

CHALLENGES AND ISSUES FOR (THE RIGHT TO) AFFORDABLE HOUSING IN CROATIA*

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ABSTRACT

Real estate prices in the 2020s reached record figures for purchases in the Republic of Croatia, Europe and beyond, and with the increase in real estate prices on the market, apartment rents also rose. The cost of living is extremely high, loans are more and more expensive and unattainable, interest rates are high, recession and inflation dominate, all of which affects real estate prices that are too high for an increasing number of citizens. The focus of the work is not the most vulnerable groups of the population who already live below the poverty line and are fully exposed to state and social assistance, but mid-income groups who are often unjustifiably ignored on the scale of those whose rights to housing are threatened. The paper contributes to the understanding of the problem of affordable housing, the terminological determination and definition of the term affordable housing, but also the clarification of the specific international legal obligations of states regarding the realization of the right to affordable housing, and the providing a basis for innovative legal solutions and models for realizing affordable housing in the Republic of Croatia.

Keywords: *affordable housing, adequate housing, Croatia, international human rights law*

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1. INTRODUCTION

In recent years, real estate prices have reached record values for purchases in Croatia, in most of Europe and beyond, and with the increase in real estate prices on the market, apartment rent prices have also risen. The cost of living has become extremely high, loans appear to be more and more expensive and difficult to realise, interest rates are high, and recession and inflation are an additional blow to the ability of citizens to become owners or to rent their real estate, i.e. to secure affordable housing. Global and national markets have not recovered from the 2008 mortgage crisis, and we have already entered a new global economic crisis that has been shaken in the past few years by, among other things, the COVID-19 pandemic and Russian aggression against Ukraine. In such global economic crises, part of the population becomes (exceptionally) vulnerable and exposed to existential problems. For a large number of citizens with average income, real estate (buying or renting) thus becomes more or less unaffordable.

In the modern world characterised by an increase in the number of inhabitants on Earth, strong urbanisation poses a special problem. People are continuously moving to (larger) cities, expecting that they will find work more easily and thus ensure a better existence, health and social care, education, better access to urban infrastructure, etc., and, of course, better housing conditions. Half of the world's population lives in cities today, and according to United Nations (UN) estimates, by 2050, 70% of the population will live in cities.¹ This puts enormous pressure on and creates expectations of cities to cope with population growth and to ensure at least minimum conditions for a dignified life of their citizens. In overcrowded cities, the main problem is high demand and low supply, primarily of apartments, which increases their price. Cities cannot develop economically if they do not have adequate infrastructure and do not take into account the well-being of their citizens.

By 2030, according to the United Nations Human Settlements Programme (*UN-Habitat*), 3 billion people (about 40% of the world's population) will need access to quality housing.² This translates into a demand for 96,000 new affordable and accessible housing units every day.³ Additionally, an estimated 100 million people worldwide are homeless and one in four people live in harmful conditions to their health, safety and prosperity.⁴ Without adequate housing, there is no human progress. Therefore, pursuant to the UN, cities and other human settlements should be

¹ *Sustainable Development Goals: 17 Goals to Transform our World*, [<https://www.un.org/en/exhibits/page/sdgs-17-goals-transform-world>], Accessed 21 April 2024.

² UN-Habitat, *Housing*, [<https://unhabitat.org/topic/housing>], Accessed 21 April 2024.

³ *Ibid.*

⁴ *Ibid.*

made “inclusive, safe, resilient and sustainable”.⁵ However, the efforts made so far are not enough, and the housing crisis in which the world finds itself is deepening instead of being resolved. According to Wetzstein, housing affordability is currently one of the most complex policy challenges our societies in Europe are faced with.⁶

One of the fundamental human rights is the provision of *adequate housing*, because there is no survival without it. The right to adequate housing should ensure physical and mental health, a safe and secure environment, human dignity, physical and any other security, social inclusion and generally healthy living conditions for every person. Adequate housing includes a healthy environment, a housing unit that can withstand natural disasters, connected to basic communal services (e.g. water, electricity, heating and sewage), in which there is enough space for each person who lives in it. The housing unit should also be resistant to weather conditions, and there should be no environmental hazards in the building (e.g. asbestos, mould, etc.). Adequate housing also implies access to the community’s social amenities (e.g. schools, parks, health care facilities, shops, etc.). It is the duty of every state to respect and implement these rights of its citizens, regardless of its economic development, political situation and social conditions.⁷ Housing is at the centre of the sustainable development agenda.⁸ Achieving the right to adequate housing is also increasingly problematic for developed countries and has been the focus of activities in the field of economic and social human rights for the past ten years.⁹

The term *affordable housing* appears as a broader concept within the framework of the key aspects of adequate housing (with legal security of tenure, availability of services, materials, facilities and infrastructure, habitability, accessibility, location and cultural adequacy).¹⁰ Affordable housing refers to reasonably priced housing provided to working people who earn a certain income. Affordable housing is housing that will not burden an individual or family with more than 30% of their monthly income, which is the most common and simplest method of calculating the affordability limit. The goal would be to keep housing costs below 30% of

⁵ Sustainable Development Goals: 17 Goals to Transform our World, *loc. cit.*, note 1.

⁶ Wetzstein, S., *Access to affordable and adequate housing is perhaps the social problem of our generation*, Interview, 29 May 2019, [<https://www.housingeurope.eu/blog-1283/access-to-affordable-and-adequate-housing-is-perhaps-the-social-problem-of-our-generation>], Accessed 21 April 2024.

⁷ Terminski, B., *The Right to Adequate Housing in International Human Rights Law: Polish Transformation Experiences*, *Revista Latinoamericana de Derechos Humanos*, Vol. 22, No. 2, 2012, p. 219.

⁸ Habitat III recommendations from the Special Rapporteur on adequate housing, The full report of the United Nations Special Rapporteur on the right to adequate housing, [<http://www.ohchr.org/EN/Issues/Housing/Pages/AnnualReports.aspx>], Accessed 21 April 2024.

