

**Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises and 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**

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Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises and 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, pursuant to Human Rights Council resolutions 35/7 and 34/9.

We are writing to express our concern with respect to your Government's practice of adopting laws and policies which treat housing as a commodity and undermine the enjoyment of housing as a human right. We invite you to reflect on the following concerns with a view to developing a human rights based response.

Our chief concern lies with those laws and policies which have allowed unprecedented amounts of global capital to be invested in housing as security for financial instruments that are traded on global markets, and as a means of accumulating wealth. This expanding role and unprecedented dominance of unregulated financial markets and corporations in the housing sector is now generally referred to as the "financialization of housing" and it is having devastating consequences for tenants.

Contrary to international human rights obligations, investment in housing in the Republic of Ireland has disconnected housing from its core social purpose of providing people with a place to live in with security and dignity.

In Ireland, in late 2007 to early 2008, the housing bubble - which started in the early 1990s - burst and the construction sector collapsed. Given the very close financial connection to developers and construction firms, so did Ireland's banks.

Central to the Government's recovery strategy was the introduction of austerity measures, a programme of ridding domestic banks of non-performing debt assets, and increasing levels of foreign financial investment in the domestic housing and mortgage market. Sweeping cuts were introduced notably to the public housing capital construction budget - from €1.46bn in 2008 to €167m in 2014 - which was disproportionately higher and more severe than other public sectors. As a result, newly built social housing stock fell from 5,300 units in 2009 to 1,000 in 2012 and then an effective ceasing of the social house-building programme with just 476 units built in 2015. Between 2005 and 2017, the number of families on the social housing waiting list increased by 100% from 43,000 to 86,000.

Foreign investment and finance was brought into the country by the Irish State in the post-crisis period through a number of measures including: the establishment of the National Asset Management Agency (NAMA) charged with selling assets to global investors; the introduction of the 2013 Real Estate Investment Trusts (REIT) tax, which enabled and encouraged the establishment of REITs to benefit investors; and the sale by the state controlled Irish banks of non-performing loans to investment funds. The loans NAMA has purchased have a combined real value of €74.2bn, but were purchased by NAMA for less than half of that, €31.8bn. Owing to the heavy deregulation of foreign investors, and the legislative changes introduced to make Irish property markets more attractive to these investors, the sale of non-performing loans and securitised assets to foreign private financial institutions has increased exponentially. Of all assets sold by NAMA, 93% have gone to foreign investors, with 90% being sold to US private equity funds. By 2016, one third of all properties sold in Ireland were being purchased by investors.

At the same time the housing need has been increasing in Ireland. In 2015 only 8,000 new dwellings were added to Ireland's total housing stock, despite the underlying demand of 23,000 units. In 2018 output had increased to 18,072, but estimates of annual housing need are in the range of 30,000 to 50,000. Whilst the Government has indicated a willingness to provide an additional 137,563 units of social housing by 2021, in reality 87,560 (63.7%) of these will be provided through private rental subsidies. This shift has been enabled by legislative change under the Housing (Miscellaneous Provisions) Act 2009 (as amended), which means the provision of rental subsidies is now deemed legally akin to the direct provision of social housing. Where a family is provided with rental supplements, they are removed from the social housing waiting list and no support is given to them to find housing in the private rental sector (aside from some homeless services support in certain cases).

Heavy private housing investment combined with the cuts in public housing budget has been making housing in Ireland significantly unaffordable. This is made worse by land hoarding: investors sit on vacant land to restrict supply and thus increase demand and value. In Dublin rents have increased by 42% in the past six years, and a person with an average salary renting the average property now has to allocate 86.3% of their earnings on rent. Owner-occupation is also becoming more expensive, with house prices now approaching levels last seen at the height of the property bubble, and Ireland's Housing Agency defining housing in Ireland as 'moderately unaffordable', with Dublin being described as 'seriously unaffordable'. Private equity landlords, such as Ireland's largest landlord, I-RES REIT, have openly discussed policies of introducing the highest rents possible in order to increase returns for shareholders. The recent report by the Department of Finance notes that these large REIT investor landlords are playing a key role in setting inflated market rents in certain areas.

