



Right to Housing, national report for Hungary

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About ETHOS

ETHOS - Towards a European Theory Of Justice and fairness, is a European Commission Horizon 2020 research project that seeks to provide building blocks for the development of an empirically informed European theory of justice and fairness. The project seeks to do so by:

- refining and deepening the knowledge on the European foundations of justice - both historically based and contemporary envisaged;
- enhancing awareness of mechanisms that impede the realisation of justice ideals as they are lived in contemporary Europe;
- advancing the understanding of the process of drawing and re-drawing of the boundaries of justice (fault lines); and
- providing guidance to politicians, policy makers, advocacies and other stakeholders on how to design and implement policies to reserve inequalities and prevent injustice.

ETHOS does not merely understand justice as an abstract moral ideal, that is universal and worth striving for. Rather, it is understood as a re-enacted and re-constructed "lived" experience. The experience is embedded in firm legal, political, moral, social, economic and cultural institutions that are geared to giving members of society what is their due.

In the ETHOS project, justice is studied as an interdependent relationship between the ideal of justice, and its real manifestation – as set in the highly complex institutions of modern European societies. The relationship between the normative and practical, the formal and informal, is acknowledged and critically assessed through a multi-disciplinary approach.

To enhance the formulation of an empirically-based theory of justice and fairness, ETHOS will explore the normative (ideal) underpinnings of justice and its practical realisation in four heuristically defined domains of justice - social justice, economic justice, political justice, and civil and symbolic justice. These domains are revealed in several spheres:

- philosophical and political tradition,
- legal framework,
- daily (bureaucratic) practice,
- current public debates, and
- the accounts of the vulnerable populations in six European countries (the Netherlands, the UK, Hungary, Austria, Portugal and Turkey).

The question of drawing boundaries and redrawing the fault-lines of justice permeates the entire investigation.

Alongside Utrecht University in the Netherlands who coordinate the project, five further research institutions cooperate. They are based in Austria (European Training and Research Centre for Human Rights and Democracy), Hungary (Central European University), Portugal (Centre for Social Studies), Turkey (Boğaziçi University), and the UK (University of Bristol). The research project lasts from January 2017 to December 2019.

Executive summary

This country report deals with the legal framework on the right to housing in Hungary with special regard to persons with disabilities and ethnic minorities, regarding especially the issues of access to social housing/housing benefits and in eviction. The report considers the constitutional and legal framework and the impact of European and international law. It finds that the housing policy – in line with the general decline of the welfare state, and in a transition to a “workfare” state – is not targeted at the most vulnerable, or even sometimes criminalizes the most vulnerable. The constitutionalized criminalisation of homelessness, decentralized and declining housing support, extremely scarce social housing are paired with policies benefitting the middle class or even upper middle class. Most benefitted are well-off families with three children. Housing policy to a large extent aims at countering demographic decline and boosting the real estate market, and to some extent mobility necessary for new employment. There is very little support for those outside the labour market, which disproportionately affects persons with disabilities and discriminated minorities such as the Roma, the latter being also more likely to be evicted. Hungarian law thus only marginally considers housing as an instance of redistributive justice, unless the reverse or perverse redistribution inherent in the tax benefits for families is considered such.

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This report focuses on **access to social housing/housing benefits** and **protection from eviction**.

Please check:

- United-Nations, Universal Period Review on right to housing for your country:
<https://www.ohchr.org/EN/HRBodies/UPR/Pages/UPRMain.aspx>
- United-Nations Human Rights Committee, Concluding Observations on your latest country report: <https://www.ohchr.org/EN/HRBodies/CCPR/Pages/CCPRIndex.aspx>
- United-Nations Committee on Economic and Social Rights, concluding observation on your last country report:
<https://www.ohchr.org/EN/HRBodies/CESCR/pages/cescrindex.aspx>
- United-Nations Committee on the Rights of the Child, last country report:
<https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>
- Committee on the Rights of People with Disabilities, Concluding Observations on your latest country report:
<https://www.ohchr.org/EN/HRBodies/CRPD/Pages/CRPDIndex.aspx>
- Committee on elimination of racial discrimination, latest country report:
<https://www.ohchr.org/EN/HRBodies/CERD/Pages/CERDIndex.aspx>
- Committee against Torture, latest country report:
<https://www.ohchr.org/EN/HRBodies/CAT/Pages/CATIndex.aspx>
- Special Rapporteur on the Right to Adequate Housing, report
<https://www.ohchr.org/EN/Issues/Housing/Pages/HousingIndex.aspx>
- United-Nations Habitat: Advisory group on forced eviction, documents
- Council of Europe, Committee of Ministers' report on the execution of rulings:
<https://www.coe.int/en/web/execution>
- European Court of Human Rights, case law database:
<https://www.echr.coe.int/Pages/home.aspx?p=caselaw> **HYPERLINK**

["https://www.echr.coe.int/Pages/home.aspx?p=caselaw&c="&](https://www.echr.coe.int/Pages/home.aspx?p=caselaw&c=) HYPERLINK

["https://www.echr.coe.int/Pages/home.aspx?p=caselaw&c="c=#n14597620384884950241259](https://www.echr.coe.int/Pages/home.aspx?p=caselaw&c=) pointer

- European Committee on Social Rights, latest country report: <https://www.coe.int/en/web/turin-european-social-charter/european-committee-of-social-rights>
- EU Fundamental Rights Agency, Charterpedia, national case law on Article 34 (social security and assistance) <http://fra.europa.eu/en/charterpedia/article/34-social-security-and-social-assistance> ; Article 37 (Consumer protection) <http://fra.europa.eu/en/charterpedia/article/38-consumer-protection> ; Article 7 (privacy) <http://fra.europa.eu/en/charterpedia/article/7-respect-private-and-family-life>
- EU Fundamental Rights Agency, The situation of Roma citizens moving and settling in other member states, <http://fra.europa.eu/en/publication/2010/situation-roma-eu-citizens-moving-and-settling-> HYPERLINK
["http://fra.europa.eu/en/publication/2010/situation-roma-eu-citizens-moving-and-settling-other-eu-member-states"](http://fra.europa.eu/en/publication/2010/situation-roma-eu-citizens-moving-and-settling-other-eu-member-states)other-eu-member-states
- European Union, European Website on Integration, Analysis of immigrant housing in Europe: <https://ec.europa.eu/migrant-integration/intdossier/ewsi-analysis-immigrant-housing-in-europe>
- European migration network, The organization of reception facilities for asylum seekers in different member states: <https://ec.europa.eu/migrant-integration/librarydoc/the-organisation-of-reception-facilities-for-asylum-seekers-in-different-member-states>

1. National legal framework

1.1. Constitutional protection

Does *national constitutional law protect*, either through explicit textual reference or by means of authoritative interpretation, *any right to (social) housing, or housing assistance, or any other form of protection of the home*. If so, in which terms? If not, how is the right to (social) housing

or social assistance protected? Are there any corresponding state obligations of a constitutional nature?

The right to housing is not guaranteed in the Hungarian Fundamental Law, only as a state aim. The relevant provisions belong to the most odious ones in the document. Constitutional amendments first allowed for local authorities to make homelessness illegal in a certain area (4th Amendment, 2013), and finally, simply made homelessness illegal on the entire territory of the state (7th Amendment, 2018).

“Article XXII

(1) Hungary shall strive to ensure decent housing conditions and access to public services for everyone.

(2) The State and local governments shall also contribute to creating decent housing conditions by striving to ensure accommodation for all persons without a dwelling.

(3) In order to protect public order, public safety, public health and cultural artefacts, an Act or a local government decree may, with respect to a specific part of public space, provide that using a public space as a habitual dwelling shall be illegal.”