⁹ *Ibid.*

¹⁰ *General Comment No. 4: The Right to Adequate Housing (Art. 11(1) of the Covenant)*, The Committee on Economic, Social and Cultural Rights, Sixth Session (1991), para. 8(b).

monthly income to ensure the quality of other aspects of life (e.g. food, health care, transport, education, social life, etc.).

It is the state that should help that category of the moderate-income population to make housing more affordable through various housing measures. In this paper, therefore, we will not concentrate on the most vulnerable groups of society who already live below the poverty line and the minimum income necessary for a dignified life and are entirely dependent on the assistance of the state and society. Middle-income groups are at the centre of attention of this paper, which are often unjustifiably ignored on the scale of those whose right to affordable housing is threatened.

Over the past ten years, half a million people have emigrated from Croatia.¹¹ However, due to rapid urbanisation and population growth in Zagreb and other larger cities, especially on the coast (strong apartment construction), there has been a high demand for apartments on the market. There are not enough apartments on the existing real estate market, which is one of the key reasons for high real estate prices on the housing market. As the offer of apartments on the real estate market in cities is weak, the demand for apartments to rent is also increasing, and the prices of those rentals are skyrocketing. Although this, given the unexpected jump in real estate prices and rents in the country, has been one of the most pressing issues in Croatia for the past 10 years, there has been no scientific research on this topic in the field of law. In Croatian science, this problem has been dealt with by fellow scientists in the field of social work (Bežovan,¹² Pandžić,¹³ Matković¹⁴), sociology (Svirčić Gotovac,¹⁵

¹¹ Croatia in Figures 2023, Croatian Bureau of Statistics, Zagreb, 2003, p. 7.

¹² E.g. Bežovan, G., *Procjena standarda stanovanja u Zagrebu kao razvojnog resursa*, Revija za socijalnu politiku, Vol. 12, No.1, 2005, pp. 23-44; Bežovan, G., *Procjena stambenih potreba u Hrvatskoj*, Cernaeno, Zagreb, 2012; Bežovan, G.; Matančević, J.; Baturina, D., *Socijalne inovacije kao doprinos jačanju socijalne kohezije i ublažavanju socijalne krize u europskim urbanim socijalnim programima*, Revija socijalne politike, Vol. 23, No. 1, 2016, pp. 61-80; Bežovan, G.; Pandžić, J., *Kvaliteta stanovanja u programu javnog najamnog stanovanja: primjer Novog Jelkovca*, Sociologija i prostor, Vol. 58, No. 1, 2020, p. 33-57.

¹³ E.g. Pandžić, J., *Europeizacija stambenih politika u postsocijalizmu: usporedba iskustava Slovenije i Hrvatske*, Revija za socijalnu politiku, Vol. 28, No. 1, 2021, pp. 25-46; Pandžić, J., *Stambena politika između znanosti i ideologije*, Revija za sociologiju, Vol. 48, No. 3, 2018, pp. 329-358.

¹⁴ Rodik, P.; Matković, T.; Pandžić, J., *Stambene karijere u Hrvatskoj: od samoupravnog socijalizma do krize financijskog kapitalizma*, Revija za sociologiju, Vol. 49, No. 3, 2019, pp. 219-348.

¹⁵ E.g. Svirčić Gotovac, A., *The quality of living in the settlements network in Croatia*, Sociologija sela, Vol. 44, No. 1, 2006, pp. 105-126; Svirčić Gotovac, A., *Akteri društvenih promjena u prostoru (2007- 2011)*, in: Svirčić Gotovac, A.; Zlatar, J. (eds.), *Akteri društvenih promjena u prostoru; transformacija prostora i kvalitete života u Hrvatskoj*, Institut za društvena istraživanja, Zagreb, 2012, pp. 13-27; Svirčić Gotovac, A., *Učinci procesa privatizacije stanovanja u postsocijalističkoj Hrvatskoj*, *Geoadria*, Vol. 25, No. 2, 2020, pp. 151-176; Svirčić Gotovac, A., *New housing estates in the settlement network of Zagreb – community infrastructure*, in: Svirčić Gotovac, A.; Zlatar, J. (eds.), *Kvaliteta života u novostambenim*

Zlatar,¹⁶ Rodik¹⁷) and economics (Vizek,¹⁸ Tica,¹⁹ Rašić, Slijepčević, Stojčić²⁰). In this paper, we will first present the latest data at the level of the EU countries, and then analyse the issue of defining the term and concept ‘affordable housing’. After that, we will provide an overview and analysis of the existing legal regulations on housing at the international and European level. Finally, in the last section of the paper, we will analyse the current data related to (affordable) housing in Croatia, give an overview of the relevant Croatian regulations and present the current initiatives aimed at solving the challenges of affordable housing in the Republic of Croatia.

2. HOUSE OR FLAT, OWNING OR RENTING – THAT IS THE QUESTION

We will start with the latest statistical data related to housing in European countries, through the available last year’s official Eurostat statistical data, i.e. from 2023, which we will now present and analyse in this section.²¹ We will refer in particular to data on preferences for living in one’s own or rented homes, living in houses or apartments, data on the increase in real estate prices and rents, data on housing costs within disposable income, and data on single-person households, the number of rooms per person, the number of persons per household, and the housing cost overburden rate.

First of all, the data show that European citizens, and we will see specific data for Croatia later in the text, prefer owning real estate to renting. Namely, more than two thirds of people in the EU lived in households owning their home and more than half of the EU population lived in a house. In contrast to Romania (95%), Slovakia (93%), Croatia (91%) and Hungary (90%), in which the proportion of owners is extremely high (even higher than 90%), in some countries this need for

naseljima i lokacijama u zagrebačkoj mreži naselja, Institut za društvena istraživanja u Zagrebu, posebna izdanja, 2015, pp. 45-75.