Private housing investment, and the related increased unaffordability and availability it has generated, has also impacted security of tenure. Property investors (and investor landlords) are known to push tenants and owners out of their homes by taking possession, evicting, or creating conditions to compel tenants to leave – such as vastly

increased rents or using loopholes in rent legislation. Those living in private rental accommodation are particularly at risk of experiencing insecurity of tenure, with 491 complaints regarding illegal evictions made to the Residential Tenancies Board in 2017, up from 351 in 2016, and 320 in 2015.

For example, in October 2017, private equity fund Lugus Capital purchased the 78 unit Leaside Apartment Complex at auction, where it was advertised as having the potential for greatly increased rental yields through refurbishment. Whilst Cork City is a Rent Pressure Zone (RPZ), where rent increases are limited to 4% annually, a loophole in the law allows for increases of more than 4% where substantial refurbishment takes place. Refurbishment to increase fire safety in one building began in spring 2018 and has led to serious health and safety concerns, with residents, a mix of international students and low-income students, still living in the building reporting flooding, cold and damp. Residents have led protests and have taken their case to the Residential Tenancies Board, in an attempt to stop the evictions, however to date no decision has been reached.

Homelessness has increased exponentially in recent years, with the number of homeless adults rising by nearly 95.9% between 2015 and 2018, whilst levels of child homelessness grew by 227.7% over the same period. The central causes of homelessness are issues related to the private rental sector. The lack of tenant protections in the private rental sector – such as the ease with which a landlord can evict for sale or to move family members in and the lack of life-time leases means that tenants are extremely vulnerable to exploitation, housing insecurity and homelessness from the actions of investor landlords. Homelessness is one of the most egregious and damaging violations of the right to adequate housing. The impact of homelessness on children in particular, is known to be devastating on their development both physically and mentally.

The financialization of residential real estate undermines the enjoyment of the right to non-discrimination and to housing. Because the business model associated with financialization demands short-term profits, there is heightened pressure placed on purchasing affordable housing - often where the most vulnerable communities are located - and then securing the highest possible return on investment through the persistent extraction of profits through monthly rents. The result of this is the constant escalation of housing costs for tenants. Turning housing into an investment leads to decision-making that is investor centric, rather than tenant centered. When the focus is on maximising profits, housing becomes less affordable, less available, less secure, and less habitable.

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 the Republic of Ireland has been a party since 8 December 1989, and more specifically article 11.1 which states that “[t]he 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.” In addition, we would like to bring to your Government attention the UN Guiding Principles on Business and Human Rights (UNGPS), which remind States that they must protect against human rights abuse by business enterprises within their territory and/or jurisdiction. As part of

their duty to protect against business-related human rights abuse, States are required to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (Guiding Principle 1). In addition, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights...” (Guiding Principle 3). In addition, business entities also have an independent responsibility to respect human rights, including the right to adequate housing, according to the UNGPs.

As you may know, according to international human rights law, your Government is required to take progressive measures, to the maximum of available resources, to ensure access to adequate housing for all without discrimination. To address the issue of financialization and its impact on the enjoyment of the right to housing, your Government must develop policies and laws that include a full range of taxation, regulatory and planning measures in order to re-establish housing as a human right, promote an inclusive housing system, prevent speculation and limit the extraction of profits at the expense of tenants. This will require a transformation of the relationship between your Government and the financial sector, whereby human rights implementation becomes the overriding goal. In this regard, we would also like to draw your attention to the report of the Special Rapporteur on the financialization of housing (A/HRC/34/51).

Please note that a letter with a similar content has been sent to several countries concerned, and to the company Blackstone Group highlighting its human rights obligation as private actor to avoid any harm and to take positive steps to realize the right to housing.

We use this opportunity to encourage the Republic of Ireland to recognize the impact of the financialization of housing on the enjoyment of the right to adequate housing particularly for minority and vulnerable groups, and to take concerted steps towards returning housing to its core function as a social good. Failure to do so can only be regarded as a retrogressive step, and accordingly puts the State at odds with its obligations under international human rights law.

We intend to publicly express our concerns in the near future, as we believe that the wider public should be alerted to the potential implications of the above-mentioned policies. The press release will indicate that we have been in contact with your Excellency’s Government’s to clarify the issue/s in question.

This letter and any response received from your Excellency’s Government will be made public via the communications reporting website within 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Surya Deva  
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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