These provisions were introduced because analogous provisions in a lower ranking law were declared unconstitutional by a then still functioning Constitutional Court, which ruled that making the *condition* of homelessness illegal violated human dignity.

In 2018, these last two paragraphs were changed even more radically:

“(2)* The state and local authorities help create the conditions of housing worthy of human beings *and the protection of the public interest use of public space* by striving to provide dwelling to all persons living without a home.

(3)* Using a public space as a habitual dwelling shall be illegal.”

Already the 2013 version was outrageous for allowing vague public interests in sublegislative norms to override the right to human dignity, in theory inviolable (Art II of the Fundamental Law), but the 2018 version goes even further by not even trying to look like a constitutional provision, subject to rule of law or proportionality concerns.

This is relevant for the paper since a large number of homeless persons are likely disabled. According to one survey, 43 percent of homeless persons in Budapest have chronic or severe illness and a large number have mental or psychiatric problems. While there is no comprehensive data, it is very likely that many persons who are homeless are disabled at the same time, either as a result of homelessness, or the other way around, the circumstances related to their disability contributed to them being prone to homelessness.

How strong is the protection afforded to the right to property or the right to carry out a business under domestic law? To what extent can it be limited to pursue social objectives (eg affordable housing) or interest, including the protection of one's home?

In Hungarian constitutional law, the right to property is not very strong, and can be limited to the pursuance of social objectives, but it does not have to be (Hungary is not a social welfare state). The old Constitutional Court, whilst it expanded the scope of protection afforded to constitutional property, also accepted broad limitations, as common in modern regulatory states. The right to property may be limited to pursue a simple public interest, direct benefit for selected individuals, to solve specific social problems.¹

Similarly to international trends, taxation is not perceived in general as a limit on property rights. Furthermore, the parliamentary majority – if wanted to – could introduce taxes for any –

¹ 64/1993. (XII. 22.) AB határozat.

including social policy – objectives, since the Constitutional Court is largely banned from examining such laws on the basis of the Fundamental Law, Art 37 (4).²

1.2 (Social) housing policy

Please provide some general information on the provision of social housing/housing assistance in your member state (social housing stock, measures to promote construction and maintenance of social housing stock, social rental agencies, housing benefits, etc), and/or refer to synthetic materials easily available in English.

Social housing (policy) is largely non-existent in Hungary in general. Only 2-3 percent of all housing is social housing, and there are long waiting lists. Criteria for distribution are often unclear, and rejections are usually not reasoned. Furthermore, such flats are most often in bad condition, and refurbishment is meant to be done by the tenants (in exchange for reduced rent), which puts applicants with disability, and also those living in poverty (including Roma) in a disadvantageous position.

1.3 General national rules

² Article 37 (4) As long as the state debt exceeds half of the Gross Domestic Product, the Constitutional Court's power to review the conformity of acts *on the central budget and its implementation, central taxes, duties and contributions, customs duties and the central conditions for local taxes* with the Fundamental Law is limited to controlling the respect of a restricted set of fundamental rights, namely the *right to life and human dignity, the protection of personal data, freedom of thought, conscience and religion, or rights related to Hungarian citizenship.*

As a consequence, the Court can no longer invalidate such acts when they breach *other* constitutional provisions, such as the right to property, or legal certainty (these two provisions used to be the most frequent grounds on which the HCC invalidated such laws)

Does national law provide for an ‘enforceable’ right to (social) housing? If so, in what terms? Please provide necessary details of its recognition and implementation.

No.

Please summarise the *national (and/or where relevant local/regional) legal framework* determining who is *entitled to social housing* and under which conditions (including rules related to access but also termination of social housing). Given that social housing comes in limited supply, pay particular attention to ‘priority’ rules and procedural mechanisms.