¹⁶ E.g. Svirčić Gotovac, A.; Zlatar, J., *Novi Jelkovec ili Sopnica-Jelkovec kao primjer POS-ovog naselja*, in: Svirčić Gotovac, A.; Zlatar, J. (eds.), *Kvaliteta života u novostambenim naseljima i lokacijama u zagrebačkoj mreži naselja*, Institut za društvena istraživanja, Zagreb, 2015, pp. 147-180.

¹⁷ Rodik, Matković, Pandžić, *loc. cit.*, note 14.

¹⁸ E.g. Vizek, M., *Priuštvost stanovanja u Hrvatskoj i odabranim europskim zemljama*, Revija socijalne politike, Vol. 16, No. 3, 2009, pp. 281-297.

¹⁹ E.g. Tica, J., *Tranzicija hrvatskog stambenog tržišta*, Politička kultura, Zagreb 2002.

²⁰ Rašić, I.; Slijepčević, S.; Stojčić, N.; Vizek, M., *Pregled tržišta nekretnina Republike Hrvatske*, Studije, Ekonomski institut Zagreb, Zagreb, 2022.

²¹ *Eurostat Housing in Europe 2023, interactive publication*, Eurostat – the Statistical Office of the European Union, European Union, 2023. See: [<https://ec.europa.eu/eurostat/web/interactive-publications/housing-2023>] and [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Household_composition_statistics], Accessed 22 April 2024.

property ownership is significantly lower. Therefore, for example, in Germany, the population is more inclined to rent (53%) than to buy an apartment and a similar tendency can be seen in Austria (49%) and Denmark (40%). As for the tendencies of EU citizens whether they prefer to live in apartments or houses, statistics show that the attitudes are divided, that is, they are slightly in favour of living in houses. A total of 47.5% people in the EU lived in flats. In addition, we can note that houses are most common in 2/3 of the EU Member States. In some countries, the share of the population that owns a house is extremely high. For instance, Ireland (89%) is in the first place, followed by the Netherlands (79%), Croatia and Belgium (both 77%). On the other hand, in Spain (66%), Latvia (65%, 2021 data), Germany (63%) and Estonia (61%) citizens are more inclined to live in flats. The preferences of EU citizens regarding both the choice of owning or renting and the choice of a house or an apartment thus differ from country to country.

We now focus on data related to real estate prices and apartment rental prices from 2010 to 2022. According to Eurostat data, house prices rose by 47% in the EU between 2010 and 2022, and there has been a steady upward trend, especially since 2013, with particularly large increases between 2015 and 2022. The largest increases were observed in Estonia (192%), Hungary (172%) and Luxembourg (135%), while decreases were registered in Italy (-9%) and Cyprus (-5%). On the other hand, because of that, there has also been a steady increase of rents in the EU between 2010 and 2022. Rent increased 18% during that period. The largest increases were registered in Estonia (210%), Lithuania (144%) and Ireland (84%), but in Cyprus, this increase was only 0.2%. In conclusion, there was an increase in all Member States except Greece, interestingly, where rental prices even fell (-25%). This is a question that would require careful research as to why this is so. In this regard, inflation played a major role in price changes during the period 2010-2022, which was recorded in all Member States as high as 28%. We should mention that the annual inflation was the highest in 2022 (9.2%).

As for income and expenses, which are very important when analysing affordable housing, according to Eurostat, on average 19.9% of disposable income was dedicated to housing costs in 2022. This is on average lower than the previously mentioned 30% as the upper limit of affordable housing. Housing costs were between 63% below and 112% above the EU average. The highest housing costs in 2022, compared to the EU average, were recorded in Ireland (112% above the EU average), Luxembourg (87% above) and Denmark (82% above). The lowest housing costs were observed in Bulgaria (63% below the EU average) and Poland (60% below). Housing price levels compared to the EU average have increased in 17 Member States and decreased in 10. The largest increases were recorded in Ireland (from 17% above to 112% above the EU average) and Slovakia (from 44%

below to 3% below the EU average), while the largest decreases were observed in Greece (from 8% below to 30% below the EU average) and Cyprus (from 8% below to 23% below). Interestingly, and we believe that we need to present this information in the context of affordable housing, the number of single-person households without children in the EU has increased significantly by 30.7% from 2009 to 2022. Buying real estate can be a big burden for citizens, but renting is also unattainable for many people, especially in cities. Let us have a look at what “the housing cost overburden rate” is. According to Eurostat, the highest housing cost overburden rates in cities were observed in Greece (27.3%) and Denmark (22.5%), and the lowest in Slovakia (2.3%) and Croatia (2.6%). On average, in the EU in 2022, 19.6% of total disposable income was dedicated to housing costs, which is a high percentage. However, even that differs among the Member States, with the highest shares recorded in Greece (34.2%), Denmark (25.4%) and Germany (24.5%). Data on how much real estate prices have risen in the last ten years clearly indicate the dramatic nature of the economic crisis.

3. TERMINOLOGICAL CHALLENGES AND DEFINING THE TERM ‘AFFORDABLE HOUSING’

An overview and analysis of affordable housing and related concepts, terms and phrases will be given in this part. We will see that they are numerous and that there is no terminological agreement, let alone a generally acceptable and universal definition of the basic concepts. The term ‘housing’ is easier to define than the term ‘affordable’. The right to housing is a fundamental human right, every person has the right to adequate, sanitary, and safe housing, where their physical and mental health will not be threatened, which will provide them with security and protection from the outside world. Housing implies that a person has adequate heating, light, ventilation, access to clean water and functional sanitation, secured garbage disposal, unpolluted air and transport connections to other parts of the city or town, etc. Rights in this area are usually formulated by the following phrases: the human right to adequate housing, the right to housing, the right to adequate housing, housing rights, the right to one’s home, the right to shelter, land rights, livelihood rights, and the right to the city.²² The attitude towards affordability changes over time, and it is not the same even in the same parts of the city, region or country.

