

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

Ref.: OL IRL 1/2026

(Please use this reference in your reply)

6 August 2026

Excellency,

I have the honour of addressing you in my capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, pursuant to Human Rights Council resolution 61/16.

Following the information received, I write this communication to express my concerns about the **Housing and Residential Tenancies (Miscellaneous Provisions) Bill 2026**, published on 3 June 2026, which amends the Housing (Miscellaneous Provisions) Act 2019 to establish **statutory requirements for legal and habitual residency** as mandatory qualifying criteria for social housing support.

Section 20A(1) of the Bill provides that, to be eligible for social housing support, “each member of the household [must be] habitually resident in the State”.

According to the information and analyses brought to my attention, the Bill **could lead to entire households being denied assistance because of the residency status of one member of the household**. This could have severe consequences for victims of trafficking, people who have experienced domestic and gender-based violence, migrant communities, and other vulnerable groups. Concerns have been raised that the Bill could result in a rising number of people sleeping rough at a time when homeless numbers appear to be on the rise, all of which would create further barriers for vulnerable people to access housing.

In this regard, I must call on the Irish Government to have due regard to the human rights and equality implications raised by the Bill. Any legislative proposals in relation to access to social housing support must take account of Ireland’s international human rights obligations as well as the Public Sector Duty obligations under Section 42 of the Irish Human Rights and Equality Commission Act 2014.

It is my understanding that the Bill would consolidate with a statutory instrument the framework of the Housing Circular 41/2012, on access to social housing support for non-Irish nationals, by adding habitual residence as a requirement for social housing.

In its 2024 Concluding Observations about Ireland, the Committee on Economic, Social and Cultural Rights, already expressed concerns about the “conditions attached to social security benefits, including the habitual residence condition, which effectively denies access to certain disadvantaged groups and has a significant discriminatory effect on Traveller and Roma communities, victims of domestic violence, people experiencing homelessness and migrants”.¹

¹ CESCR, Concluding Observations: Ireland, E/C.12/IRL/CO/4 (2024), para. 34.

Observations based on international human rights law

As observed by a previous Special Rapporteur on the right to housing, Raquel Rolnik, “the realization of the right of migrants to adequate housing is often limited owing to a number of factors, such as marginalization and intolerance, inadequate housing policies or inadequate coverage of social housing schemes, cultural barriers and obstacles stemming from the legal status of migrants”.² More recently, my immediate predecessor, Balakrishnan Rajagopal, observed with concern that “the lack of access to social housing often relegates migrants to inadequate housing in overcrowded, underdeveloped urban areas, perpetuating segregation and exclusion.”³

As a matter of international human rights law, public authorities are expected to make use of the “maximum of available resources” at their disposal “with a view to achieving progressively the full realisation” of the right to adequate housing and other Economic, Social and Cultural Rights (ESCR; article 2(1) ICESCR). Public authorities bear the responsibility to prove that they are putting in place the most “appropriate” policies, and allocating their resources in the most strategic way, in order to fulfil the right to adequate housing progressively.⁴ There is an expectation that they will “move as expeditiously and effectively as possible towards” the improvement of the enjoyment of the right to housing among the population; consequently, it is presumed that deliberate retrogressive measures in principle are not in compliance with social rights.⁵ To comply with human rights standards, policy adjustments that may result in lowering protection of the right to housing and other ESCR, ought to be temporary, necessary and proportionate, adopted after meaningful engagement with people most affected by them, must not be discriminatory, mitigate inequalities and ensure that the rights of the most disadvantaged people are not disproportionately affected.⁶

States ought to undertake to guarantee that the right to housing and other ESCR will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status (article 2(2) ICESCR).

As observed by the Committee on Economic, Social and Cultural Rights (CESCR) in its General Comment No. 20, ESCR “apply to everyone including non-nationals, such as refugees, asylum-seekers, stateless persons, migrant workers and victims of international trafficking, regardless of legal status and documentation”.⁷

The CESCR defines discrimination in relation to ESCR as “any distinction, exclusion, restriction or preference or other differential treatment that is directly or indirectly based on the prohibited grounds of discrimination and which has the intention or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of” the right to adequate housing and other ESCR.⁸

² Special Rapporteur on the Right to Housing, Report to the General Assembly, A/65/261 (2010), para. 10.