1.3.1. Social housing

There is no law on social housing. Flats available for social housing are in the property of local self-governments, and regulations differ from settlement to settlement. The law on housing in general provides very little guidance. According to the law, the local authorities are entitled to decide which portions of the housing owned by them will be distributed as social housing, and which on a cost basis (ie below market price, but not at a loss for the local authority), and which on market basis for profit.

As flats owned by the local self-government are scarce, and local self-governments are in general in a not very good financial situation, there is an incentive to rent out flats at the market price, and to consider social housing only for flats which are not marketable, ie. in bad condition. For instance, a quick check of the 2018 monthly overview of social housing rentals collected by the Streetlawyer association reveals that in the entire Budapest, there are in between 7 to 20 flats (or sometimes only rooms) available monthly, and very few of them actually at lowered prices (most of them are in bad condition and come with a legal obligation to refurbish, and others are offered at either cost or market basis.³

³ Eg in February 2018, there is 5 flats at market price, with obligation to renovate, and 4 rooms. <https://utcajogasz.hu/2018/05/11930140/>

I could not find “measures to promote construction and maintenance of social housing stock, social rental agencies,” at least not at the central level.

Some local governments (eg 13th district in Budapest) participate in the building of rental housing, but it does not necessarily mean social housing.

It was possible to find only one initiative which aimed at building new social housing. This stems from a progressive oppositional mayor of the Budapest district, Zugló. As mayors and local governments are countrywide overwhelmingly dominated by Fidesz members (be they more on the conservative or the extreme right wing side), the Zugló model is very unlikely to be followed by anyone. In any case, this project is a co-housing, environmentally conscious, zero omission project, funded by the Commission’s Urban Innovative Actions Programme.⁴ This new project launched in 2018 fits the general so-called “Zugló social model”, introduced in 2015. This is a complex program of support schemes which contribute to the prevention of housing loss in various ways (minimum income, higher than average housing maintenance support, job seeking and family services etc).⁵

1.3.2. Housing benefits

- *Housing maintenance support*

The original form of this support was introduced in 1993 by the “social law.” It was based on objective income criteria (called “normative support” by Hungarian housing scholarship), where the less income a housing unit has per person, the more support it receives. Entry conditions were that housing maintenance costs take more than 35 %, and later more than 20% of the income of all persons living in one unit, and the income is less than 150% (later less than 250%) of the minimum pension. 90% of the support came from the central budget, and 10% from the local self-

⁴ <https://www.portfolio.hu/ingatlan/lakas/forradalmi-lakhatas-zugloban-elindult-az-also-onkormanyzati-co-housing-projekt.305611.html>

⁵ The experience of the first two years is summarized here: https://www.zuglo.hu/wp-content/uploads/2018/02/BI_Zuglo_2.MJ_Monitoring_Jelentes_20171215.pdf

government. However, this scheme was abolished in 2015, and was replaced by maintenance support financed entirely from local budgets, for which the local government may introduce new taxes.

- *Tax benefit to the employer*

A certain form of support also called “housing support” as provided by the (central) legislation is a support scheme by which employers get tax exemption if they contribute to the housing of their employee. That is, this scheme reaches only those who have a job, and even then it is left to the employer whether to use it or not.

- *Housing support for job-seekers and newly employed (mobility)*

A further type of support similarly called “housing support” can be granted to those who have been jobless, lost their job due to collective redundancy, or were employed by the public employment scheme, and would commute more than 100 km or five hours daily for a new workplace. This can be a significant support for the first months (maximum 12 months) of the employment relationship, but whether it is granted appears to be largely in the discretion of the authority.

1.3.3. Eviction

Please summarise the *national legal framework* regulating eviction. Pay attention to different ‘types’ of eviction, including eviction from rented properties for unpaid rent/bills, eviction from ‘illegally’ occupied properties (eg squats, camps), eviction from public properties (eg evacuation of Roma or ‘refugee’ camps), eviction from public or private properties for regeneration/beautification projects, gentrification programs, eviction in the context of mortgage foreclosure or housing repossession procedure, etc.

