of the Right to Housing. In: VOLS, Michel; SHUIBHNE, Niamh Nic and PASTRANA, Andrea Quintia (eds.) (2026). *The Impact of the Right to Housing in Times of Crisis*. Cheltenham: Edward Elgar [online], p. 1. <https://ssrn.com/abstract=5275581>.

³⁷¹ ATALAY, Serde (2024). Housing and Social Control: Reassessing the Protection Asymmetries of Article 8 of the European Convention on Human Rights. *Social & Legal Studies*, 34(3), p. 369 [online]. <https://doi.org/10.1177/09646639241232416>.

³⁷² LANGFORD, Malcolm. Making it Matter: Understanding the Impact of the Right to Housing. In: VOLS, Michel; SHUIBHNE, Niamh Nic and PASTRANA, Andrea Quintia (eds.) (2026). *The Impact of the Right to Housing in Times of Crisis*. Cheltenham: Edward Elgar [online], p. 1. <https://ssrn.com/abstract=5275581>.

Against this background, it becomes necessary to consider whether the protection of the right to housing and housing-related interests may be inferred through the interpretation of Art. 8 of the ECHR by means of the living instrument doctrine.

The living instrument doctrine, also referred to as dynamic or evolutive interpretation³⁷³, is inherent in the interpretation of the ECHR and emphasises that the ECHR “*must be interpreted in the light of present-day conditions*”³⁷⁴. As noted by scholar Kanstantin Dzehtsiarou, the ECtHR “*does not operate in a vacuum and must live and breathe together with the European society*”³⁷⁵. The living instrument doctrine therefore allows the ECtHR not only to adjust existing interpretations of the ECHR rights³⁷⁶ but in certain circumstances to extend the scope of protection beyond what might have been envisaged by the original drafters of the ECHR.

This doctrine has played a particularly significant role in the interpretation of Art. 8, whose scope has been expanded considerably through the ECtHR’s jurisprudence³⁷⁷. More importantly, the living instrument doctrine has already been invoked in support of recognizing socio-economic dimensions within Art. 8. For instance, Judge Pinto de Albuquerque, in his partly concurring partly dissenting opinion in a case concerning parental leave, argued that although the right to parental leave is not explicitly provided for in the ECHR, it may nevertheless fall within the scope of Art. 8 as an additional facet of private and family life through evolutive interpretation³⁷⁸. Following similar reasoning, it may be argued that housing-related protection could likewise be interpreted as falling within of Art. 8, insofar as it is closely linked to the effective enjoyment of private and family life.

The use of evolutive interpretation requires normative justification rather than being applied automatically. Accordingly, the reasons underlying its application must be

³⁷³ MOWBRAY, Alastair (2005). The Creativity of the European Court of Human Rights. *Human Rights Law Review*, 5(1), p. 64.

³⁷⁴ *Tyrer v. the United Kingdom* [ECHR], No. 5856/72, [25-04-1978].

³⁷⁵ DZEHTSIAROU, Kanstantsin and RIDI, Niccolò (2024). The Use of Scholarship by the European Court of Human Rights. *International and Comparative Law Quarterly*, 73(3), p. 708.

³⁷⁶ MOWBRAY, Alastair. Between the Will of the Contracting Parties and the Needs of Today: Extending the Scope of Convention Rights and Freedoms beyond What Could Have Been Foreseen by the Drafters of the ECHR. In: BREMS, Eva and GERARDS, Janneke (eds.) (2014). *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights*. Cambridge: Cambridge University Press, p. 35.

³⁷⁷ BURBERGS, Maris (2014). How the Right to Respect for Private and Family Life, Home and Correspondence Became the Nursery in Which New Rights Are Born: Article 8 ECHR. In: BREMS, Eva; and GERARDS, Janneke (eds). *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights*. Cambridge: Cambridge University Press, p. 319.

³⁷⁸ *Konstantin Markin v. Russia* [ECHR], No. 30078/06, [22-3-2012].

substantiated. For the purposes of this research, two particularly relevant elements identified by Ingrid Leijten³⁷⁹, namely the effectiveness doctrine and the principle of the indivisibility of rights, are relied upon to demonstrate why evolutive interpretation is warranted in the context of the right to housing within the ECHR framework.

With regard to effectiveness, the underlying principle requires the ECtHR to interpret and apply the ECHR in a manner that ensures that the rights guaranteed therein are “*practical and effective, not theoretical and illusory*”³⁸⁰. An important implication of this approach is that states may not always fulfil their obligations solely through negative duties of non-interference³⁸¹. In certain circumstances, ensuring the practical effectiveness of ECHR rights may require the recognition of positive obligations on the part of states.

In this context, protection of socio-economic rights can be understood as inevitable by-product of ensuring the effective protection of rights already guaranteed by the ECHR. This follows from the fact that certain socio-economic rights facilitate the practical enjoyment of the rights and freedoms protected by the ECHR³⁸². Socio-economic interests may fall within the scope of ECHR rights not because they are explicitly recognised as such, but because their protection becomes necessary for the ECtHR to ensure that the rights guaranteed by the ECHR remain practical and effective rather than theoretical and illusory.

In this context, it may be argued that unless housing-related interests receive a certain degree of protection under the ECtHR’s case law, the right to respect for private life and home under Art. 8 risks becoming largely illusory. The ECtHR itself has emphasised that private life is fundamental to individual’s identity, personal development and relationships with others³⁸³ and concerns both physical and psychological integrity³⁸⁴. Similarly, scholars have repeatedly highlighted that housing constitutes one of the most basic human needs, without which personal development becomes severely constrained if not impossible³⁸⁵. It is therefore not unreasonable to conclude that housing may directly affect the effective enjoyment of rights protected under Art. 8.

³⁷⁹ LEIJTEN, Ingrid (2018). *Core Socio-Economic Rights and the European Court of Human Rights. Cambridge Studies in European Law and Policy*. Cambridge: Cambridge University Press.

³⁸⁰ *Demir and Baykara v. Turkey* [ECHR], No. 34503/97, [12-11-2008], para. 66.

³⁸¹ MOWBRAY, Alastair (2005). The Creativity of the European Court of Human Rights. *Human Rights Law Review*, 5(1), p. 73.

³⁸² LEIJTEN, Ingrid (2018). *Core Socio-Economic Rights and the European Court of Human Rights. Cambridge Studies in European Law and Policy*. Cambridge: Cambridge University Press, p. 64.

³⁸³ *Toth and Crişan v. Romania* [ECHR], No. 45430/19, [25-02-2025], para. 30.

³⁸⁴ *S. and Marper v. the United Kingdom* [ECHR], Nos. 30562/04 and 30566/04, [04-12-2008], para. 66.

³⁸⁵ KENNA, Padraic (2011). Housing and human rights. In: SMITH, S. J. (ed.). *International Encyclopedia of Housing and Home* [online]. Oxford: Elsevier, p. 2.

The ECtHR has partly acknowledged this connection by recognising that a state may have positive obligations where there exists a “*direct and immediate link between the measures sought by an applicant and the latter’s private life*”³⁸⁶. In practice, however, the ECtHR has applied this standard rather restrictively: the only time the ECtHR actually recognised such a link involved an aggravating factor – a serious illness³⁸⁷. By contrast, the ECtHR has not yet explicitly recognised that circumstances such as homelessness or severely inadequate housing may themselves constitute a direct interference with private life³⁸⁸. This suggests that the ECtHR’s current approach to housing-related claims remains highly individualised and limited.

The second doctrinal justification for the use of evolutive interpretation concerns the indivisibility of rights. This concept reflects the idea that all human rights are interdependent³⁸⁹. Recognition of the indivisibility of rights implies that certain core aspects of socio-economic rights may fall within the protection of human rights instruments primarily designed to protect civil and political rights³⁹⁰. Given that the ECtHR itself has acknowledged that the ECHR cannot be confined strictly to the civil sphere³⁹¹, it follows that ECHR rights must be interpreted in a manner capable of accommodating other socio-economic rights necessary for the enjoyment of rights encompassed in the ECHR.

As is evident by the ECtHR’s restrictive approach to identifying what housing situations constitute a “*direct and immediate link*” to private life³⁹², the ECtHR appears to treat housing primarily as something desirable rather than as a necessity closely connected to the enjoyment of human rights³⁹³. From the perspective of the indivisibility of human rights, the right to housing should therefore not be regarded merely as a desirable outcome dependent on the political will of states³⁹⁴ but rather as a precondition for the effective enjoyment of the protection afforded by the ECHR.

³⁸⁶ *Marzari v. Italy* [ECHR], No. 36448/97, [04-05-1999].

³⁸⁷ *Marzari v. Italy* [ECHR], No. 36448/97, [04-05-1999].

³⁸⁸ ATALAY, Serde (2024). Housing and Social Control: Reassessing the Protection Asymmetries of Article 8 of the European Convention on Human Rights. *Social & Legal Studies*, 34(3), p. 368 [online]. <https://doi.org/10.1177/09646639241232416>.

³⁸⁹ LEIJTEN, Ingrid (2018). *Core Socio-Economic Rights and the European Court of Human Rights. Cambridge Studies in European Law and Policy*. Cambridge: Cambridge University Press, p. 69.

³⁹⁰ MILAŠIŪTĖ, Vygantė (2020). Minimalios socioekonominių teisių apsaugos idėja pagal Žmogaus teisių ir pagrindinių laisvių apsaugos konvenciją. *Teisė*, 116, p. 38.

³⁹¹ *Airey v. Ireland* [ECHR], No. 6289/73, [09-10-1979], para. 26.

³⁹² *Marzari v. Italy* [ECHR], No. 36448/97, [04-05-1999].

³⁹³ ATALAY, Serde (2024). Housing and Social Control: Reassessing the Protection Asymmetries of Article 8 of the European Convention on Human Rights. *Social & Legal Studies*, 34(3), p. 369 [online]. <https://doi.org/10.1177/09646639241232416>.

³⁹⁴ *Chapman v. the United Kingdom* [ECHR], No. 27238/95, [18-01-2001], para. 99.

A third interpretative mechanism is the concept of consensus. Evolutive interpretation is frequently linked to the identification of European or international consensus³⁹⁵. Although consensus plays a role in relatively few ECtHR judgments³⁹⁶, it remains an important interpretative tool in particularly contested cases. In the context of the right to housing, two forms of consensus are relevant: European and international consensus.

European consensus is derived from a comparative analysis of the laws and practices of Council of Europe states³⁹⁷, serves to justify dynamic interpretation of the ECHR³⁹⁸ and aids in determining whether an emerging trend exists³⁹⁹. In that sense, it is positioned between margin of appreciation awarded to the states and evolutive interpretation needed to ensure the ECHR's relevancy in the changing world⁴⁰⁰. Where no consensus exists, the ECtHR tends to consider the matter to fall within the margin of appreciation of the states. Conversely, where a consensus can be identified, the ECtHR may rely on evolutive interpretation to bring the issue more firmly within the scope of the ECHR system⁴⁰¹. In this way, the use of European consensus allows the ECtHR to maintain its legitimacy while encouraging compliance by the states.

