

Mandate 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 and the Special Rapporteur on the human right to safe drinking water and sanitation

REFERENCE: AL
IRL 2/2015:

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Excellency,

We have the honour to address you in our capacity as 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 and Special Rapporteur on the human right to safe drinking water and sanitation pursuant to Human Rights Council resolution 25/17 and 24/18.

In this connection, we would like to bring to the attention of your Excellency's Government information we have received **concerning the extent of homelessness in the City of Cork and the lack of access of those who are homeless to emergency shelter and to safe drinking water and sanitation**

According to information received:

Currently, it is estimated that the number of homeless people in Cork is approximately 600. The numbers of homeless have been rising in the past few years due to lack of affordable housing, the impact of austerity measures and the global financial crisis, among other reasons. According to the records of a community centre providing services to homeless people, in 2011 it provided service to a total of 38 homeless, in 2014 to 284 homeless and in September of 2015 had already provided services to 253 homeless. The community centre, equipped with a total of 47 beds, noted that in recent months they have reached capacity frequently, and as a consequence they had to turn away individuals requesting temporary shelter on a regular basis.

It is alleged that the rent allowance allocations made available to individuals by the city of Cork are grossly inadequate for them to make monthly payments for private rental property. Rent allowance allocations are reported to be €483 for a

single person and €725 for a couple with two children, while average rent for a single person is estimated at €705 and for a couple with two children at €1 014.

A community centre providing regular soup runs reports that half of those who use their service are currently housed in very precarious situations and are at risk of losing their housing due to insufficient and irregular income.

Renters with weak and/or irregular income reportedly have no protection from sudden increases in rent demanded by the owners of rental property, which can leave them unable to pay rent and forced to either move out or face eviction, often leading to homelessness.

It is alleged that there has not been any free public water and sanitation services such as public wash stations or fountains in Cork, for at least ten years. The presence of inoperative infrastructure such as fountain heads in public locations indicates that such services were once available in Cork, but have been discontinued. The only alternative currently available for those who are homeless is to request access to water and sanitation services from private citizens or establishments such as bars, restaurants, or public institutions. However, in light of the stigma attached to being homeless, having to request such basic services, and often being refused access, is demeaning.

In addition, the water- and sanitation-related services available to the homeless through public emergency establishments, such as shelters, are reported as inadequate. Some shelters do not open to the homeless until the evening and existing shelters are not sufficient to accommodate all of Cork's homeless people overnight. This means that some homeless people have no access to any water or sanitation during the night when establishments with toilets are all closed.

Reportedly, the national homelessness action plan in combination with tenancy protection services and other strategies to address homelessness in Cork are not providing effective avenues to respond to this situation.

While we do not wish to prejudge the accuracy of these allegations, we wish to express concern that, according to the information received, hundreds of people in the city of Cork are reported to be without a place of residence, a secure place to sleep, and access to appropriate water and sanitation services. There appears to be a serious lack of both affordable housing and accessible emergency shelter alternatives, in particular for people living in poverty in this region. We are concerned that the city does not provide appropriate water and sanitation services to its homeless, although some of the necessary infrastructure may actually already be in place.

We are also concerned that these homeless people are reportedly unable to access adequate and affordable housing due to their inability to pay rent or mortgage payments without greater financial assistance and because of a lack of affordable housing in the city of Cork. There appears to be both a lack of social housing to provide long term

permanent affordable housing and lack of available emergency options such as shelters for the homeless. In the context of extensive homelessness, serious concern is expressed that there exists no public access to safe drinking water or sanitation services in the city of Cork, which *de facto* means that homeless people face circumstances in which water and sanitation are neither available, accessible nor affordable.

In connection with the above alleged facts and concerns, please refer to the **Reference to international law Annex** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

It is our responsibility, under the mandate provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention. We would therefore be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above mentioned allegations.
2. Please provide details on national or local laws, policies and programmes aimed at addressing homelessness in Cork and their relationship, if any, to binding international human rights obligations. In particular please explain whether the National Housing Strategy of Ireland complies with the obligation to take steps to the maximum of its available resources to realize the right to housing. Along these lines, please describe any goals or timelines for the elimination of homelessness included in the National Housing Strategy, if any, and explain the results so far achieved, as well as reasons why this may have not reduced or eliminated homelessness in Cork.
3. Please provide information and details on relevant budgetary allocations to the National Housing Strategy or to the reduction and elimination of homelessness and how these might have changed over the last decade.
4. Please provide available information on the number of homeless persons in Cork and more broadly in Ireland, explain the definition of homelessness that is applied, describe changes in the number of homeless in recent years and provide information disaggregated by age, gender, if persons with disabilities, and others that might be available.
5. Please explain the specific responsibilities of the local authorities with respect to the provision of affordable housing, and short and long-term housing alternatives for people facing homelessness. Please explain if these responsibilities take into account different situations (such as for example number of children, persons with disabilities, etc),