In general

The eviction measure requires prior judicial decision in general, since that is an enforcement decision which can be executed by bailiff.

There is a different procedure for eviction depending on whether the rental contract is for a determined period or for an indeterminate period.

In the case of contract for indeterminate period, the regular procedure applies, the landlord has to turn to court, which decides the case, and then, in case the former tenant does not move out voluntarily, the landlord can request an eviction order – the whole process might take months or years.

In the case of a rental contract for a determinate period, the owner must notify the tenant to leave the flat within 15 days of the expiry of the contract. If the owner does not notify the tenant, the contract automatically changes into a contract for indeterminate period.

If the tenant is notified, but does not move out, the landlord can start an expedited procedure within 60 days: in such a case, the court decides within 5 days in a non-contentious procedure, notifies the bailiff, who executes the eviction in 2 days (and the bailiff is entitled to call police if the tenant does not leave voluntarily.)⁶

If the tenant is not notified, then the contract for determinate period changes into a contract for undetermined period within 15 days, and the regular procedure applies.

The dweller can ask for a suspension of the eviction once, for 6 months⁷, except if he or she is an illegal („arbitrary”) occupant.⁸

In all cases (determinate or undeterminate), where the rental contract was notarized with a notary public, the landlord can directly turn to the bailiff to ask for eviction, there is no need to turn to court.⁹

⁶ Art. 183/A of the Act Nr LIII of 1994 on enforcement.

⁷ Para. 6. Art 48 of Act Nr LIII of 1994 on enforcement.

⁸ Para 7. Art 48 of Act Nr LIII of 1994 on enforcement.

⁹ Art 23 of Act Nr LII of 1994 on enforcement.

In case it is a legal person who is requesting the eviction of a person, and the flat is used for dwelling, the tenant may request a 90 day prolongation of the period open for voluntary leaving of the flat, and the court will grant it, unless the tenant was previously fined in the process.¹⁰

The expedited regime applies to so-called arbitrary occupants. The definition is not in the law on rental flats, and the rules are scattered in different laws. The law on misdemeanours and petty crimes considers arbitrary occupancy the fact of moving in into a flat to which the dweller has no legal title (eg neither tenant, nor user out of favour).¹¹

Arbitrary occupants can be evicted from the flat in the same expedited judicial procedure (non-contentious) as persons who overstay their rental contract, and the decision is in itself a basis for eviction, there is no need to acquire an eviction order.¹²

The Constitutional Court found (back in 2002) that the regulation of arbitrary occupancy does not violate the (then-formally existing) right to social security, for the state is not supposed to protect social security by non-protecting the right to property of the owner.¹³

Regeneration/beautification

The law on rental flats declares that the tenancy of a flat in public property ceases if the flat is “on the territory of an investment of special importance for the national economy” and it being rented would prevent the investment¹⁴. The territory of special importance is to be designated in a government decree (which basically means it is in the hands of the prime minister). In such cases, importantly, the state or the local municipality (the owner) must provide alternative housing to the persons evicted. The law grants a right to turn to court against the decision, and in the proceedings, the burden is on the state/municipality to prove that the continuation of

¹⁰ Art 181 of Act Nr LIII of 1994 on enforcement.

¹¹ Art 167 of Act Nr II of 2012 on misdemeanors.

¹² In fact, the general rule in Art 183 of Act Nr LIII of 1994 on enforcement is about arbitrary occupancy, and Art 183/A makes the procedure in Art 183 applicable to contracts for a determined period.

¹³ 71/2002. (XII. 17.) AB határozat

¹⁴Art 23/A of the Act Nr LXXVIII of 1993 on rental housing.

tenancy hinders the realization of the investment.¹⁵ (This means there is no judicial review against the designation of special importance for the national economy as such.)