At the same time, the concept of European consensus has attracted considerable criticism. It has been argued that reliance on consensus risks reducing the role of the ECtHR to merely following trends in domestic legislation rather than actively developing human rights protection⁴⁰². While the principle of subsidiarity indeed requires the ECtHR to respect the primary role of states in protecting human rights, strict reliance on national legislative trends may limit the ECtHR's capacity to advance human rights standards

³⁹⁵ ISTREFI, Kushtrim; RATNIECE, Zane; and KAMBER, Krešimir (2025). *The Companion to the European Convention on Human Rights* [online]. Leiden: Brill | Nijhoff. <https://doi.org/10.1163/9789004541559>, p. 558.

³⁹⁶ DZEHTSIAROU, Kanstantsin (2015). *European Consensus and the Legitimacy of the European Court of Human Rights*. Cambridge: Cambridge University Press, p. 21.

³⁹⁷ DZEHTSIAROU, Kanstantsin (2011). European Consensus and the Evolutive Interpretation of the European Convention on Human Rights. *German Law Journal*, 12(10), p. 1733.

³⁹⁸ *A, B and C v. Ireland* [ECHR], No. 25579/05, [16-12-2010], para. 234; *Christine Goodwin v. the United Kingdom* [ECHR], No. 28957/95, [11-07-2002], para. 85.

³⁹⁹ DE LONDRAS, Fiona and DZEHTSIAROU, Kanstantsin (2018). *Great Debates on the European Convention on Human Rights*. London: Palgrave Macmillan, p. 79; *Scoppola v. Italy (No. 2)* [ECHR], No. 10249/03, [17-09-2009], para. 104.

⁴⁰⁰ DZEHTSIAROU, Kanstantsin (2015). *European Consensus and the Legitimacy of the European Court of Human Rights*. Cambridge: Cambridge University Press, p. 129; *A, B and C v. Ireland* [ECHR], No. 25579/05, [16-12-2010], para. 234.

⁴⁰¹ DJEFFAL, Christian. Consensus, Stasis, Evolution: Reconstructing Argumentative Patterns in Evolutive ECHR Jurisprudence. In: KAPOTAS, Panos and TZEVELEKOS, Vassilis P. (eds.) (2019). *Building Consensus on European Consensus: Judicial Interpretation of Human Rights in Europe and Beyond*. Cambridge: Cambridge University Press, p. 88.

⁴⁰² DE LONDRAS, Fiona and DZEHTSIAROU, Kanstantsin (2018). *Great Debates on the European Convention on Human Rights*. London: Palgrave Macmillan, p. 81.

independently⁴⁰³. Scholars have suggested that the ECtHR should seek to develop universal human rights standards rather than relying exclusively on existing domestic practices⁴⁰⁴.

European consensus has also been criticised for potentially overlooking the interests of vulnerable groups. Comparative analysis of national legislation inevitably reflects the preferences of the majority within societies and may therefore fail to adequately capture the needs of those groups whose voices are less visible in the legislative process. Yet it is precisely the role of the ECtHR to ensure that the rights of all individuals are protected, even where the interests of vulnerable groups may not align with prevailing social or political trends⁴⁰⁵.

With regard to the right to housing, while a comprehensive comparative study would be required to determine the precise contours of European consensus, it would not be an overstatement that almost all Council of Europe states (and all European Union member states) recognise housing protection in some form within their constitutions, legislation, policies or public programmes⁴⁰⁶. Even if differences in regulatory approaches make it difficult to identify a consensus on specific legal rules in relation to housing, it nevertheless is apparent that this shows a consensus on the principle that housing protection is important.

In the present context, however, the second form of consensus, namely international consensus, may be particularly relevant. International consensus is derived from international law and from the analysis of international treaties, as well as their interpretation and implementation in practice⁴⁰⁷. The ECtHR has increasingly relied on this type of consensus, recognising that the ECHR does not operate in isolation and that the ECtHR must “*take into account any relevant rules and principles of international law*”⁴⁰⁸. Thus, international consensus may be as significant as European consensus when interpreting the provisions of the ECHR⁴⁰⁹ and may become even more important in the absence of a clear European consensus.

⁴⁰³ DE LONDRAS, Fiona and DZEHTSIAROU, Kanstantsin (2018). *Great Debates on the European Convention on Human Rights*. London: Palgrave Macmillan, p. 81.

⁴⁰⁴ DZEHTSIAROU, Kanstantsin (2011). European Consensus and the Evolutive Interpretation of the European Convention on Human Rights. *German Law Journal*, 12(10), p. 1735.

⁴⁰⁵ DE LONDRAS, Fiona and DZEHTSIAROU, Kanstantsin (2018). *Great Debates on the European Convention on Human Rights*. London: Palgrave Macmillan, p. 81.

⁴⁰⁶ DERDEK, Noria and KENNA, Padraic (2023). *The European and International Contribution to the Right to Housing: Standards, Litigation and Advocacy*. Brussels: FEANTSA; Abbé Pierre Foundation; University of Galway, p. 11.

⁴⁰⁷ DE LONDRAS, Fiona and DZEHTSIAROU, Kanstantsin (2018). *Great Debates on the European Convention on Human Rights*. London: Palgrave Macmillan, p. 83.

⁴⁰⁸ *Demir and Baykara v. Turkey* [ECHR], No. 34503/97, [12-11-2008], para. 67.

⁴⁰⁹ *Demir and Baykara v. Turkey* [ECHR], No. 34503/97, [12-11-2008], para. 85; *Bayatyan v. Armenia* [ECHR], No. 23459/03, [07-07-2011], para. 102.

To assess the existence of international consensus on the right to housing, it is necessary to examine whether Council of Europe states are parties to international instruments that explicitly recognise this right. In this regard, it is notable that all Council of Europe states are parties to the ICESCR, and that most have also ratified the RESC. While not all states have ratified Art. 31(1) of the RESC, which explicitly provides for the right to housing, all have ratified Art. 16, which guarantees the right of the family to social, legal and economic protection. Hence, just the signing of these two instruments signifies a certain level of international consensus regarding the importance of housing protection.

Moreover, not only are the standards already well developed within the jurisprudence of both the CESC and the ECSR, but the ECtHR itself has acknowledged these standards in its case law. For example, the ECtHR has referred to case law of the ECSR⁴¹⁰ in situations where similar complaints were brought against the same respondent state, as well as to recommendations and resolutions adopted by the Committee of Ministers, the Parliamentary Assembly and the Commissioner for Human Rights⁴¹¹. The ECtHR has also relied on the CESC's interpretation of forced evictions by referring to General Comment No. 7⁴¹². Although such references remain relatively limited, they demonstrate an increasing tendency of the ECtHR to align its interpretation of the ECHR with broader international human rights standards.

To conclude, the structural conditions underlying the housing crisis, together with the interpretative tools available to the ECtHR, notably evolutive interpretation and the doctrine of consensus, demonstrate that the ECHR system possesses the doctrinal capacity to address housing-related concerns. Should the ECtHR consider that the situation at hand requires such development, this could be achieved by clarifying the scope of existing ECHR rights under Art. 8 and Art. 1 of Prot. 1 and reassessing the currently wide margin of appreciation afforded to states⁴¹³ in matters involving social and economic policy.

3.3. Comparative standards and their relevance for the protection of the right to housing under the ECHR

A substantial part of this research has been devoted to clarifying the international standards of the right to housing, both by identifying the general obligations imposed on

⁴¹⁰ *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 73; *Winterstein and Others v. France* [ECHR], No. 27013/07, [17-10-2013], para. 159; *Faulkner and McDonagh v. Ireland* [ECHR], Nos. 30391/18 and 30416/18, [08-03-2022], para. 59.

⁴¹¹ *Winterstein and Others v. France* [ECHR], No. 27013/07, [17-10-2013], para. 159.

⁴¹² *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 83; *Winterstein and Others v. France* [ECHR], No. 27013/07, [17-10-2013], para. 159.

⁴¹³ *Connors v. the United Kingdom* [ECHR], No. 66746/01, [27-05-2004], para. 82.

states and by outlining the potential minimum core of such a right. Having established that the ECtHR could further clarify both the scope of these general obligations and the minimum core of the right to housing within the framework of the ECHR, it becomes relevant to consider the direction in which such clarification might develop, particularly given that the ECtHR already relies on international consensus in its case law.

With regard to general obligations, the ICESCR requires states to take steps, to utilise the maximum of available resources, and to progressively achieve the full realization of rights by employing all appropriate means⁴¹⁴. The RESC, in turn, requires states to adopt the necessary legal, financial and operational measures to ensure steady progress, collect and maintain relevant statistical data, regularly review the impact of adopted strategies, establish clear timetables, avoid indefinite postponement, and assess the effects of housing policies on different categories of persons, particularly the most vulnerable⁴¹⁵.

What becomes apparent from these obligations is that they largely concern procedural safeguards. Importantly, obligations of this type come within the ECtHR's approach under Art. 8 of the ECHR⁴¹⁶. The central question is therefore not whether the ECtHR is willing or able to assess the procedural dimension of the right to housing, but rather what the precise content of states' obligations under Art. 8 should be in the context of the right to housing.

The ECtHR's jurisprudence suggests that establishing a causal relationship between the enjoyment of ECHR rights and the pressures created by the circumstances at hand is of central importance⁴¹⁷. Once such relationship is established, the states' "*primary duty is to adopt, and to effectively apply in practice, regulations and measures capable of mitigating the existing and potentially irreversible, future effects*"⁴¹⁸ of the relevant phenomena.

Applied to the housing context, the causal relationship between the housing crisis and the effective enjoyment of rights protected under the ECHR may reasonably be considered interrelated. More importantly, however, states must recognise the structural processes that have contributed to the emergence of the housing crisis in the first place. As previously

⁴¹⁴ SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline. Article 2(1): Progressive Realization of ICESCR Rights. In: SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline (2014). *The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials* [online]. Oxford: Oxford University Press, p. 136. DOI: 10.1093/law/9780199640300.003.0003.

⁴¹⁵ COUNCIL OF EUROPE (2022). *Digest of the Case Law of the European Committee of Social Rights*. Strasbourg: Council of Europe, p. 200; *International Movement ATD Fourth World v. France* [ECSR], Collective Complaint No. 33/2006, [2007-12-05]. cc-33-2006-dmerits-en, para. 60.

⁴¹⁶ REMICHE, Adélaïde (2012). Yordanova and Others v Bulgaria: The Influence of the Social Right to Adequate Housing on the Interpretation of the Civil Right to Respect for One's Home. *Human Rights Law Review*, 12(4), p. 793 [online]. <https://doi.org/10.1093/hrlr/ngs033>.

⁴¹⁷ *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [ECHR], No. 53600/20, [09-04-2024], para. 545.

⁴¹⁸ *Ibid.*

discussed in Chapter 1.3, factors such as financialization and commodification significantly shape contemporary housing conditions. Ignoring these structural causes risks rendering socio-economic rights protection largely declaratory, as merely reiterating that such rights should be protected does little to address the structural causes that undermine their realization⁴¹⁹. Consequently, any regulatory framework adopted by states must be capable of effectively mitigating the systemic conditions of the housing crisis.