‘Adequate housing’ is a broad term that, together with legal security of tenure, availability of services, materials, facilities and infrastructure, habitability, acces-

²² *Housing rights legislation - Review of international and national legal instruments*, Office of the High Commissioner for Human Rights, United Nations Human Settlements Programme, Nairobi, 2002, [<https://www.ohchr.org/sites/default/files/Documents/Publications/HousingRightsSen.pdf>], Accessed 22 April 2024.

sibility, location and cultural adequacy, among other things, also includes affordability.²³ 'Affordable housing' is a vague term and too broad for any universal definition. It is related to a person's financial situation and the amount of income they earn monthly (or annually), compared to what they must set aside for housing (monthly or annually). There are various ways to ensure affordable housing, and not only the state (public), but also the private and non-profit sector can be included in the solution process. The practice of states in terms of affordable housing is very diverse. These issues are most frequently resolved by state authorities in cooperation with local self-government (partner relationship). The state usually provides housing for a certain period to citizens who have a certain but insufficient income, with the provision of decent accommodation, and enables them to build their lives and become independent.

The term 'housing affordability' has come into popular usage in the last two decades, replacing 'housing need' at the heart of the debate about the provision of adequate housing for all, as Torluccio and Dorakh claim.²⁴ The term 'housing affordability' simply implies the ability to purchase housing.²⁵ For some people, according to Stone, all housing is affordable, no matter how expensive it is; for others, no housing is affordable unless it is free.²⁶ Some citizens move to places far away from where they are employed in order to reduce housing costs, because their transportation costs are lower than the rent in the city or attractive parts of the city. However, because of this, they will waste time commuting to work and lose other benefits offered by the urban centre. Affordability is therefore the challenge that every family or individual faces when balancing the cost of their actual or potential housing with their non-housing expenditures, all within the constraints of their income.²⁷

As mentioned in the introduction, the focus of this paper is not on so-called 'social housing' (or social rented housing), but although this term is related to 'affordable housing' and these two terms overlap to a certain extent, they are not synonymous. Social housing is typical of people with no or very little income. Social housing rents are significantly cheaper than 'market rents', but they are also significantly cheaper than 'affordable rents'. With social housing, the state ensures the payment of housing for a longer or shorter period to extremely vulnerable groups of people and young people who cannot take care of themselves and will hardly be able to secure

²³ General Comment No. 4, *loc. cit.*, note 10.

²⁴ For details, see: Torluccio, G.; and Dorakh, A., *Housing affordability and methodological principles: An application*, International Research Journal of Finance and Economics, No. 79, 2011, p. 66.

²⁵ *Ibid.*

²⁶ Stone, M. E., *What is housing affordability? The case for the residual income approach*, Housing Policy Debate, Vol. 17, No. 1, 2006, p. 153.

²⁷ *Ibid.*, pp. 151-152.

rents.²⁸ In contrast to social housing, where an individual or family has no income at all, no fixed or very low income, in affordable housing a person or family has a fixed but insufficient income. ‘Low or moderate income housing’ is defined by some authors as any housing subsidised by the government under any programme to assist the construction of low or moderate income housing, whether built or operated by a public agency or any non-profit or limited dividend organisation.²⁹

So, affordable housing is associated with working people who have a stable income, but who earn less than the median income. It is related to people with a constant but insufficient income, who work, for example, in a city or part of a city with extremely high housing costs. These are, for example, professors, nurses, paramedics, police officers, fire fighters, construction workers, etc. who cannot afford housing due to their lower income and high real estate prices. Monk and Whitehead thus divide affordable housing into ‘social rented housing and intermediate housing’. ‘Social rented housing’ would be rented housing which is “owned and managed by local authorities and registered social landlords, for which guideline target rents are determined through the national rent regime”.³⁰ On the other hand, ‘intermediate affordable housing’ would be housing for which prices and rents are “above those of social rent but below market price or rents”.³¹

It is not easy to give a definition of affordable housing. ‘Housing affordability’ is a very slippery thing to try to grasp. There is a lot of talk about housing affordability, “but a precise definition of housing affordability is at best ambiguous”.³² The price of housing depends on the type of real estate, whether it is a purchase or rental, location, type, size, condition, energy class, how old it is, etc. Due to the rent increase, there is a possibility of eviction, and the need to look for a new apartment or move.

²⁸ These can be, for example, the homeless, social cases, victims of domestic violence, people with disabilities or special needs, (internal) migrants, pensioners, children without adequate parental care after leaving the system at the age of 18 who need help with their first property, and the like. These can be singles and young families buying their first property who cannot afford housing costs in certain parts of the city, given their low and low to medium income. These can also be one parent with a child/children or couples with more than three children.

²⁹ For more details on the problem of affordable housing in e.g. Boston as “the most expensive place in the nation for a family of four to live”, see: Ligatti, A., *Localized Affordable Housing Solutions: A Multi-Disciplinary Approach*, Review of Banking and Financial Law, Vol. 28, No. 2, 2009, p. 719 *et seq.*

³⁰ Monk, S.; Whitehead, C., *Introduction*, in: Monk, S.; Whitehead, C., (eds.), *Making Housing more Affordable: The Role of Intermediate Tenures*, Wiley-Blackwell, 2010, p. 9.

³¹ For example, “shared ownership, rent to buy and intermediate rent”. *Ibidem*, p. 10. In the UK, “affordable rented housing” is a category where rents are capped at 80% of local market rates.

³² Bourassa, S.C., *Measuring the affordability of home-ownership*, Urban Studies, Vol. 33, No. 10, 1996, p. 1870.