Eviction ban during cold weather

There is an eviction ban from the middle of November till the end of April the following year, and thus, evictions falling within this period are to be postponed.¹⁶

This applies to everyone (tenants in public or private property alike) but it does not apply to illegal occupiers in general.¹⁷ (unless their tenancy has become illegal because *they have not moved out in time.*)¹⁸

1.4. Specific rules targeting selected groups

Are they *specific rules targeting our selected groups* (refugees, asylum-seekers, undocumented migrants, persons living with disabilities, ethnic and religious minorities) with regard to access to social housing/housing benefits (e.g. priority, special accommodation, etc.), as well as with regard to the protection against the loss of the home (eviction).

A specific aid designed for persons with limited mobility is a very low sum (HUF 300 000 per 10 years) to refurbish their home in order to make it accessible. This amount might suffice to

¹⁵ Id. Para (7).

¹⁶ Art 182/A of Act Nr LIII of 1994 on enforcement.

¹⁷ Id. Para. 2.

¹⁸ Art 183/A para 2. of Act Nr LIII of 1994 on enforcement.

establish a ramp maybe – but for instance an elevator would cost five-ten times as much, and brings with it maintenance costs uncovered by this type of accommodation support.

1.5 Constitutional challenges

Have national rules set out in legislation, regulations or other binding legal measures regulating access to social housing/housing benefits or eviction been challenged for incompatibility with national constitutional norms? If so, which ones, and with what effect? [If information is easily accessible, can you also indicate who were the parties challenging those rules? Have certain national rules contested by societal actors but not challenged before courts?]

Eviction regulations were the object of a 2002 Constitutional Court decision. The Court however found no violation (see above).

In a December 2018 first instance decision, the Miskolc Tribunal declared a Miskolc city ordinance and the practice surrounding its execution, including razzias and eviction of Roma discriminatory in a “biggest ever anti-discrimination” litigation.¹⁹

Earlier litigation also shows that the general context of housing of Roma is prone to discrimination, and likely not only in Miskolc, although Miskolc city ordinances were quashed by the Curia at the initiative of the HCLU. According to a 2013 ordinance, several hundred thousand forints fine can be exacted to a person who allows someone to move into their flat whereby the squaremeter per person ratio falls behind 6.²⁰ The deconcentrated organ (kormányhivatal – “government office” in the counties) supervising local governments took the ordinance to the Curia which has competence to annul local ordinances. The Curia annulled a part of the ordinance stating that the requirement of 6 squaremeter per person is a discrimination based on one’s social situation, and also does not respect the obligation in Art XV of the Fundamental Law.²¹ which says

¹⁹ <https://tasz.hu/cikkek/megnyertuk-magyarorszag-legnagyobb-antidiszkriminacios-peret-miskolc-onkormanyzata-ellen> (*the text of the decision is not yet available*).

²⁰ <https://tasz.hu/cikkek/miskolci-rendeletbe-foglalt-szegenyellenes-szabalyokat-kaszalt-el-ismet-a-kuria>

²¹ <https://tasz.hu/cikkek/miskolci-rendeletbe-foglalt-szegenyellenes-szabalyokat-kaszalt-el-ismet-a-kuria>

that “by means of separate measures, Hungary shall help to achieve equality of opportunity and the social catching up.”

- Relevant institutional and procedural aspects

Please summarise institutional aspects (eg judicial review mechanisms) or procedural rules (eg standing) which are important in terms of guaranteeing access to social housing/housing benefits and the protection from eviction (200 words or reference to English language presenting it in a relevant, synthetic and concise manner).

n.a.

2. Impact of international and European law

2.1 Challenges to national rules based on international instruments

Have rules on access to housing/housing benefits and/or eviction in national constitutional documents, legislation, regulations or other binding legal measures been challenged *by reference to international instruments* (notably the ICESR, CRPD, CRC, CAT, Refugee Convention, etc). With what effect?