The recognition of such general obligations would not represent a new development within the ECHR system. In fact, the ECtHR has already outlined the elements it considers relevant when assessing states' positive obligations at the legislative, executive and judicial levels⁴²⁰. In this respect, states seeking to remain within their margin of appreciation must generally: (i) adopt a regulatory framework setting clear objectives and timelines; (ii) establish intermediate targets capable of meeting those objectives; (iii) demonstrate implementation and compliance with these objectives; (iv) update and revise the framework when necessary; (v) enact relevant legislation within an appropriate time frame.

These requirements are not only relatively clear but also provide a realistic standard against which state conduct may be assessed. The ECtHR does not seek to sanction states for failing to satisfy every individual element⁴²¹. Rather, these criteria operate as a comprehensive framework through which the ECtHR may determine whether a state has exceeded the margin of appreciation afforded to it.

Once the existence of a causal relationship between the housing crisis and the enjoyment of Art. 8 rights is established, another question arises: what precise aim should states be expected to pursue when addressing the right to housing? It may appear overly ambitious to suggest that the ultimate objective should be universal enjoyment of the right to housing, particularly given the clear position of the ECtHR that the ECHR does not confer a right to be provided with a home⁴²². The question therefore becomes what concrete objectives states should pursue within this framework.

Again, in this respect, the “*international commitments undertaken by member states*”⁴²³ provide crucial guidance. As Council of Europe states are also parties to the

⁴¹⁹ O'CONNELL, Paul (2025). Socio-Economic Rights Redux. *King's Law Journal*, 36(2), p. 316 [online]. <https://doi.org/10.1080/09615768.2025.2567047>.

⁴²⁰ *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [ECHR], No. 53600/20, [09-04-2024], para. 550.

⁴²¹ *Ibid*, para. 551.

⁴²² *Chapman v. the United Kingdom* [ECHR], No. 27238/95, [18-01-2001], para. 94.

⁴²³ *Verein KlimaSeniorinnen Schweiz and Others v. Switzerland* [ECHR], No. 53600/20, [09-04-2024], para. 546.

ICESCR and, in most cases, to the RESC, these instruments constitute relevant benchmarks for interpreting the scope of the right to housing and related obligations. Both instruments aim to progressively realise the right to adequate housing without implying that individuals must automatically be provided with housing where such entitlement does not exist within the domestic law. Instead, both focus on the adequacy of housing which can be best understood through a typology of housing rights that includes access rights, occupancy rights and exit rights.

In other words, to provide meaningful guidance to states, the ECtHR could identify a minimum core of the right to housing within the framework of Art. 8⁴²⁴. Given its reluctance to recognise a free-standing right to housing, such an approach could represent a pragmatic compromise. It would allow the ECtHR to clarify the minimum elements of the right to housing while simultaneously keeping in line with the ECHR's civil and political nature. The minimum core concept would therefore enable the ECtHR to recognise the most essential elements of housing protection without over imposing rigid obligations on states.

Within the category of access rights, the ECtHR case law remains relatively limited. This is partially due to the consistent position of the ECtHR that the ECHR does not guarantee the right to be provided with housing⁴²⁵ and partly due to its reluctance to intrude into what it considers to be the competence of national authorities. As a result, the ECtHR has largely restricted its examination to situations in which individuals were denied access to housing to which they would otherwise have been entitled under domestic law⁴²⁶.

However, access rights extend far beyond this narrow framework. At a minimum, states must ensure that no individual is discriminated against in access to housing, whether by public authorities or by private actors. Such protection may arise both from negative obligations to refrain from discriminatory conduct and from positive obligations requiring states to enact legislation preventing direct or indirect discrimination⁴²⁷.

Social housing also constitutes a crucial dimension of access rights. While the ECtHR recognises that the regulation of social housing largely falls within the competence of the

⁴²⁴ LEIJTEN, Ingrid. Defining the Scope of Economic and Social Guarantees in the Case Law of the ECtHR. In: BREMS, Eva and GERARDS, Janneke (eds.) (2014). *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights*. Cambridge: Cambridge University Press, p. 130.

⁴²⁵ *Chapman v. the United Kingdom* [ECHR], No. 27238/95, [18-01-2001], para. 99; *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 130.

⁴²⁶ *Vinniyshuk v. Ukraine* [ECHR], No. 34000/07, [20-10-2016], para. 53; *Kvasņevskis and Others v. Latvia* [ECHR], No. 50853/06, [04-09-2018], para. 61.

⁴²⁷ UNITED NATIONS (2008). *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Hungary*. Economic and Social Council, E/C.12/HUN/CO/3, p. 6-7, para. 45.

states⁴²⁸, it has not established clear standards regarding the obligations the states may have in this regard. In contrast, the CESCR has explicitly emphasised that the need to provide social housing in adequate quantities, combined with reasonable waiting times for such provisions⁴²⁹, is essential to ensuring that those most in need are protected. Where social housing is unavailable, alternative support mechanisms such as housing subsidies or financial assistance may be necessary⁴³⁰. Similarly, the ECSR has stressed the importance of social housing systems capable of effectively supporting vulnerable groups⁴³¹.

Occupancy rights primarily concern protection against interference with one's home by both the state and private individuals, a principle that is firmly recognised in the ECtHR's jurisprudence⁴³². However, the question of habitability remains relatively underdeveloped in the ECtHR's case law⁴³³. Accordingly, the ECtHR has deferred to the discretion of national authorities when assessing whether housing is habitable.

In comparison, the CESCR places significant emphasis on the concept of habitability. According to its interpretation, adequate housing must include not only basic services but also conditions allowing individuals to physically live in their homes despite illness or disability⁴³⁴. The CESCR also recognises that states may be required to assist individuals in maintaining habitable living conditions where severe financial hardship prevents them from doing so independently⁴³⁵. This approach shifts the focus from mere non-interference to the active maintenance of living conditions compatible with human dignity and reflects a more holistic understanding of housing adequacy.

The ECSR has developed this approach further by emphasising that states must adopt “urban development rules and maintenance obligations for landlords”⁴³⁶. Such legislative

⁴²⁸ *Vinniychuk v. Ukraine* [ECHR], No. 34000/07, [20-10-2016], para. 53.

⁴²⁹ UNITED NATIONS (2024). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Romania*. Economic and Social Council, E/C.12/ROU/CO/6, p. 7, para. 36; UNITED NATIONS (2016). *Concluding observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland*. Economic and Social Council, E/C.12/GBR/CO/6, p. 9, para. 50.

⁴³⁰ UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Portugal*. Economic and Social Council, E/C.12/PRT/CO/5, p. 6, para. 26.

⁴³¹ *International Movement ATD Fourth World v. France* [ECSR], Collective Complaint No. 33/2006, [2007-12-05], cc-33-2006-dmerits-en, para. 95.

⁴³² ATALAY, Serde (2024). Housing and Social Control: Reassessing the Protection Asymmetries of Article 8 of the European Convention on Human Rights. *Social & Legal Studies*, 34(3), p. 370, [online]. <https://doi.org/10.1177/09646639241232416>, p. 368.

⁴³³ *Hudorovič and Others v. Slovenia* [ECHR], Nos. 24816/14 and 25140/14, [10-03-2020], para. 116.

⁴³⁴ *Lorne Joseph Walters v. Belgium* [CESCR], Communication No. 61/2018, [2021-10-12]. E/C.12/70/D/61/2018, p. 13, para. 42.

⁴³⁵ UNITED NATIONS (1995). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Ukraine*. Economic and Social Council, E/C.12/1995/15, p. 2, para. 6.

⁴³⁶ EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2003). *Conclusions 2003 - France - Article 31-1*. 2003/def/FRA/31/1/EN, p. 3.

measures ensure that habitability standards are upheld both in publicly owned housing and in rented dwellings. Given that the ECtHR already recognises the importance of habitability, incorporating a clear definition of habitability would ensure that it is in accordance with concrete legal standards rather than an abstract notion within the ECHR framework.

Finally, within the sphere of exit rights, the ECtHR has taken more significant steps toward aligning its jurisprudence with the standards developed under the ICESCR and the RESC. In particular, the ECtHR has directly referred to CESCR General Comment No. 7 concerning forced evictions as interpretative guidance⁴³⁷. Nevertheless, the ECtHR's regulation of forced evictions remains limited. While it has acknowledged that eviction constitutes the most extreme form of interference with the right to respect for one's home⁴³⁸, this statement is confined to the single requirement of the existence of a legal framework governing eviction⁴³⁹. The ECtHR has also emphasised the importance of access to judicial review in eviction proceedings, although this requirement reflects broader procedural guarantees rather than an eviction-specific obligation.

In contrast, the ICESCR framework provides a significantly more detailed guidance on forced evictions. The importance of safeguards such as reasonable notice, access to legal aid, adequate justification and consultation prior to eviction⁴⁴⁰ is emphasised. The ECSR similarly calls for strong legal safeguards against forced evictions, including prohibitions on night or winter evictions and the availability of effective legal remedies⁴⁴¹. This contrast reveals a clear gap in the ECtHR's jurisprudence, which remains largely procedural and underdeveloped in comparison, indicating the need for a more structured and substantive approach exit rights and protection from forced evictions under Art. 8.

Another important issue concerns the provision of alternative accommodation following the forced evictions. The ECtHR has adopted a rather cautious position, largely due to its repeated emphasis that the ECHR does not impose an obligation to provide housing⁴⁴². However, both the CESCR and the ECSR adopt a more human rights centered

⁴³⁷ *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 83.

⁴³⁸ *Čosić v. Croatia* [ECHR], No. 28261/06, [15-01-2009], para. 22.

⁴³⁹ *Jansons v. Latvia* [ECHR], No. 1434/14, [08-09-2022], para. 89.

⁴⁴⁰ UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: France*. Economic and Social Council, E/C.12/FRA/CO/5, p. 8-9, para. 42; *Rosario Gómez-Limón Pardo v. Spain* [CESCR], Communication No. 52/2018, [2020-03-05]. E/C.12/67/D/52/2018, p. 10, para. 14; *Mohamed Ben Djazia and Naouel Bellili v. Spain* [CESCR], Communication No. 5/2015, [2017-06-20]. E/C.12/61/D/5/2015, p. 15, para. 21; *Hamid Saydawi and Masir Farah v. Italy* [CESCR], Communication Nos. 226/2021 and 227/2021, [2024-02-16]. E/C.12/75/D/226/2021 and E/C.12/75/D/227/2021, p. 13, para. 10.

⁴⁴¹ *European Federation of National Organisations working with the Homeless (FEANTSA) v. France* [ECSR], Collective Complaint No. 39/2006, [2007-12-05]. cc-39-2006-dmerits-en, para. 86.