³ Special Rapporteur on the Right to Housing, Towards a just approach to the global housing crisis and migrants, A/HRC/58/50 (2025), para. 39.

⁴ CESCR, General Comment No. 3: The nature of States Parties’ obligations, E/1991/23 (1990), para. 4.

⁵ Ibid, para. 9.

⁶ CESCR, Public debt, austerity measures and the ICESCR: Statement, E/C.12/2016/1 (2016), para. 4; Independent Expert on Foreign Debt and Human Rights, Guiding principles on human rights impact assessments of economic reforms, A/HRC/40/57 (2018), Principle 10.

⁷ CESCR, General Comment No. 20: Non-discrimination in ESCR, E/C.12/GC/20 (2009), para. 30.

⁸ Ibid, para. 7.

The 1951 Convention relating to the Status of Refugees establishes the principle of the widest favourable treatment in relation to refugees' access to housing: States "shall accord to refugees lawfully staying in their territory treatment *as favourable as possible* and, in any event, *not less favourable than that accorded to aliens* generally in the same circumstances" (article 21, emphasis added).

While States may set reasonable, transparent and carefully designed criteria to rationalise the allocation and delivery of their social services, including public housing,⁹ nationality and migration status are not, per se, sufficient grounds to exclude individuals under a State's jurisdiction from the enjoyment of their human rights.¹⁰

Differential treatment merely on the basis of nationality or migration status can amount to unjustifiable discrimination unless the reasons for such differential treatment are prescribed in the law, pursue a legitimate aim in accordance with international human rights law, and are necessary, reasonable and proportionate in the specific circumstances.¹¹ States bear the burden to prove that these standards are being met.

It is my opinion that the reasonableness and proportionality assessment should include an evaluation of whether and how national authorities pursue policies to drastically curtail speculative practices in the housing sector. Specifically, I would enquire whether national authorities aim to restrict or impede the purchase of residential properties by foreign investors, corporate or not, that show no intention to reside in the local communities and would yet contribute to make housing unaffordable in the area.

Conclusions and recommendations

I wish to reiterate the call for the equal enjoyment of the right to adequate housing without discrimination for all migrants, regardless of nationality and administrative or documentation status, in conformity with international human rights and refugee law, and calls for human rights-based approaches to the nexus between migration and housing.¹²

It is incumbent upon States to articulate the necessary justification for public policies that impose restrictions on access to housing for foreigners, undocumented or not. Such justification should be guided by the principles of legality (including international human rights law), reasonableness, necessity, proportionality, transparency and impact assessment.

I also call on States to put in place effective mechanisms to combat discrimination on the basis of national origin or immigration status both in access to private rental accommodation and in public housing.¹³

⁹ CESCR, Ben Djazia and Bellili v. Spain, Communication No. 5/2015, E/C.12/61/D/5/2015 (2017), para. 17.2.

¹⁰ CESCR, Infante Díaz v. Spain, Communication No. 134/2019 (2023), para. 7.6.

¹¹ CESCR, General Comment No. 20: Non-discrimination in ESCR, E/C.12/GC/20 (2009), para 13.

¹² Special Rapporteur on the Right to Housing, Towards a just approach to the global housing crisis and migrants, A/HRC/58/50 (2025), para. 103.

¹³ Ibid, para. 104(m).

As it is my responsibility, under the mandate provided by the Human Rights Council, to seek to clarify matters brought to my attention, I would 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 observations.
2. Please provide any additional information on the extent to which the policies restricting access to housing on the basis of the migration status are guided by the principles of legality (including compliance with international human rights law), reasonableness, necessity, proportionality, transparency and assessment of the impact on particularly vulnerable groups.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) after 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

I would kindly request your Excellency's Government that this communication is shared widely with parliamentarians and other relevant stakeholders, including National Human Rights Institutions and regional authorities.

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

Koldo Casla

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