Has the international law protection of the right to property (or other internationally protected rights) be invoked to challenge national rules on access to housing/housing benefits and/or eviction? Please refer to background paper (Deliverable 3.3), section 4) Justice in the Rights to Vote, Housing and Education in International Law for relevant information.

Have international monitoring bodies (HRC, CESR, CRC, CRPD, CAT, CERD, Special Rapporteur on the right to adequate housing, etc) adopted opinions/decision on the compatibility of those rules with international law? Did it produce any effect on national law?

No. The last concluding observations of the Committee for Social, Cultural and Economic Rights is from 2008.²² Already at that time, the Committee expressed concern about the severe housing deprivation of Roma and the practice of evictions.²³

Criminalization of homelessness was widely deemed incompatible with international human rights law, but not yet found its way into official documents.

2.2 Challenges to national rules based on European (Council of Europe) instruments?

Has the Committee on Economic and Social Rights issued decision against your country for non compliance with the RESC? Was national law adjusted to conform to the RESC?

Please refer to background paper (Deliverable 3.3), section 5) subsection 2) The Right to Housing in Council of Europe Law – Justice as Redistribution for relevant information.

Hungary has not accepted Art 31 RESC (the right to housing) as binding, therefore, there is no material related to that.

²² E/C.12/HUN/CO/3

16 January 2008,

https://tbinternet.ohchr.org/_layouts/treatybodyexternal/TBSearch.aspx?Lang=en&TreatyID=9&DocTypeID=5

²³ “22. The Committee is deeply concerned that one-fifth of the Roma in the State party live in slum settlements, often without access to running water, adequate sewerage or located close to municipal dumpsites, and that Roma are frequently denied access to social housing, e.g. on the ground that they previously occupied accommodation without legal title or as a result of the distribution of social housing by local governments through public auction at high prices. It is particularly concerned about the increasing number of forced evictions of Roma, often without provision of adequate alternative housing, and about the Constitutional Court’s ruling that the need to implement eviction orders takes precedence over the right of children not to be separated from their families and placed in the State care system.” E/C.12/HUN/CO/3, 16 January 2008

Art 16 however has been accepted, and formed part of conclusions 2015 and 2017 regarding Hungary by the Committee. In these, the Committee criticized that vulnerable and Roma families are not provided shelter, and are often evicted from their homes.

Hungary has not accepted the collective complaint mechanism.

There was also no ECtHR case regarding Hungary and housing.

2.3 Challenges to national rules based on EU law

Has *EU law*, in particular EU free movement of workers and EU citizenship rules, EU immigration and refugee law, EU non-discrimination law, EU consumer law, EU internal market (eg free movement of services), EU state aid and competition law, EU public procurement law, EU tax law, EMU law, or the European Pillar of Social Rights, been invoked in domestic courts to challenge national rules concerning access to housing/housing benefits and/or eviction?

In the official database on judicial decisions, the Race Equality Directive, together with words like flat, housing, living etc. brought a few (often repetitive) hits, but none of them spells out housing discrimination. Often, the Race Equality Directive is mentioned next to the Equality Law (which is also its implementing legislation.) In a 2007 case, the Equal Treatment Authority was brought to court for it found in a case of eviction discrimination based on material-financial situation (but not racial discrimination, although the evicted were Roma), but the court found the finding was not justified.²⁴

Has the European Commission launched enforcement actions against your state for violation by national rules regarding access to housing/housing benefits and/or eviction of EU law? Did the Commission take your state to the CJEU? Was national law adjusted to comply?

²⁴ 21.K.31897/2006/19. Metropolitan Court, judgment of 1 October 2007.

Have they been referrals to the CJEU, and decisions, related to a violation of EU law by your member state's rules regarding access to housing/housing benefits and/or eviction? If yes, where they follow by any effect?

Please refer to background paper (Deliverable 3.3), section 6) subsection 3) Right to housing in EU law - Justice as redistribution... for relevant information.