⁴⁴² *Yordanova and Others v. Bulgaria* [ECHR], No. 25446/06, [24-04-2012], para. 133.

approach. Their position is not that individuals must always be provided with permanent housing following an eviction, but that evictions should never result in homelessness⁴⁴³. Where necessary, states may therefore be required to provide temporary accommodation or other forms of support allowing individuals time to secure long-term alternative housing. They have also emphasised the importance of comprehensive national strategies aimed at preventing homelessness⁴⁴⁴. Such strategies demonstrate that legislative and policy measures may represent a realistic and effective first step toward strengthening housing protection for the most vulnerable groups.

Importantly, this approach is consistent with the broader doctrine of ESC rights, particularly the principle of progressive realization as discussed in Chapter 1.2. Rather than requiring the immediate provision of the right to housing, the comparative standards developed under the ICESCR and the RESC illustrate how states may progressively strengthen housing protection through primarily legislative frameworks. In this sense, articulating core safeguards relating to access, occupancy and exit rights under Art. 8 would allow the ECtHR to clarify a minimum level of the right to housing protection while leaving the broader design and implementation of housing policy within the discretion of states.

In conclusion, although states enjoy a wide margin of appreciation in matters relating to socio-economic policy⁴⁴⁵, the structural nature of the contemporary housing crisis requires that housing conditions be taken seriously when assessing compliance with Art. 8 of the ECHR. Within this framework, two categories of obligations may be inferred. First, states are required to adopt and implement regulatory frameworks capable of progressively addressing structural housing challenges. Second, certain minimum safeguards relating to access, occupancy and exit rights comprising the right to housing may be understood as forming part of the core protection of Art. 8. Together, these elements allow the ECtHR to strengthen the protection of the right to housing under the ECHR while preserving states' discretion in the broader regulation of housing policy.

⁴⁴³ UNITED NATIONS (1997). *General comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions*. Committee on Economic, Social and Cultural Rights, p. 4, para. 16.

⁴⁴⁴ UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Lithuania*. Economic and Social Council, E/C.12/LTU/CO/3, p. 9-10, para. 51; *Conference of European Churches (CEC) v. the Netherlands* [ECSR], Complaint No. 90/2013, [2014-07-01]. cc-90-2013-dmerits-en, para. 136.

⁴⁴⁵ *Connors v. the United Kingdom* [ECHR], No. 66746/01, [27-05-2004], para. 82.

CONCLUSIONS

1. The European housing crisis cannot be understood as a series of isolated failures suffered by individuals, but rather as a structural phenomenon shaped by systemic processes of privatization, commodification and financialization. Against this background, housing is largely governed by the logic and forces of the market, in which purchasing power prevails over human rights objectives when left unregulated. As a result, the most common state approach – reliance on market mechanisms to regulate supply and demand and ensure equality – remains insufficient, as it tends to exacerbate inequality, thereby creating a self-reinforcing cycle. Accordingly, without addressing these structural conditions, legal frameworks at the international, regional and national levels risk remaining largely declaratory, as they fail to translate into effective guarantees across the key dimensions of the right to housing, namely access, occupancy and exit, which must be fulfilled cumulatively to ensure the right's full and effective enjoyment.
2. The right to housing, as developed under Art. 11(1) of the ICESCR and Art. 31 of the RESC, has evolved into a normatively clear yet inherently flexible right, articulated through the typology of access, occupancy and exit, and corresponding state obligations. Rather than imposing an immediately enforceable obligation to achieve full realisation, both instruments establish a system of general and specific obligations grounded in the concepts of minimum core and progressive realisation, requiring states to ensure at least essential levels of protection while progressively advancing towards full realisation. Its normative content is defined through specific state obligations, including ensuring access to housing, guaranteeing adequate living conditions and habitability, and protecting individuals against forced eviction and homelessness. Consequently, the right to housing provides clear normative direction while leaving states discretion in the choice of implementation.
3. The analysis of the ECtHR's case law demonstrates that the right to housing has not emerged as an autonomous right within the ECHR system, but is rather indirectly protected through existing guarantees, primarily under Art. 8 and, to a more limited extent, Art. 1 of Prot. 1. While the ECtHR recognises the central importance of the notion of "*home*" and the severity of homelessness for an individual's existence and well-being, its case law remains uneven and underdeveloped, particularly in relation to access and occupancy rights. The protection afforded is predominantly framed through negative obligations, focusing on preventing unjustified interference, while leaving a broad margin of appreciation to states in shaping their housing policies. Positive

obligations have been recognised only in very limited circumstances, namely where a direct and immediate link with an individual's private life can be established, resulting in a reactive and case-specific approach. Hence, although the ECtHR is gradually expanding housing-related protection, its current framework remains structurally constrained and insufficiently equipped to address systemic housing insecurity arising from the housing crisis in Europe, as it continues to rely on a model centred on concrete instances of harm resulting from identifiable state actions.

4. Recent developments in the ECtHR's case law demonstrate its capacity to address structural and systemic conditions, such as the housing crisis, through the articulation of both negative and positive obligations where a sufficiently direct link with the right to private life under Art. 8 is established. At the same time, this capacity remains constrained by the doctrinal limits of the ECHR, in particular its civil and political nature and the requirement of a sufficiently close link between the harm and the ECHR right, the interpretation of which remains narrow and largely within the discretion of the ECtHR. Nevertheless, the recognition of general obligations in relation to the right to housing is feasible, as the ECtHR has already outlined key criteria for assessing states' positive duties across legislative, executive and judicial levels, including the adoption, implementation and revision of regulatory frameworks. This indicates that the ECHR framework already accommodates progressive general obligations capable of addressing complex and polycentric phenomena. In this context, a growing international consensus on the right to housing can guide the ECtHR through evolutive interpretation, allowing for the identification of a more specific minimum core of the right to housing under Art. 8 and Art. 1 of Prot. 1, in a manner that aligns with the normative standards developed under the ICESCR and the RESC, without undermining the ECHR's primary character as a system of civil and political rights.

BIBLIOGRAPHY

International Legal Instruments

Additional Protocol to the European Social Charter (1988). *European Treaty Series*, No. 128.

Convention on the Elimination of All Forms of Discrimination against Women (1979). *United Nations Treaty Series*, vol. 1249, p. 13.

Convention on the Rights of Persons with Disabilities (2006). *United Nations Treaty Series*, vol. 2515, p. 3.

Convention on the Rights of the Child (1989). *United Nations Treaty Series*, vol. 1577, p. 3.

European Convention on Human Rights, as amended by Protocols Nos. 11, 14 and 15 (1950). *European Treaty Series*, No. 005.

European Social Charter (revised) (1996). *European Treaty Series*, No. 163.

International Convention on the Elimination of All Forms of Racial Discrimination (1965). *United Nations Treaty Series*, vol. 660, p. 195.

International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (1990). *United Nations Treaty Series*, vol. 2220, p. 3.

International Covenant on Economic, Social and Cultural Rights (1966). *United Nations Treaty Series*, vol. 993, p. 3.

Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (2008). *United Nations Treaty Series*, vol. 2922, p. 29.

Special Literature

AALBERS, Manuel B. (2015). The Great Moderation, the Great Excess and the Global Housing Crisis. *International Journal of Housing Policy*, 15(1), 43–60 [online]. <https://doi.org/10.1080/14616718.2014.997431>.

AKANDJI-KOMBÉ, Jean-François. The Material Impact of the Jurisprudence of the European Committee of Social Rights. In: DE BÚRCA, Gráinne; DE WITTE, Bruno and OGERTSCHNIG, Larissa (eds) (2005). *Social Rights in Europe* [online]. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199287994.003.0006>.

ALEXANDER, Lisa (2018). Bringing Home the Right to Housing to Advance Urban Sustainability. *Texas A&M Journal of Property Law*, 4(2), 67–78 [online]. <https://doi.org/10.37419/JPL.V4.I2.1>.

ALSTON, Philip. Assessing the Strengths and Weaknesses of the European Social Charter's Supervisory System. In: DE BÚRCA, Gráinne; DE WITTE, Bruno and OGERTSCHNIG, Larissa (eds) (2005). *Social Rights in Europe* [online]. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199287994.003.0004>.

ATALAY, Serde (2024). Housing and Social Control: Reassessing the Protection Asymmetries of Article 8 of the European Convention on Human Rights. *Social & Legal Studies*, 34(3), 361–380 [online]. <https://doi.org/10.1177/09646639241232416>.

BILCHITZ, David (2003). Towards a Reasonable Approach to the Minimum Core: Laying the Foundations for Future Socio-Economic Rights Jurisprudence. *South African Journal on Human Rights*, 19(1), 1–26 [online]. <https://doi.org/10.1080/19962126.2003.11865170>.

BILCHITZ, David (2010). The Ruggie Framework. *SUR*, 7(12), 199–229 [online]. <https://sur.conectas.org/en/the-ruggie-framework/>.

BRATT, Rachel G. (2022). A Right to Housing: A Compelling Idea and an Elusive Reality. *The Plan Journal*, 7(2), 287–297 [online]. <https://doi.org/10.15274/tpj.2022.07.02.04>.

BRATT, Rachel; STONE, Michael and HARTMAN, Chester (eds.) (2006). *A Right to Housing: Foundation for a New Social Agenda*. Philadelphia: Temple University Press.

BRILLAT, Régis. The Supervisory Machinery of the European Social Charter: Recent Developments and their Impact. In: DE BÚRCA, Gráinne; DE WITTE, Bruno and OGERTSCHNIG, Larissa (eds) (2005). *Social Rights in Europe* [online]. Oxford: Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199287994.003.0003>.

BURBERGS, Maris (2014). How the Right to Respect for Private and Family Life, Home and Correspondence Became the Nursery in Which New Rights Are Born: Article 8 ECHR. In: BREMS, Eva; and GERARDS, Janneke (eds). *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights*. Cambridge: Cambridge University Press, p. 315–329.

CALZOLARI, Valentina; and BARNES, Jonathan (2009). Chapter 6. The Right To Housing Under The Echr. In: *Human Rights as Indivisible Rights* [online]. Leiden: Brill | Nijhoff. <https://doi.org/10.1163/ej.9789004160514.i-348.29>.

ÇELİK, Özlem (2024). Cracking the Housing Crisis: Financialization, the State, Struggles, and Rights. *Housing Studies*, 39(6), 1385–1394 [online]. <https://doi.org/10.1080/02673037.2024.2333569>.

CHOWDHURY, Joie (2020). Unpacking the minimum core and reasonableness standards. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, 251–274. DOI: 10.4337/9781788974172.

CLAIR, Amy; REEVES, Aaron; LOOPSTRA, Rachel et al. (2016). The impact of the housing crisis on self-reported health in Europe: Multilevel longitudinal modelling of 27 EU countries. *European Journal of Public Health*, 26(5), 788–793 [online]. <https://doi.org/10.1093/eurpub/ckw071>.

CLEMENTS, Luke; and SIMMONS, Alan (2009). European Court of Human Rights: Sympathetic Unease. In: LANGFORD, Malcolm (ed.). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press, p. 409–427.

CORKERY, Allison and SAIZ, Ignacio (2020). Progressive realization using maximum available resources: the accountability challenge. In: DUGARD, Jackie; PORTER, Bruce;

IKAWA, Daniela et al. (eds.). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 275–300. DOI: 10.4337/9781788974172.