In short, your housing is affordable if up to 30% of your net income is enough to cover rent or mortgage and you do not need to save on other aspects of life or take on additional debt to keep your home.³³ When approving a loan, the banks will also take into account that the loan instalment amounts to up to a third of the household's income. If housing costs exceed 30% of the total income, this is historically considered "a housing affordability problem".³⁴ The UN is on the same track when defining affordable housing as "housing that is priced at or below the market rate, whilst considering the average household income of the area (Area Median Income), so that the net monthly expenditure on housing cost does not exceed 30% of the total monthly income of the household".³⁵ Housing costs often represent a significant cost to a family's income and determine largely how much is left over for living costs.³⁶ According to Belsky, households spending more than 30% are labelled 'cost burdened' and those spending more than 50% are labelled 'severely cost burdened'.³⁷ If you pay more than about a third, you will have to reduce other expenses, borrow money, take on additional debt, fall into arrears, etc. It is not reasonable for everyone to spend a third of their income on housing. It is not the same to pay a third of one's income for someone who has a modest income compared to someone who has a high income. For someone, due to other high expenses (e.g. healthcare or increased expenses for children, etc.), 70% of the income will not be enough to cover these costs. The predominant strength of 'the thirty percent rule' lies in its simplicity, stresses Courtney, specifically because it can be easily calculated and comprehended.³⁸

In this paper, we will not go into the complex issues of various measurements, indicators and standards for assessing housing affordability, we will rather stick to the usual 30%, even though we are aware of weaknesses and criticisms (banalising and simplifying the problem). After all, as Rowley and Ong point out, the trouble with existing debates surrounding housing affordability is the narrow focus on measuring the problem rather than understanding its wider implications.³⁹

³³ For more details on the history of the 30% rule, see: Anderson, C. L., *You Cannot Afford to Live Here*, Fordham Urban Law Journal, Vol. 44, No. 2, 2017, p. 251 *et seq.*

³⁴ *Ibid.*

³⁵ UN-Habitat, *Addressing the Housing Affordability Challenge: A Shared Responsibility*, 2020, [<https://unhabitat.org/addressing-the-housing-affordability-challenge-a-shared-responsibility>], Accessed 22 April 2024.

³⁶ Rowley, S.; Ong, R., *Housing affordability, housing stress and household wellbeing in Australia*, Ahuri Final Report, No. 192, Australian Housing and Urban Research Institute Melbourne, Melbourne, 2012, p. 23.

³⁷ Though different in the information each measure conveys, each derives from the same basic premise: when a household spends more than 30 percent of income on housing, it is unaffordable, and if it spends more than 50 percent, it constitutes a serious cost burden. Belsky, E.S.; Goodman, J.; Drew, R., *Measuring the nation's rental housing affordability problems*, The Joint Center for Housing Studies, Harvard University, 2005, p. ii.

³⁸ Anderson, *op. cit.*, note 33, p. 253.

³⁹ Rowley and Ong, *op. cit.*, note 36, p. 24.

The history of the relationship between housing, health and well-being has been a long and fruitful one.⁴⁰ Affordable housing should ensure safety and security for all people and family members, especially the most vulnerable ones - children, the elderly and the sick, in order to maintain their health, but also to ensure well-being. Having an adequate home means enabling the growth and development of children, but also a peaceful old age for older family members, that is, providing stability for productive and employed members of the family and community. Adequate housing thus contributes to and shapes the entire society and economy of a country.

According to Quigley and Raphael, housing is the single largest expenditure item in the budgets of most families and individuals but the average household devotes roughly one quarter of income to housing expenditures, while poor and near-poor households commonly devote half of their incomes to housing.⁴¹ Bourassa, for instance, warns that older owner occupiers represent a special case because a significant proportion of this group is house-rich but income-poor.⁴² Therefore, affordability measures should be calculated for different age groups because the circumstances referring to different groups vary and any policy implications that might flow from the analysis need to reflect different circumstances.⁴³ According to Hancock, “any rent will be affordable which leaves the consumer with a socially acceptable standard of both housing and non-housing consumption after rent is paid”.⁴⁴

Housing insecurity is growing year by year. Terms like ‘housing deprivation’ and ‘housing stress’ can also be found in the literature, which are closely connected to affordable housing. ‘Housing deprivation’ can take a variety of forms, one of which is lack of affordable housing. Singles or families can live in spaces that fail to meet physical standards of decency, in overcrowded conditions, with insecure tenure, or in unsafe or inaccessible locations.⁴⁵ Most households that experience one or more of forms of deprivation in reality do so because they cannot afford satisfactory housing and residential environments.⁴⁶ Gabriel *et al.* defined ‘housing stress’ as a generic term that denotes negative impacts on households with in-

⁴⁰ *Ibid.*, p. 29.

⁴¹ Quigley, J. M.; Raphael, S., *Is housing unaffordable? Why isn't it more affordable?* Journal of Economic Perspectives, Vol. 18, No. 1, 2004, p. 129.

⁴² Bourassa, *op. cit.*, note 32, p. 1870.

⁴³ *Ibid.*

⁴⁴ Hancock, K., ‘*Can Pay? Won't Pay?*’ or *Economic Principles of ‘Affordability’*, Urban Studies, Vol. 30, No. 1, 1993, p. 143-144.

⁴⁵ Stone, *op. cit.*, note 26, p. 153.

⁴⁶ *Ibid.*

sufficient income to secure adequate housing, but it can also refer to other factors (e.g. overcrowding and insecurity).⁴⁷ ‘Housing stress’ has been of interest to governments since the mid-1990s and ‘housing stress figures’ are still widely reported to support claims of housing affordability declines and calls for more affordable housing.⁴⁸

This paper is also on the path to try to solve ‘housing stress’ in Croatia, to come up with innovative solutions to ensure affordable housing for employed citizens with constant but insufficient incomes. If we do not take care of affordable housing, we could find ourselves in a situation of deepening social differences, growth of poverty enclaves, an increase in the number of homeless people and an increase in the number of people living on the margins of society, which has been experienced by a number of countries.⁴⁹ In addition to the homeless living on the streets or in tents, other examples of inadequate housing conditions are, for example, favelas or slums, as we call various poor parts of cities, usually on their outskirts, where the poor working class lives, who often build their homes in shanties of salvaged materials. Another extreme case is e.g. Hong Kong, where it is estimated that as many as 200,000 ‘cage tenants’ live in cramped, dank dwellings averaging just a few square meters in size (so-called ‘cage homes’).⁵⁰ All of these are possible scenarios for Croatian society as well if attention is not paid to the creation of an adequate and modern housing policy and regulations.