No, except regarding the distant issue of rearrangement of foreign currency loans, where the CJEU said it was within the power of the national court to examine and find a condition unfair.²⁵

- Relevant institutional and procedural aspects

Please provide necessary information concerning the incorporation and position/authority of international law, Council of Europe's instruments, and EU law in your country, which are of relevant to understand the protection of the right to housing in your country? In particular, does you state follow a monist or dualist approach? Can national courts invalidate/set aside national laws against international, Council of Europe and EU instruments?

Not relevant (no right to housing accepted).

3. Right to housing, justice as redistribution and vulnerability

3.1 Right to housing and justice as redistribution

When reviewing the national legal framework and, where relevant, references to International and European norms, could you identify arguments engaging different conceptions of justice as redistribution (refer to 3.3 section -). In particular, pay attention to priority rules or conditions of eligibility in access to housing, or conditions surrounding evictions, and who they identify as main beneficiaries.

²⁵ Case C-51/17, ECLI:EU:C:2018:750, OTP v Ilyés and Kiss, judgment of 20 September 2018.

Please specify whether these were part of court's reasoning or parties' arguments, and if the later, provide any relevant information that could help evaluate who mobilized the law to achieve greater justice (eg NGOs, etc.). Please refer to background paper (Deliverable 3.3), section 2) subsection 2) Justice as Redistribution and the Right to Housing for relevant information.

The bottom line is that the state does not have an obligation to provide minimum housing to people who need it. There clearly is no view that the provision of housing is an aim for which redistribution is required (no central tax introduced for this purpose). On the other hand, local governments can introduce new taxes from which they want to finance social housing and other housing support, and such taxes will not be hindered by constitutional jurisprudence either. It would be however a mistake (almost cynical) to consider this an idea of decentralized justice, since local governments are overwhelmingly short in income, and will regularly be able only to introduce minimum housing support.

As the public housing stock is both very meagre and in rather bad condition, the local governments are not incentivized to provide housing to the neediest – in fact they will give the flats to those who are able to renovate them, and those flats which are in good condition can be rented at market price. Housing policy, as little as there is, all in all can be said to reach too few people, and not reaching the poorest people. Of course, some local governments might be exceptions.

Housing policy is much more oriented towards supporting new house ownership of well-earner, three-children families, which is heavily subsidized from tax money. This is often called reverse or perverse redistribution.

3.2. Right to housing and vulnerability

Does the concept of vulnerability play a role in the context of access to social housing/housing benefit or the protection from eviction in your country? Please explain how, and provide some representative illustrations. Please refer to background paper (Deliverable 3.3), section 2) subsection 3) Vulnerability as a human rights law concept for relevant information.

The allocation of housing support is mostly based on need and partly on deservingness (or: some supports promote the aim of full employment). The notion of vulnerability specifically does not

play a role in Hungarian rules. Social policy in general is moving away from the European social model with the explicit aim of creating a workfare society.²⁶

Protection from eviction might be said to exist in three regards: (i) the provision of alternative housing in case public property is emptied; (ii) the possibility of postponing eviction once for six months; (iii) the ban on eviction for the cold period. The (i) solution simply follows from the idea of compensation since rental rights over flats in public property are suspended for regeneration purposes. The postponement of eviction for 6 months is also not especially focused on vulnerability. The ban on eviction during winter could be understood to be based on a certain understanding of vulnerability, but it is more of a minimal humanitarian gesture, especially considering that yearly several dozens of people freeze or cool to death (on the street or in their homes which they are not able to heat for reasons of poverty.)

²⁶ Eg Dorottya Szikra, "Távolodás az európai szociális modelltől – a szegénység társadalompolitikája" (Moving away from the European Social Model. The Social Policy of Poverty), *MAGYAR TUDOMÁNY* 179: (6) pp. 858-871. 2018