DAHLBERG, Maija (2014). Should Social Rights Be Included in Interpretations of the Convention by the European Court of Human Rights? *European Journal of Social Security*, 16(3), 252–276 [online]. <https://doi.org/10.1177/138826271401600304>.

DE LONDRAS, Fiona and DZEHTSIAROU, Kanstantsin (2018). *Great Debates on the European Convention on Human Rights*. London: Palgrave Macmillan.

DERDEK, Noria and KENNA, Padraic (2023). *The European and International Contribution to the Right to Housing: Standards, Litigation and Advocacy*. Brussels: FEANTSA; Abbé Pierre Foundation; University of Galway.

DJEFFAL, Christian. Consensus, Stasis, Evolution: Reconstructing Argumentative Patterns in Evolutive ECHR Jurisprudence. In: KAPOTAS, Panos and TZEVELEKOS, Vassilis P. (eds.) (2019). *Building Consensus on European Consensus: Judicial Interpretation of Human Rights in Europe and Beyond*. Cambridge: Cambridge University Press, p. 71–95.

DOMURATH, Irina and MAK, Chantal (2020). Private Law and Housing Justice in Europe. *Modern Law Review*, 83(6), 1188–1220 [online]. <https://doi.org/10.1111/1468-2230.12557>.

DZEHTSIAROU, Kanstantsin (2010). Comparative Law in the Reasoning of the European Court of Human Rights. *University College Dublin Law Review*, 10, 109–140 [online]. <https://doi.org/10.2139/ssrn.1703120>.

DZEHTSIAROU, Kanstantsin (2011). Does Consensus Matter? Legitimacy of European Consensus in the Case Law of the European Court of Human Rights. *Public Law*, July, 534–553 [online]. <https://ssrn.com/abstract=1944920>.

DZEHTSIAROU, Kanstantsin (2011). European Consensus and the Evolutive Interpretation of the European Convention on Human Rights. *German Law Journal*, 12(10), 1730–1745 [online]. <https://doi.org/10.1017/S2071832200017533>.

DZEHTSIAROU, Kanstantsin (2015). *European Consensus and the Legitimacy of the European Court of Human Rights*. Cambridge: Cambridge University Press.

DZEHTSIAROU, Kanstantsin and RIDI, Niccolò (2024). The Use of Scholarship by the European Court of Human Rights. *International and Comparative Law Quarterly*, 73(3), 707–746 [online]. <https://doi.org/10.1017/S0020589324000162>.

FARHA, Leilani and SCHWAN, Kaitlin. The human right to housing in the age of financialization. In: DAVIS, Martha F.; KJAERUM, Morten and LYONS, Amanda (eds) (2021). *Research Handbook on Human Rights and Poverty*. Cheltenham: Edward Elgar Publishing, pp. 385–400.

FICK, Sarah and VOLS, Michel (2022). Horizontality and Housing Rights: Protection against Private Evictions from a European and South African Perspective. *European Journal of Comparative Law and Governance*, 9(2), 118–151 [online]. <https://doi.org/10.1163/22134514-bja10027>.

FITZPATRICK, Suzanne; BENGTTSSON, Bo and WATTS, Beth (2014). Rights to Housing: Reviewing the Terrain and Exploring a Way Forward. *Housing, Theory and Society*, 31(4), 447–463 [online]. <https://doi.org/10.1080/14036096.2014.923506>.

FOX O'MAHONY, Lorna (2007). *Conceptualising Home: Theories, Laws and Policies*. Oxford: Hart Publishing.

FREDMAN, Sandra (2018). The Right to Housing. In: FREDMAN, Sandra. *Comparative Human Rights Law* [online]. Oxford: Oxford University Press, p. 265-304. <https://doi.org/10.1093/oso/9780199689408.003.0009>.

FREDMAN, Sandra. Challenging the Divide: Socio-economic Rights as Human Rights. In: FREDMAN, Sandra (2018). *Comparative Human Rights Law* [online]. Oxford: Oxford University Press, p. 59-78. <https://doi.org/10.1093/oso/9780199689408.003.0009>.

FU, Samantha and VELASCO, Gabi (2023). *Decommodification and Its Role in Advancing Housing Justice* [online]. Washington, DC: Urban Institute. <https://www.urban.org/sites/default/files/2023-02/Decommodification%20and%20Its%20Role%20in%20Advancing%20Housing%20Justice.pdf>.

GAILIŪTĖ, Dovilė (2012). Right to housing in the jurisprudence of the European Committee of Social Rights. *Socialinių mokslų studijos*, 4(4), 1605–1622.

GUTTERMAN, Alan S. (2023). *Older Persons' Right to Adequate Housing* [online]. SSRN. <https://ssrn.com/abstract=4250574>.

HEFFERNAN, Tracy; FARADAY, Fay and ROSENTHAL, Peter (2015). Fighting for the Right to Housing in Canada. *Journal of Law and Social Policy*, 24, 10–45 [online]. <https://doi.org/10.60082/0829-3929.1207>.

HERMANN, Christoph. Consequences of Commodification. In: HERMANN, Christoph (2021). *The Critique of Commodification: Contours of a Post-Capitalist Society* [online]. New York: Oxford University Press, p. 62-99. DOI: [10.1093/oso/9780197576755.003.0004](https://doi.org/10.1093/oso/9780197576755.003.0004).

HOHMANN, Jessie (2013). *The Right to Housing: Housing: Law, Concepts, Possibilities* [online]. London: Bloomsbury Publishing Plc. ProQuest Ebook Central.

HOHMANN, Jessie (2020). *The Forgotten Right to Continuous Improvement of Living Conditions in Article 11(1) of the International Covenant on Economic, Social and Cultural Rights: Seeking the Roots of the Right in International Law* [online]. SSRN Electronic Journal. DOI: 10.2139/ssrn.3668638.

HOHMANN, Jessie (2022). A Right to Housing for the Victorian Charter of Human Rights and Responsibilities? Assessing Potential Models under the International Covenant on Economic, Social and Cultural Rights; the European Social Charter; and the South African Constitution. *Monash University. Journal contribution* [online]. <https://doi.org/10.26180/21606387.v2>.

HOHMANN, Jessie. Property and the Right to Housing: Synergies and Tensions. In: GRAHAM, Nicole; DAVIES, Margaret and GODDEN, Lee (eds.) (2022). *The Routledge Handbook of Property, Law and Society*. London: Routledge, p. 125-136.

IKAWA, Daniela. The International Covenant on Economic, Social and Cultural Rights and the Optional Protocol. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 14-26. DOI: 10.4337/9781788974172.

ISTREFI, Kushtrim; RATNIECE, Zane; and KAMBER, Krešimir (2025). *The Companion to the European Convention on Human Rights* [online]. Leiden: Brill | Nijhoff. <https://doi.org/10.1163/9789004541559>.

JORDAN, Mark (2024). Contesting housing inequality: Housing rights and social movements. *The Modern Law Review*, 87(1), 52–79 [online]. <https://doi.org/10.1111/1468-2230.12828>.

KENNA, Padraic (2005). *Housing Rights and Human Rights*. Brussels: FEANTSA.

KENNA, Padraic (2008). Globalization and housing rights. *Indiana Journal of Global Legal Studies*, 15(2), 397–469.

KENNA, Padraic (2010). International Instruments on Housing. *Journal of Legal Affairs and Dispute Resolution in Engineering and Construction*, 2(1), 11–20 [online]. [https://doi.org/10.1061/\(ASCE\)1943-4162\(2010\)2:1\(11\)](https://doi.org/10.1061/(ASCE)1943-4162(2010)2:1(11)).

KENNA, Padraic (2011). Housing and human rights. In: SMITH, S. J. (ed.). *International Encyclopedia of Housing and Home* [online]. Oxford: Elsevier, p. 1-13. <https://doi.org/10.13025/23308>.

KENNA, Padraic and SIMÓN-MORENO, Héctor (2019). Towards a Common Standard of Protection of the Right to Housing in Europe through the Charter of Fundamental Rights. *European Law Journal*, 25(6), 608–622 [online]. <https://doi.org/10.1111/eulj.12348>.

KHALIQ, Urfan and CHURCHILL, Robin. The European Committee of Social Rights: Putting Flesh on the Bare Bones of the European Social Charter. In: LANGFORD, Malcolm (ed.) (2009). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press, p. 428–452.

KING, Peter (2003). Housing as a Freedom Right. *Housing Studies*, 18(5), 661–672 [online]. <https://doi.org/10.1080/02673030304259>.

LANGFORD, Malcolm (2009). Closing the Gap? An Introduction to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights. *Nordic Journal of Human Rights*, 27(1), 1–28.

LANGFORD, Malcolm (2009). The Justiciability of Social Rights: From Practice to Theory. In: LANGFORD, Malcolm (ed.) (2009). *Social Rights Jurisprudence: Emerging Trends in International and Comparative Law*. Cambridge: Cambridge University Press, 3–45.

LANGFORD, Malcolm. Making it Matter: Understanding the Impact of the Right to Housing. In: VOLS, Michel; SHUIBHNE, Niamh Nic and PASTRANA, Andrea Quintia (eds.) (2026). *The Impact of the Right to Housing in Times of Crisis*. Cheltenham: Edward Elgar [online], p. 1-21. <https://ssrn.com/abstract=5275581>.

LECKIE, Scott. The human right to adequate housing. In: EIDE, Asbjørn; KRAUSE, Catarina and ROSAS, Allan (eds.) (2001). *Economic, Social and Cultural Rights: A Textbook*. Second Revised Edition. Dordrecht: Martinus Nijhoff Publishers, p. 149-169.

LEIJTEN, Ingrid (2018). *Core Socio-Economic Rights and the European Court of Human Rights*. Cambridge: Cambridge University Press.

LEIJTEN, Ingrid and DE BEL, Kaisa (2020). Facing financialization in the housing sector: A human right to adequate housing for all. *Netherlands Quarterly of Human Rights*, 38(2), 94–114 [online]. <https://doi.org/10.1177/0924051920923855>.

LEIJTEN, Ingrid. Defining the Scope of Economic and Social Guarantees in the Case Law of the ECtHR. In: BREMS, Eva and GERARDS, Janneke (eds.) (2014). *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights*. Cambridge: Cambridge University Press, p. 109–136.

LUKAS, Karin (2021). *The Revised European Social Charter: An Article by Article Commentary*. Elgar Commentaries series. [online]. Cheltenham: Edward Elgar Publishing. DOI: 10.4337/9781789903645.

MILAŠIŪTĖ, Vygantė (2020). Minimalios socioekonominių teisių apsaugos idėja pagal Žmogaus teisių ir pagrindinių laisvių apsaugos konvenciją. *Teisė*, 116, 36–50 [online]. <https://doi.org/10.15388/Teise.2020.116.3>.

MILAŠIŪTĖ, Vygantė (2020). Socioekonominių teisių apsauga pagal EŽTK. *Teisė*, 115, 42–54 [online]. <https://doi.org/10.15388/Teise.2020.115.3>.