6. Please detail the relevant existing housing policies that govern rent increases in both the private and social housing sectors in Cork, and more broadly in Ireland.
7. Please detail the water and sanitation services available in the city of Cork to people without their own place of residence, including an explanation of the alleged facts pertaining to decommissioned public water supply infrastructure.
8. Please explain what steps have been taken and measures planned to address the circumstances of homeless persons without access to public water and sanitation services in Cork, and if similar situations exist in other parts of the country.

We would appreciate receiving a response within 60 days.

While awaiting a reply, we urge that all necessary interim measures be taken to realize all of Cork's citizens' rights to adequate housing and water and sanitation.

Your Excellency's Government's response will be made available in a report to be presented to the Human Rights Council for its consideration.

Please accept, Excellency, the assurances of our highest consideration.

Leilani Farha

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

Léo Heller

Special Rapporteur on the human right to safe drinking water and sanitation

Annex

Reference to international human rights law

In connection with the above concerns, we would like to remind your Excellency's Government of its obligations under various international human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights to which Ireland is a party since 8 December 1989, and more specifically article 11.1 recognizing the right of everyone to an adequate standard of living for himself and his family, including food and housing, and to the continuous improvement of living conditions. This article must be read in conjunction with article 2.2 of the Covenant which provides for the exercise of any right under the Covenant without discrimination of any kind.

The Committee on Economic, Social and Cultural Rights in its General Comment No. 4 has stressed that the right to adequate housing should not be interpreted in a narrow or restrictive sense such as merely having a roof over one's head; rather, it should be seen as the right to live somewhere in security, peace and dignity. This General Comment outlines the following aspects of the right to housing: (a) legal security of tenure; (b) availability of services, materials, facilities and infrastructure; (c) affordability; (d) habitability; (e) accessibility; (f) location; and (g) cultural adequacy.

Furthermore, according to the Committee's General Comment No. 7 on forced evictions, paragraphs 15 and 16, procedural protections are essential in relation to forced evictions, including, among others, genuine consultation, adequate and reasonable notice, alternative accommodation made available in a reasonable time, and provision of legal remedies and legal aid. In paragraph 17, the Committee further emphasizes that where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.

We recall the report of the Special Rapporteur on adequate housing to the Human Rights Council at its 28th session (A/HRC/28/62) on the obligations of subnational governments in the implementation of the right to adequate housing, stressing that all levels of government are responsible for the implementation of international human rights obligations, and must ensure the full implementation of those instruments. When central government delegates responsibilities to municipalities to provide emergency assistance and specific responsibilities in relation to homeless people, formally or informally, it must also ensure that these responsibilities are exercised in accordance with the human rights obligations of the State. It also must ensure that municipalities have adequate resources to comply with their human rights obligations. While we recognize that the internal allocation of responsibilities for implementing these rights is a matter for States to determine, this allocation must be consistent with the international human rights obligations of the State at all levels.

Furthermore, we recall the recognition of the human right to safe drinking water and sanitation by the UN General Assembly (resolution 64/292) and the Human Rights Council (resolution 15/9), which derives from the right to an adequate standard of living, protected under, inter alia, article 25 of the Universal Declaration of Human Rights, and article 11 of the International Covenant on Economic, Social and Cultural Rights (ICESCR). In its General Comment No. 15, the Committee on Economic, Social and Cultural Rights clarified that the human right to water means that everyone is entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses, which includes sanitation. The human right to sanitation means that everyone, without discrimination, has physical and affordable access to sanitation, in all spheres of life, which is safe, hygienic, secure, socially and culturally acceptable, provides privacy and ensures dignity.

We would also like to draw the attention of your Excellency's government to the principles of equality and non-discrimination, which are core elements of the international human rights normative framework and enshrined, inter alia, in article 2 of the Universal Declaration of Human Rights and articles 2 of the ICESCR and International Covenant on Civil and Political Rights and other human rights conventions. In its General Comment 20 (paras. 34 and 35), the CESCR noted that "place of residence" and "economic and social status" are prohibited grounds for discrimination, implied to in the phrase "other status" in article 2 of the ICESCR. Owing to their lack of or limited access to housing, persons living in poverty rely more heavily on public spaces for their daily activities. Thus, measures which discriminate against individuals because they live in a situation of poverty, such as decommissioning the only water sources and sanitation services available for homeless people, may amount to a contravention of the principle of non-discrimination.