4. AFFORDABLE HOUSING IN INTERNATIONAL HUMAN RIGHTS LAW

As one of the key aspects of the right to adequate housing,⁵¹ affordable housing has been drawn through a number of international human rights treaties and other documents. The right to adequate housing is an integral part of the right to an adequate standard of living,⁵² which can be found as early as in the 1948 Universal

⁴⁷ Gabriel, M. *et al.*, *Conceptualising and measuring the housing affordability problem*, Research Paper 1, Australian Housing and Urban Research Institute, 2005, p. 7.

⁴⁸ Rowley and Ong, *op. cit.*, note 36, p. 23.

⁴⁹ Terminski, *op. cit.*, note 7, p. 239.

⁵⁰ Luke, M., *The Strategic Use of Human Rights Treaties in Hong Kong’s Cage-Home Crisis: No Way Out?*, *Asian Journal of Law and Society*, Vol. 3, No. 1, 2016, p. 159 *et seq.*

⁵¹ Along with legal security of tenure, availability of services, materials, facilities and infrastructure, habitability, accessibility, location and cultural adequacy. See: *General Comment No. 4, loc. cit.*, note 10.

⁵² See e.g. Smith, R.K.M., *International Human Rights Law*, 10th edition, Oxford University Press, Oxford, 2022, p. 312; Eide, A., *Adequate Standard of Living*, in Moeckli, D.; Shah, S.; Sivakumaran, S. (eds.), *International Human Rights Law*, 3rd edition, Oxford University Press, Oxford, 2018, p. 190, 193; Wilson, S., *The Right to Adequate Housing*, in Dugard, J. *at al.* (eds.), *Research Handbook on Economic, Social and Cultural Rights as Human Rights*, Edward Elgar, Cheltenham, Northampton,

Declaration of Human Rights (UDHR). According to Art. 25(1) of the Declaration, “[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including [...] housing”.⁵³ There is a whole range of universal and regional international instruments that contain or refer to the right to adequate housing, especially those that are not legally binding. Considering the topic of the paper, emphasis will be placed on those international documents and their parts that are most relevant precisely to affordability as one of the key components of the right to adequate housing. First, an overview of relevant universal treaties will be given, followed by relevant European regional treaties and finally relevant international soft law documents, i.e. their relevant parts.

4.1. Affordable Housing in Universal International Human Rights Law

When talking about international human rights law at a universal level, in addition to the UDHR, it is necessary to start from two international covenants of 1966. The right to adequate housing from Art. 25(1) of the UDHR was inserted into Art. 11(1) of the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR): “[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 [...] housing, and to the continuous improvement of living conditions”.⁵⁴ Housing issues are also touched by Art. 17 of the 1966 International Covenant on Civil and Political Rights (ICCPR)⁵⁵ in the context of the protection of one’s home from arbitrary or unlawful interference (analogous to the provision of Art. 12 of the UDHR), but here we talk about the ‘civil right’ aspect of this human right, which goes beyond the scope of this paper.⁵⁶ Namely, even though the right to adequate housing as a social right also includes components of the duty of the State to respect (e.g. refraining from forced eviction and displacement) and the duty of the State to protect (e.g. protection against unjustified evictions by third parties) typical of civil and political rights, in this context the *duty of the*

2020, p. 183; Devereux, A., Australia and the Right to Adequate Housing, *Federal Law Review*, Vol. 20, No. 2, 1991, p. 223 and *The Right to Adequate Housing*, Fact Sheet No. 21/Rev. 1, Office of the United Nations High Commissioner for Human Rights, Geneva, 2014, pp. 1 and 10.

⁵³ UN General Assembly Resolution 217 A (III) of 10 December 1948.

⁵⁴ *United Nations Treaty Series*, vol. 993, p. 3. For more details on the history of the drafting of the provision of Art. 11(1) and the question of adequate housing as a separate right, see Dennis, M.J.; Stewart, D.P., *Justiciability of Economic, Social, and Cultural Rights: Should There Be an International Complaints Mechanism to Adjudicate the Rights to Food, Water, Housing, and Health*, *American Journal of International Law*, Vol. 98, No. 3, 2004, pp. 493-498.

⁵⁵ *United Nations Treaty Series*, Vol. 999, p. 171.

⁵⁶ See Wilson, *op. cit.*, note 52, p. 180.

State to fulfil is in the forefront. Namely, the state has a duty to exercise regulatory functions “to *facilitate* the opportunity of everyone to find affordable housing”.⁵⁷

The right to housing is also recognised in other UN core human rights treaties in the narrower context of their area, including e.g. the 1965 International Convention on the Elimination of all Forms of Racial Discrimination (Art. 5(e)(iii)),⁵⁸ the 1979 Convention on the Elimination of All Forms of Discrimination against Women (Art. 14(2)(h)),⁵⁹ the 1989 Convention on the Rights of the Child (Art. 27(3)),⁶⁰ the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (Art. 43(1)(d)),⁶¹ and the 2006 Convention on the Rights of Persons with Disabilities (articles 9 and 28).⁶² In addition, the right to adequate housing is also present in the 1951 Convention Relating to the Status of Refugees (Art. 21),⁶³ as well as in certain International Labour Organisation (ILO) conventions.⁶⁴

Given that the ICESCR is a fundamental international treaty of universal significance in the field of social rights, the general comments of the Committee on Economic, Social and Cultural Rights as its implementing body, are particularly significant for this matter. In terms of the question of the right to affordable housing, the most relevant is its General Comment No. 4,⁶⁵ according to which affordable housing is housing in which costs associated with it are “at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised”. Accordingly, States Parties should “ensure that the percentage of housing-related costs is, in general, commensurate with income levels”. In addition, according to the Committee, States should “establish housing subsidies for

⁵⁷ Eide, *op. cit.*, note 52, pp. 194-195. See also Majinge, C., *Housing, Right to, International Protection*, June 2010, Max Planck Encyclopedias of International Law, Oxford Public International Law, [<https://opil.ouplaw.com/home/mpil>], Accessed by subscription 29 March 2024, paras.1 and 15.