MOHAMMADI, Mohammad; WIELING, Martijn and VOLS, Michel (2025). An interpretable approach to detect case law on housing and eviction issues within the HUDOC database. *Artificial Intelligence and Law* [online]. <https://doi.org/10.1007/s10506-025-09439-9>.

MOONS, Nico (2018). *The Right to housing in law and society* [online]. London: Routledge. DOI: 10.4324/9781315106939.

MOORE, Jeanne (2000). Placing Home in Context. *Journal of Environmental Psychology*, 20(3), 207–217 [online]. <https://doi.org/10.1006/jevp.2000.0178>.

MOWBRAY, Alastair (2005). The Creativity of the European Court of Human Rights. *Human Rights Law Review*, 5(1), 57–79 [online]. <https://doi.org/10.1093/hrlrev/ngi003>.

MOWBRAY, Alastair. Between the Will of the Contracting Parties and the Needs of Today: Extending the Scope of Convention Rights and Freedoms beyond What Could Have Been Foreseen by the Drafters of the ECHR. In: BREMS, Eva and GERARDS, Janneke (eds.) (2014). *Shaping Rights in the ECHR: The Role of the European Court of Human Rights in Determining the Scope of Human Rights*. Cambridge: Cambridge University Press, p. 17–37.

NIC SHUIBHNE, Emma N; BRUIJN, L Michelle and VOLS, Michel (2023). Deconstructing the Eviction Protections Under the Revised European Social Charter: A Systematic Content Analysis of the Interplay Between the Right to Housing and the Right to Property. *Human Rights Law Review*, 23(4), ngad022 [online]. <https://doi.org/10.1093/hrlr/ngad022>.

NIELD, Sarah (2013). Article 8 Respect for the Home: A Human Property Right? *King's Law Journal*, 24(2), 147–171 [online]. <https://doi.org/10.5235/09615768.24.2.147>.

O'CINNEIDE, Colm. The European system. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 48–87. DOI: 10.4337/9781788974172.

O'CONNELL, Paul (2011). The Death of Socio-Economic Rights. *Modern Law Review*, 74(4), 532–554 [online]. <https://ssrn.com/abstract=1878803>.

O'CONNELL, Paul (2012). *Vindicating Socio-Economic Rights: International Standards and Comparative Experiences* [online]. London: Routledge. DOI: [10.4324/9780203126653](https://doi.org/10.4324/9780203126653).

O'CONNELL, Paul (2025). Socio-Economic Rights Redux. *King's Law Journal*, 36(2), 315–337 [online]. <https://doi.org/10.1080/09615768.2025.2567047>.

PALMER, Elizabeth (2009). Protecting Socio-Economic Rights Through the European Convention on Human Rights: Trends and Developments in the European Court of Human Rights. *Erasmus Law Review*, 2(4), 397–425 [online]. <https://ssrn.com/abstract=1542674>.

PALMER, Ellie (2010). Beyond arbitrary interference: the right to a home? Developing socio-economic duties in the European Convention on Human Rights. *Northern Ireland Legal Quarterly*, 61(3), 225–243.

PORTER, Bruce (2020). Interdependence of human rights. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 301–326. DOI: 10.4337/9781788974172.

QUINTIÁ PASTRANA, Andrei and VOLS, Michel (2024). Tracing the Right to Access to Housing: Insights from Human Rights Theory and Practice. *European Journal of Homelessness*, 18(2), 39–66 [online]. <https://research.rug.nl/en/publications/tracing-the-right-to-access-to-housing-insights-from-human-rights/>.

REMICHE, Adélaïde (2012). Yordanova and Others v Bulgaria: The Influence of the Social Right to Adequate Housing on the Interpretation of the Civil Right to Respect for One's Home. *Human Rights Law Review*, 12(4), 787–800 [online]. <https://doi.org/10.1093/hrlr/ngs033>.

RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). The Development of Economic, Social, and Cultural Rights in International Law. In: RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). *Economic, Social, and Cultural Rights in International Law: Contemporary Issues and Challenges* [online]. Oxford: Oxford University Press, 3–48. DOI: [10.1093/acprof:oso/9780199685974.003.0001](https://doi.org/10.1093/acprof:oso/9780199685974.003.0001).

ROLNIK, Raquel (2013). Late neoliberalism: The financialization of homeownership and housing rights. *International Journal of Urban and Regional Research*, 37(3), 1058–1066 [online]. <https://doi.org/10.1111/1468-2427.12062>.

ROLNIK, Raquel and RABINOVICH, Lidia (2014). Late-Neoliberalism: The Financialisation of Homeownership and the Housing Rights of the Poor. In: NOLAN, Aoife

(ed.). *Economic and Social Rights after the Global Financial Crisis*. Cambridge: Cambridge University Press, 57–89.

SALOMON, Margot E. (2023). Emancipating Human Rights: Capitalism and the Common Good. *Leiden Journal of International Law*, 36(4), 857–877 [online]. <https://doi.org/10.1017/S0922156523000316>.

SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline. Article 11: The Right to an Adequate Standard of Living. In: SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline (2014). *The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials* [online]. Oxford: Oxford University Press, p. 861–976. DOI: 10.1093/law/9780199640300.003.0013.

SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline. Article 2(1): Progressive Realization of ICESCR Rights. In: SAUL, Ben; KINLEY, David and MOWBRAY, Jacqueline (2014). *The International Covenant on Economic, Social and Cultural Rights: Commentary, Cases, and Materials* [online]. Oxford: Oxford University Press, p. 133–172. DOI: 10.1093/law/9780199640300.003.0003.

SCHMID, Christoph U. (2020). The Right to Housing as a Right to Adequate Housing Options: Reviewing the Reasonableness of National Housing Policies in the Field of Alternative and Intermediate Tenures. *European Property Law Journal*, 9(2–3), 157–178 [online]. <https://doi.org/10.1515/eplj-2020-0006>.

SEPÚLVEDA CARMONA, Magdalena (2014). Alternatives to Austerity: A Human Rights Framework for Economic Recovery. In: NOLAN, Aoife (ed.). *Economic and Social Rights after the Global Financial Crisis*. Cambridge: Cambridge University Press, p. 23–56.

SLINGENBERG, Lieneke and VOLS, Michel (2025). Introduction to the Special Issue: Social Control, Housing and the Law. *Social & Legal Studies*, 34(3), 309–319 [online]. <https://doi.org/10.1177/09646639251329809>.

STADLER, Sophie L. and COLLINS, Damian (2023). Assessing Housing First Programs from a Right to Housing Perspective. *Housing Studies*, 38(9), 1719–1739 [online]. <https://doi.org/10.1080/02673037.2021.1982873>.

TAYLOR, O.; LOUBIÈRE, S. and AUQUIER, P. (2020). Homelessness, Housing First, and the Right to Housing-Confronting Right and Reality. *Human Rights Review*, 21, 373–389 [online]. <https://doi.org/10.1007/s12142-020-00598-7>.

UBAREVIČIENĖ, Rūta and AIDUKAITĖ, Jolanta (2026). Housing Provision: A Comparative Study of Housing Availability, Accessibility, and Adequacy in EU Member States. *Journal of International and Comparative Social Policy*, 1–20 [online]. <https://doi.org/10.1017/ics.2025.10087>.

VOLS, Michel (2023). The Optional Protocol to the ICESCR, Homelessness and Moral Hazard: The Alternative Adequate Housing Requirement in the CESCR’s Jurisprudence – an Incentive Not to Pay for Housing? *International Human Rights Law Review*, 12(1), 1–25 [online]. <https://doi.org/10.1163/22131035-12010001>.

VOLS, Michel (2024). Conceptualising the Right to Housing. In: BRUIJN, M. and VAN TONGEREN, S. (eds.). *Navigating the Right to Housing: Exploring the Complex Landscape of Access, Occupancy and Exit Rights*. Vol. 5. Eleven International Publishing, p. 1–9.

VOLS, Michel and KUSUMAWATI, Erna Dyah (2020). The International Right to Housing, Evictions and the Obligation to Provide Alternative Accommodation: A Comparison of Indonesia and the Netherlands. *Asia-Pacific Journal on Human Rights and the Law*, 21(2), 237–269 [online]. <https://doi.org/10.1163/15718158-21020003>.

WAY, Sally-Anne, LUSIANI, Nicholas and SAIZ, Ignacio (2014). Economic and Social Rights in the ‘Great Recession’: Towards a Human Rights-Centred Economic Policy in Times of Crisis. In: RIEDEL, Eibe; GIACCA, Gilles and GOLAY, Christophe (eds.) (2014). *Economic, Social, and Cultural Rights in International Law: Contemporary Issues and Challenges* [online]. Oxford: Oxford University Press, 86–110. <https://doi.org/10.1093/acprof:oso/9780199685974.003.0003>.

WILSON, Stuart. The right to adequate housing. In: DUGARD, Jackie; PORTER, Bruce; IKAWA, Daniela et al. (eds.) (2020). *Research Handbook on Economic, Social and Cultural Rights as Human Rights* [online]. Cheltenham: Edward Elgar Publishing, p. 180–201. DOI: 10.4337/9781788974172.

YOUNG, Katharine G. (2012). *Constituting Economic and Social Rights* [online]. Oxford: Oxford University Press. DOI: [10.1093/acprof:oso/9780199641932.001.0001](https://doi.org/10.1093/acprof:oso/9780199641932.001.0001).

YOUNG, Katharine G. (2019). Waiting for Rights: Progressive Realization and Lost Time. In: YOUNG, Katharine G. (ed.) (2019). *The Future of Economic and Social Rights*. Cambridge: Cambridge University Press, 654–683.

ZHU, Yushu; HOLDEN, Meg and SCHIFF, Rebecca (2024). Housing Vulnerability Reconsidered: Applications and Implications for Housing Research, Policy and Practice. *Housing, Theory and Society*, 41(4), 417–430 [online]. <https://doi.org/10.1080/14036096.2024.2341840>.

Case Law

Case law of CESC:

I.D.G. v. Spain [CESC], Communication No. 2/2014, [2015-06-17]. E/C.12/55/D/2/2014.

Mohamed Ben Djazia and Naouel Bellili v. Spain [CESC], Communication No. 5/2015, [2017-06-20]. E/C.12/61/D/5/2015.

López Albán et al. v. Spain [CESC], Communication No. 37/2018, [2019-10-11]. E/C.12/66/D/37/2018.

Rosario Gómez-Limón Pardo v. Spain [CESC], Communication No. 52/2018, [2020-03-05]. E/C.12/67/D/52/2018.

El Goumari et al v. Spain [CESC], Communication No. 85/2018, [2021-02-18]. E/C.12/69/D/85/2018.

El Ayoubi et al v. Spain [CESC], Communication No. 54/2018, [2021-02-19]. E/C.12/69/D/54/2018.

Soraya Moreno Romero and Children v. Spain [CESCR], Communication No. 48/2018, [2021-02-22]. E/C.12/69/D/48/2018.

Lorne Joseph Walters v. Belgium [CESCR], Communication No. 61/2018, [2021-10-12]. E/C.12/70/D/61/2018.