⁵⁸ *United Nations Treaty Series*, Vol. 660, p. 195.

⁵⁹ *United Nations Treaty Series*, Vol. 1249, p. 13.

⁶⁰ *United Nations Treaty Series*, Vol. 1577, p. 3.

⁶¹ *United Nations Treaty Series*, Vol. 2220, p. 3.

⁶² *United Nations Treaty Series*, Vol. 2515, p. 3.

⁶³ *United Nations Treaty Series*, Vol. 189, p. 137.

⁶⁴ See e.g. Art. 5(2) of the 1962 ILO Convention No. 117 concerning Basic Aims and Standards of Social Policy, articles 85-88 of the 1958 ILO Convention concerning Conditions of Employment of Plantation Workers and articles 14, 16-17, and 20 of the 1989 ILO Convention No. 169 concerning Indigenous and Tribal Peoples in Independent Countries. All ILO conventions are available at NORMLEX, ILO's Information System on International Labour Standards, [<https://www.ilo.org/dyn/normlex/en/f?p=1000:12000>], Accessed 13 April 2024.

⁶⁵ See *supra*, note 10. See also *General Comment No. 7: The Right to Adequate Housing (Art. 11 (1) of the Covenant): Forced Evictions*, Sixteenth session (1997) and *General Comment No. 26 on Land and Economic, Social and Cultural Rights*, Seventy-second session (2022).

those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs”. Furthermore, “tenants should be protected by appropriate means against unreasonable rent levels or rent increases” (para. 8(c)). Although the general comments of the UN treaty bodies as such are legally non-binding and of contesting normative value,⁶⁶ reasoning of the Committee on Economic, Social and Cultural Rights on the key aspects of the right to adequate housing, including affordability, is taken as undisputed in the literature.⁶⁷

4.2. Affordable Housing in European Regional International Human Rights Law

At the European regional level,⁶⁸ provision of housing is only marginally mentioned in the 1961 European Social Charter⁶⁹ as the European regional equivalent to the ICESCR, in the context of the family’s right to social, legal and economic protection (Art. 16). However, in its revised version of 1996,⁷⁰ the right to housing is guaranteed much more explicitly and elaborately. In addition to emphasising the right to housing in the context of narrower issues of protection of persons with disabilities (Art. 15), family (Art. 16), elderly persons (Art. 23) and poverty and social exclusion (Art. 30), the revised version of the European Social Charter contains in its Art. 31 “the right to housing” as a right that belongs to everyone. Art. 31 obliges State Parties to take measures “to promote access to housing of an adequate standard” (Art. 31(1)) and “to prevent and reduce homelessness with a view to its gradual elimination” (Art 31(2)). The provision of its paragraph 3, which obliges State Parties to take measures designed “to make the price of housing accessible to those without adequate resources” is particularly significant in the context of this paper.

⁶⁶ See Takata, H.; Hamamoto, S., *Human Rights, Treaty Bodies, General Comments/Recommendations*, January 2023, Max Planck Encyclopedias of International Law, Oxford Public International Law, [https://opil.ouplaw.com/home/mpil], Accessed by subscription 29 March 2024, para. 48 *et seq.* See also Chinkin, C., *Sources*, in: Moeckli, D.; Shah, S.; Sivakumaran, S. (eds.), *International Human Rights Law*, 3rd edition, Oxford University Press, Oxford, 2018, pp. 69-70.

⁶⁷ See e.g. Eide, *op. cit.*, note 52, p. 194, Smith, *op. cit.*, note 52, pp. 312-313, Majinge, *op. cit.*, note 57, para. 6, Wolf, R., *Participation in the Right of Access to Adequate Housing*, *Tulsa Journal of Comparative & International Law*, Vol. 14, No. 2, 2007, pp. 273, 275-276, and Senders, M., *Women and the Right to Adequate Housing*, *Netherlands Quarterly of Human Rights*, Vol. 16, No. 2, 1998, pp. 178-179.

⁶⁸ For a brief overview of other regional human rights protection systems in the context of the right to housing, see Majinge, *op. cit.*, note 57, paras. 7, 9 and 10.

⁶⁹ *European Treaty Series*, No. 35.

⁷⁰ *European Treaty Series*, No. 163.

Similarly to the ICCPR, the 1950 European Convention on Human Rights,⁷¹ as its European regional counterpart, also contains certain provisions relevant to housing issues, such as the right to respect for private and family life (Art. 8) and protection of property (Art. 1 of the Protocol No. 1). However, as we concluded with the ICCPR, the (civil rights) aspects of housing addressed by the ECHR go beyond the scope of this paper. The right to housing is also guaranteed by the provisions of some other international treaties adopted under the auspices of the Council of Europe, such as the 1977 European Convention on the Legal Status of Migrant Workers (Art 13).⁷² It is also present in the fundamental document on the protection of human rights of the European Union, the Charter of Fundamental Rights of the European Union. According to its Art. 34(3), “[i]n order to combat social exclusion and poverty, the Union recognises and respects the right to social and housing assistance so as to ensure a decent existence for all those who lack sufficient resources, in accordance with the rules laid down by Union law and national laws and practices”.⁷³

According to the European Committee of Social Rights, the monitoring body of the European Social Charter, housing is affordable “when the household can afford to pay the initial costs (deposit, advance rent), the current rent and/or other costs (utility, maintenance and management charges) on a long-term basis and still be able to maintain a minimum standard of living, as defined by the society in which the household is located”. The obligations of State Parties in this regard are “in order to increase the supply of social housing and make it financially accessible to adopt appropriate measures for the construction of housing, in particular social housing, where their own direct involvement is complemented by that of other partners; to introduce housing benefits for the low-income and disadvantaged sectors of the population”.⁷⁴

4.3. Affordable Housing in International Soft Law Documents

In addition to treaties, housing related provisions are also present in certain international soft law documents dedicated to the protection of a certain category of persons, such as the 1998 Guiding Principles on Internal Displacement (principle

⁷¹ *European Treaty Series*, Nos. 5, 9, 44, 45, 46, 55, 114, 117, 118, 140, 146, 155, 177 and 187; *Council of Europe Treaty Series*, Nos. 194, 204, 213 and 214.