Yaureli Carolina Infante Díaz v. Spain [CESCR], Communication No. 134/2019, [2023-02-27]. E/C.12/73/D/134/2019.

Josefa Hernández Cortés and Ricardo Rodríguez Bermúdez v. Spain [CESCR], Communication No. 26/2018, [2022-10-10]. E/C.12/72/D/26/2018.

Sara Vázquez Guerreiro v. Spain [CESCR], Communication No. 70/2018, [2023-10-09]. E/C.12/74/D/70/2018.

Hamid Saydawi and Masir Farah v. Italy [CESCR], Communication Nos. 226/2021 and 227/2021, [2024-02-16]. E/C.12/75/D/226/2021 and E/C.12/75/D/227/2021.

Zaira Salazar Motos and Luis Miguel Rodríguez Vázquez v. Spain [CESCR], Communication No. 165/2019, [2025-02-14]. E/C.12/77/D/165/2019.

Case law of ECSR:

Centre on Housing Rights and Evictions (COHRE) v. France [ECSR], Collective Complaint No. 63/2010, [2011-06-28]. cc-63-2010-dmerits-en.

Centre on Housing Rights and Evictions (COHRE) v. Italy [ECSR], Collective Complaint No. 58/2009, [2010-06-25]. cc-58-2009-dmerits-en.

Conference of European Churches (CEC) v. the Netherlands [ECSR], Complaint No. 90/2013, [2014-07-01]. cc-90-2013-dmerits-en.

Defence for Children International (DCI) v. The Netherlands [ECSR], Collective Complaint No. 47/2008, [2009-10-20]. cc-47-2008-dmerits-en.

Defence for Children International (DCI), European Federation of National Organisations working with the Homeless (FEANTSA), Magistrats Européens pour la Démocratie et les Libertés (MEDEL), Confederación Sindical de Comisiones Obreras (CCOO) and International Movement ATD Fourth World v. Spain [ECSR], Complaint No. 206/2022, [2024-09-11]. cc-206-2022-dmerits-en.

European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France [ECSR], Complaint No. 114/2015, [2018-01-24]. cc-114-2015-dmerits-en.

European Federation of National Organisations working with the Homeless (FEANTSA) v. the Netherlands [ECSR], Collective Complaint No. 86/2012, [2014-07-02]. cc-86-2012-dmerits-en.

European Federation of National Organisations working with the Homeless (FEANTSA) v. Slovenia [ECSR], Collective Complaint No. 53/2008, [2009-09-08]. cc-53-2008-dmerits-en.

European Federation of National Organisations working with the Homeless (FEANTSA) v. France [ECSR], Collective Complaint No. 39/2006, [2007-12-05]. cc-39-2006-dmerits-en.

European Roma and Travellers Forum (ERTF) v. France [ECSR], Collective Complaint No. 64/2011, [2012-01-24]. cc-64-2011-dmerits-en.

European Roma Rights Centre (ERRC) v. Bulgaria [ECSR], Collective Complaint No. 31/2005, [2006-10-18]. cc-31-2005-dmerits-en.

European Roma Rights Centre (ERRC) v. France [ECSR], Collective Complaint No. 51/2008, [2009-10-19]. cc-51-2008-dmerits-en.

European Roma Rights Centre (ERRC) v. Greece [ECSR], Collective Complaint No. 15/2003, [2004-12-08]. cc-15-2003-dmerits-en.

European Roma Rights Centre (ERRC) v. Italy [ECSR], Collective Complaint No. 27/2004, [2005-12-07]. cc-27-2004-dmerits-en.

European Roma Rights Centre (ERRC) v. Italy [ECSR], Complaint No. 244/2025, [2025-07-02]. cc-244-2025-dadmissandimmed-en.

European Roma Rights Centre (ERRC) v. Portugal [ECSR], Collective Complaint No. 61/2010, [2011-06-30]. cc-61-2010-dmerits-en.

International Association Autism-Europe v. France [ECSR], Collective Complaint No. 13/2002, [2003-11-04]. cc-13-2002-dmerits-en.

International Commission of Jurists (ICJ) and European Council for Refugees and Exiles (ECRE) v. Greece [ECSR], Complaint No. 173/2018, [2021-01-26]. cc-173-2018-dmerits-en.

International Movement ATD Fourth World v. France [ECSR], Collective Complaint No. 33/2006, [2007-12-05]. cc-33-2006-dmerits-en.

Médecins du Monde - International v. France [ECSR], Collective Complaint No. 67/2011, [2012-09-11]. cc-67-2011-dmerits-en.

World Organisation against Torture (OMCT) v. Ireland [ECSR], Collective Complaint No. 18/2003, [2004-12-07]. cc-18-2003-dmerits-en.

Case law of ECtHR:

A, B and C v. Ireland [ECHR], No. 25579/05, [16-12-2010].
ECLI:CE:ECHR:2010:1216JUD002557905.

Airey v. Ireland [ECHR], No. 6289/73, [09-10-1979].
ECLI:CE:ECHR:1979:1009JUD000628973.

Bayatyan v. Armenia [ECHR], No. 23459/03, [07-07-2011].
ECLI:CE:ECHR:2011:0707JUD002345903.

Beyeler v. Italy [ECHR], No. 33202/96, [5-1-2000].
ECLI:CE:ECHR:2000:0105JUD003320296.

Bittó and Others v. Slovakia [ECHR], No. 30255/09, [28-01-2014].
ECLI:CE:ECHR:2014:0128JUD003025509.

Bjedov v. Croatia [ECHR], No. 42150/09, [29-05-2012].
ECLI:CE:ECHR:2012:0529JUD004215009.

Blečić v. Croatia [ECHR], No. 59532/00, [29-07-2004].
ECLI:CE:ECHR:2004:0729JUD005953200.

Buckland v. the United Kingdom [ECHR], No. 40060/08, [18-09-2012].
ECLI:CE:ECHR:2012:0918JUD004006008.

Buckley v. the United Kingdom [ECHR], No. 20348/92, [25-09-1996].
ECLI:CE:ECHR:1996:0925JUD002034892.

Bulgakova v. Russia [ECHR], No. 69524/01, [18-01-2007].
ECLI:CE:ECHR:2007:0118JUD006952401.

Chapman v. the United Kingdom [ECHR], No. 27238/95, [18-01-2001].
ECLI:CE:ECHR:2001:0118JUD002723895.

Chiragov and Others v. Armenia [ECHR], No. 13216/05, [16-06-2015].
ECLI:CE:ECHR:2015:0616JUD001321605.

Christine Goodwin v. the United Kingdom [ECHR], No. 28957/95, [11-07-2002].
ECLI:CE:ECHR:2002:0711JUD002895795.

Connors v. the United Kingdom [ECHR], No. 66746/01, [27-05-2004].
ECLI:CE:ECHR:2004:0527JUD006674601.

Ćosić v. Croatia [ECHR], No. 28261/06, [15-01-2009].
ECLI:CE:ECHR:2009:0115JUD002826106.

Cvijetić v. Croatia [ECHR], No. 71549/01, [26-02-2004].
ECLI:CE:ECHR:2004:0226JUD007154901.

Cyprus v. Turkey [ECHR], No. 25781/94, [10-05-2001].
ECLI:CE:ECHR:2001:0510JUD002578194.

Demades v. Turkey [ECHR], No. 16219/90, [31-07-2003].
ECLI:CE:ECHR:2003:0731JUD001621990.

Demir and Baykara v. Turkey [ECHR], No. 34503/97, [12-11-2008].
ECLI:CE:ECHR:2008:1112JUD003450397.

Faulkner and McDonagh v. Ireland [ECHR], Nos. 30391/18 and 30416/18, [08-03-2022].
ECLI:CE:ECHR:2022:0308DEC003039118.

Garib v. the Netherlands [ECHR], No. 43494/09, [06-11-2017].
ECLI:CE:ECHR:2017:1106JUD004349409.

Ghailan and Others v. Spain [ECHR], No. 36366/14, [23-3-2021].
ECLI:CE:ECHR:2021:0323JUD003636614.

Gladysheva v. Russia [ECHR], No. 7097/10, [06-12-2011].
ECLI:CE:ECHR:2011:1206JUD000709710.

Handyside v. the United Kingdom [ECHR], No. 5493/72, [07-12-1976].
ECLI:CE:ECHR:1976:1207JUD000549372.

Hudorovič and Others v. Slovenia [ECHR], Nos. 24816/14 and 25140/14, [10-03-2020].
ECLI:CE:ECHR:2020:0310JUD002481614.

Jansons v. Latvia [ECHR], No. 1434/14, [08-09-2022].
ECLI:CE:ECHR:2022:0908JUD000143414.

Kaminskas v. Lithuania [ECHR], No. 44817/18, [04-08-2020].
ECLI:CE:ECHR:2020:0804JUD004481718.

Kapa and Others v. Poland [ECHR], Nos. 75031/13, 75282/13, 75286/13 and 75292/13, [14-10-2021]. ECLI:CE:ECHR:2021:1014JUD007503113.

Karner v. Austria [ECHR], No. 40016/98, [24-07-2003].
ECLI:CE:ECHR:2003:0724JUD004001698.

Khamidov v. Russia [ECHR], No. 72118/01, [15-11-2007].
ECLI:CE:ECHR:2007:1115JUD007211801.

Konstantin Markin v. Russia [ECHR], No. 30078/06, [22-3-2012].
ECLI:CE:ECHR:2012:0322JUD003007806.

Kozak v. Poland [ECHR], No. 13102/02, [02-03-2010].
ECLI:CE:ECHR:2010:0302JUD001310202.

Kvasņevskis and Others v. Latvia [ECHR], No. 50853/06, [04-09-2018].
ECLI:CE:ECHR:2018:0904DEC005085306.

L.F. v. the United Kingdom [ECHR], No. 19839/21, [24-05-2022].
ECLI:CE:ECHR:2022:0524DEC001983921.

López Ostra v. Spain [ECHR], No. 16798/90, [09-12-1994].
ECLI:CE:ECHR:1994:1209JUD001679890.

Marzari v. Italy [ECHR], No. 36448/97, [04-05-1999].
ECLI:CE:ECHR:1999:0504DEC003644897.

McCann v. the United Kingdom [ECHR], No. 19009/04, [13-05-2008].
ECLI:CE:ECHR:2008:0513JUD001900904.

Mellacher and Others v. Austria [ECHR], Nos. 10522/83, 11011/84 and 11070/84, [19-12-1989]. ECLI:CE:ECHR:1989:1219JUD001052283.

Menteş and Others v. Turkey [ECHR], No. 23186/94, [28-11-1997].
ECLI:CE:ECHR:1997:1128JUD002318694.

Moldovan and Others v. Romania (No. 2) [ECHR], Nos. 41138/98 and 64320/01, [12-07-2005]. ECLI:CE:ECHR:2005:0712JUD004113898.

Moreno Gómez v. Spain [ECHR], No. 4143/02, [16-11-2004].
ECLI:CE:ECHR:2004:1116JUD000414302.

National Federation of Sportspersons' Associations and Unions (FNASS) and Others v. France [ECHR], Nos. 48151/11 and 77769/13, [18-01-2018].
ECLI:CE:ECHR:2018:0118JUD004815111.

O'Rourke v. the United Kingdom [ECHR], No. 39022/97, [26-6-2001].
ECLI:CE:ECHR:2001:0626DEC003902297.

Osman v. the United Kingdom [ECHR], No. 23452/94, [28-10-1998].
ECLI:CE:ECHR:1998:1028JUD002345294.

Paketova and Others v. Bulgaria [ECHR], Nos. 17808/19 and 36972/19, [04-10-2022].
ECLI:CE:ECHR:2022:1004JUD001780819.

Pančenko v. Latvia [ECHR], No. 40772/98, [28-10-1999].
ECLI:CE:ECHR:1999:1028DEC004077298.

Pibernik v. Croatia [ECHR], No. 75139/01, [04-03-2004].
ECLI:CE:ECHR:2004:0304JUD007513901.

Prokopovich v. Russia [ECHR], No. 58255/00, [18-11-2004].
ECLI:CE:ECHR:2004:1118JUD005825500.

S. and Marper v. the United Kingdom [ECHR], Nos. 30562/04 and 30566/04, [04-12-2008].
ECLI:CE:ECHR:2008:1204JUD003056204.

Saliba v. Malta [ECHR], No. 4251/02, [08-11-2005].
ECLI:CE:ECHR:2005:1108JUD000425102.

Samoylova v. Russia [ECHR], No. 49108/11, [14-12-2021].
ECLI:CE:ECHR:2021:1214JUD004910811.

Scoppola v. Italy (No. 2) [ECHR], No. 10249/03, [17-09-2009].
ECLI:CE:ECHR:2009:0917JUD001024903.

Selçuk and Asker v. Turkey [ECHR], Nos. 23184/94 and 23185/94,.
ECLI:CE:ECHR:1998:0424JUD002318494.

Shmatova and Others v. Russia [ECHR], No. 36539/08, [11-2-2020].
ECLI:CE:ECHR:2020:0211JUD003653908.

Stankova v. Slovakia [ECHR], No. 7205/02, [09-10-2007].
ECLI:CE:ECHR:2007:1009JUD000720502.

Straka and Others v. Slovakia [ECHR], Nos. 11809/12 and 35284/13, [04-11-2014].
ECLI:CE:ECHR:2014:1104DEC001180912.

Surugiu v. Romania [ECHR], No. 48995/99, [20-4-2004].
ECLI:CE:ECHR:2004:0420JUD004899599.

Toth and Crişan v. Romania [ECHR], No. 45430/19, [25-02-2025].
ECLI:CE:ECHR:2025:0225JUD004543019.

Tuleshov and Others v. Russia [ECHR], No. 32718/02, [24-05-2007].
ECLI:CE:ECHR:2007:0524JUD003271802.

Tyrer v. the United Kingdom [ECHR], No. 5856/72, [25-04-1978].
ECLI:CE:ECHR:1978:0425JUD000585672.

Verein KlimaSeniorinnen Schweiz and Others v. Switzerland [ECHR], No. 53600/20, [09-04-2024]. ECLI:CE:ECHR:2024:0409JUD005360020.

Vinniychuk v. Ukraine [ECHR], No. 34000/07, [20-10-2016].
ECLI:CE:ECHR:2016:1020JUD003400007.

Winterstein and Others v. France [ECHR], No. 27013/07, [17-10-2013].
ECLI:CE:ECHR:2013:1017JUD002701307.

Yordanova and Others v. Bulgaria [ECHR], No. 25446/06, [24-04-2012].
ECLI:CE:ECHR:2012:0424JUD002544606.

Zrilić v. Croatia [ECHR], No. 46726/11, [3-10-2013].
ECLI:CE:ECHR:2013:1003JUD004672611.

Conclusions of ECSR

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2003). *Conclusions 2003 - France - Article 31-1*. 2003/def/FRA/31/1/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2003). *Conclusions 2003 - Sweden - Article 31-3*. 2003/def/SWE/31/3/EN

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - France - Article 31-2*. 2019/def/FRA/31/2/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - Greece - Article 31-3*. 2019/def/GRC/31/3/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - Italy - Article 31-2*. 2019/def/ITA/31/2/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - Portugal - Article 31-2*. 2019/def/PRT/31/2/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2019). *Conclusions 2019 - Turkey - Article 31-1*. 2019/def/TUR/31/1/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Lithuania - Article 31-1*. 2023/def/LTU/31/1/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Norway - Article 31-2*. 2023/def/NOR/31/2/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Norway - Article 31-3*. 2023/def/NOR/31/3/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Sweden - Article 31-2*. 2023/def/SWE/31/2/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Turkey - Article 31-1*. 2023/def/TUR/31/1/EN.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS (2023). *Conclusions 2023 - Ukraine - Article 31-1*. 2023/def/UKR/31/1/EN.

Concluding Observations

UNITED NATIONS (1995). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Portugal*. Economic and Social Council, E/C.12/1995/4.

UNITED NATIONS (1999). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Ireland*. Economic and Social Council, E/C.12/1/Add.35.

UNITED NATIONS (2004). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Spain*. Economic and Social Council, Thirty-second session, E/C.12/1/Add.99.

UNITED NATIONS (2005). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Norway*. Economic and Social Council, Thirty-fourth session, E/C.12/1/Add.109.

UNITED NATIONS (2008). *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Belgium*. Economic and Social Council, Thirty-ninth session, E/C.12/BEL/CO/3.

UNITED NATIONS (2008). *Concluding Observations of the Committee on Economic, Social and Cultural Rights: Hungary*. Economic and Social Council, Thirty-eighth session, E/C.12/HUN/CO/3.

UNITED NATIONS (2013). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Belarus*. Economic and Social Council, E/C.12/BLR/CO/4-6.

UNITED NATIONS (2014). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Finland*. Economic and Social Council, E/C.12/FIN/CO/6.

UNITED NATIONS (2015). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Italy*. Economic and Social Council, E/C.12/ITA/CO/5.

UNITED NATIONS (2016). *Concluding observations of the Committee on Economic, Social and Cultural Rights: United Kingdom of Great Britain and Northern Ireland*. Economic and Social Council, E/C.12/GBR/CO/6.

UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Lithuania*. Economic and Social Council, E/C.12/LTU/CO/3.

UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: France*. Economic and Social Council, E/C.12/FRA/CO/5.

UNITED NATIONS (2023). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Portugal*. Economic and Social Council, E/C.12/PRT/CO/5.

UNITED NATIONS (2024). *Concluding observations of the Committee on Economic, Social and Cultural Rights: Romania*. Economic and Social Council, E/C.12/ROU/CO/6.

Other Sources

COMMISSIONER FOR HUMAN RIGHTS / CUNCIL OF EUROPE (2008). *Housing Rights: The Duty to Ensure Housing for All* [online]. <https://rm.coe.int/16806da793>.

COUNCIL OF EUROPE (1996). *Explanatory Report to the European Social Charter (Revised)*. Strasbourg: Council of Europe.

COUNCIL OF EUROPE (2022). *Digest of the Case Law of the European Committee of Social Rights*. Strasbourg: Council of Europe.

COUNCIL OF EUROPE (2025). *Analysis and guidelines to guarantee the right to housing*. Parliamentary Assembly, Resolution 2626.

COUNCIL OF EUROPE / EUROPEAN COURT OF HUMAN RIGHTS (2025). *Guide on Article 8 of the European Convention on Human Rights: Right to respect for private and family life, home and correspondence* [online]. Strasbourg: Council of Europe.

COUNCIL OF EUROPE / EUROPEAN COURT OF HUMAN RIGHTS (2025). *Guide on Article 1 of Protocol No. 1 to the European Convention on Human Rights: Protection of property* [online]. Strasbourg: Council of Europe.

EUROCITIES (2025). *The state of housing affordability in European cities* [online]. <https://monitor.eurocities.eu/housing-affordability/>.

INTERNATIONAL COMMISSION OF JURISTS (1997). *Maastricht Guidelines on Violations of Economic, Social and Cultural Rights* [online]. <https://www.refworld.org/policy/legalguidance/icjurists/1997/63964>.

Office of the United Nations High Commissioner for Human Rights and UN-Habitat (2009). *The Right to Adequate Housing*. Fact Sheet No. 21/Rev.1 [online]. Geneva: United Nations. https://www.ohchr.org/sites/default/files/Documents/Publications/FS21_rev_1_Housing_en.pdf.

UNITED NATIONS (1948). *Universal Declaration of Human Rights*. Resolution 217 A (III).

UNITED NATIONS (1990). *General comment No. 3: The nature of States parties' obligations (art. 2, para. 1, of the Covenant)*. Committee on Economic, Social and Cultural Rights.

UNITED NATIONS (1991). *General comment No. 4: The right to adequate housing (art. 11 (1) of the Covenant)*. Committee on Economic, Social and Cultural Rights.

UNITED NATIONS (1997). *General comment No. 7: The right to adequate housing (art. 11 (1) of the Covenant): Forced evictions*. Committee on Economic, Social and Cultural Rights.

UNITED NATIONS (2005). *General comment No. 16 (2005): The equal right of men and women to the enjoyment of all economic, social and cultural rights (art. 3 of the International Covenant on Economic, Social and Cultural Rights)*. Committee on Economic, Social and Cultural Rights.

UNITED NATIONS (2017). *Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context*. Human Rights Council, Thirty-fourth session, A/HRC/34/51.

UNITED NATIONS (2018). *Report of the Special Rapporteur on extreme poverty and human rights*. General Assembly, Seventy-third session, A/73/396.

SUMMARY

The ECHR and the Right to Housing: Limits of Interpretation and Emerging Demands for Socio-Economic Protection

Ditè Elzbergaitè

This thesis critically examines the extent to which the ECHR can provide effective protection of the right to housing in the context of the contemporary European housing crisis affecting Council of Europe states. Employing doctrinal, comparative, empirical and contextual methods, the research analyses the normative frameworks of the ECHR, the ICCPR, and the RESC, alongside their interpretation in international practice.

The research demonstrates that the right to housing is well developed in international human rights law, encompassing access, occupancy and exit dimensions, and grounded in the principles of minimum core obligations and progressive realization. In contrast, within the ECHR system, the right to housing has not emerged as an autonomous right but is protected indirectly, primarily through Art. 8 and Art. 1 of Prot. 1.

The analysis of the case law of the ECtHR reveals that protection remains fragmented and predominantly focused on negative obligations, while positive obligations are recognised only in limited circumstances where a sufficiently close link to private life is established. This approach constrains the ECtHR's ability to address structural and systemic housing challenges.

The thesis concludes that, despite existing interpretative limits, the ECHR framework retains the capacity to accommodate certain socio-economic dimensions of housing protection. Through evolutive interpretation, justified by the principles of effectiveness and the indivisibility of rights, and supported by international consensus, the right to housing may be further developed without altering the fundamentally civil and political nature of the ECHR.