⁷² *European Treaty Series*, No. 93.

⁷³ *Official Journal of the European Union*, 2012/C 326/02, C 326/391, 26 October 2012.

⁷⁴ European Committee of Social Rights, Doc. ID: 2003/def/SWE/31/3/EN, Conclusion, Sweden, 30 June 2003.

18, para. 2),⁷⁵ the 2005 Principles on Housing and Property Restitution for Refugees and Displaced Persons (paras. 8.1 and 8.2),⁷⁶ and the 2007 Declaration on the Rights of Indigenous Peoples (articles 21(1) and 23).⁷⁷ However, documents that more explicitly refer to affordable housing as a component of the right to adequate housing are more relevant to this paper. Affordable housing is also present in some soft law documents of general importance for the international community, such as the 2030 Agenda for Sustainable Development (Goal 11.1),⁷⁸ but it is also the subject of certain specialised programmes and activities under the auspices of the UN. The most important of them are the UN-Habitat programme and the activity of the Special Rapporteur on the right to adequate housing, under whose auspices a whole range of relevant documents in this area were adopted.

UN-Habitat acts under the General Assembly and its mission is “to promote socially and environmentally sustainable human settlements development and the achievement of adequate shelter for all”.⁷⁹ UN conferences on housing are convened under its auspices every twenty years. So far, three such conferences have been held (Habitat I, II and III), which resulted in the adoption of final (legally non-binding) declarations and action plans. In the context of this paper, it is particularly important to highlight the declaration of the signatory states of the last of these documents, the New Urban Agenda of 2016⁸⁰, that they will “support the development of appropriate and affordable housing finance products and encourage the participation of a diverse range of multilateral financial institutions, regional development banks and development finance institutions, cooperation agencies, private-sector lenders and investors, cooperatives, moneylenders and microfinance banks to invest in affordable and incremental housing in all its forms” (para. 140).

The Special Rapporteur on the right to adequate housing has been working under the auspices of the UN since 2000.⁸¹ The mandate of the Special Rapporteur

⁷⁵ UN Doc. E/CN.4/1998/53/Add.2, 11 February 1998.

⁷⁶ UN Doc. E/CN.4/Sub.2/2005/17, 28 June 2005.

⁷⁷ General Assembly Resolution 61/295 of 13 September 2007.

⁷⁸ General Assembly Resolution 70/1 of 25 September 2015.

⁷⁹ See the official internet website of *UN-Habitat*, [<https://unhabitat.org/about-us/learn-more>], Accessed 5 April 2024.

⁸⁰ The full name of the document is the 2016 Quito Declaration on Sustainable Cities and Human Settlements for All and Quito Implementation Plan for the New Urban Agenda, General Assembly Resolution 71/256 of 23 December 2016. See also previous declarations and actions plans: the 1976 Vancouver Declaration on Human Settlements and Action Plan (UN Doc. A/CONF.70/15) and the 1996 Istanbul Declaration on Human Settlements and the Habitat Agenda (UN Doc. A/CONF.165/14, 7 August 1996).

⁸¹ Commission on Human Rights Resolution 2000/9 of 17 April 2000.

has been extended on several occasions, together with the change of the mandate holder,⁸² last time in April 2023, for three more years.⁸³ Its task is to cooperate with states, other UN bodies and other international organisations, civil society and other stakeholders with a view to progressively achieving the full realisation of the right to adequate housing, and to make proposals and recommendations for that purpose. Out of a number of important recommendations of the Special Rapporteur adopted in the last twenty years in the context of the topic of this paper, the most important ones are the 2020 Guidelines for the Implementation of the Right to Adequate Housing.⁸⁴ In the aforementioned document, it was pointed out, among other things, that “[p]rivate developers and investors are dominating housing systems in an unprecedented fashion, often divorcing housing from its social function by treating it as a commodity for speculation” with the final consequence of “making housing and land increasingly unaffordable” (para. 3). According to the Special Rapporteur, a “change in direction is urgently needed, and a new relationship between governments and the investors currently dominating the housing landscape must be forged” (para. 67). States should, *inter alia*, ensure that developers “produce needed affordable housing, that housing is not left vacant and that some of the profits from housing or other economic activities are redirected to ensure the availability of adequate housing for low-income households” (para. 68). Although non-binding, this kind of recommendations grounded in existing international human rights law provide valuable guidelines on the meaning of the right to affordable housing and the ways of its realisation.

5. THE SITUATION WITH AFFORDABLE HOUSING IN CROATIA

This section will provide an overview of Eurostat data for the Republic of Croatia relevant to affordable housing, as well as an overview of relevant Croatian regulations. Special attention will be paid to the by-laws of the four largest cities in Croatia with a corresponding analysis. The section will end with a brief overview of current local and national initiatives aimed at improving affordable housing in Croatia.

What follows is an overview of Eurostat data relevant to affordable housing, isolated for Croatia only.⁸⁵ In Croatia, 91.1% of citizens are real estate owners, and

⁸² See the official website of the UN Office of the High Commissioner for Human Rights (OHCHR), *About the mandate, Special Rapporteur on the right to adequate housing*, [https://www.ohchr.org/en/special-procedures/sr-housing/about-mandate], Accessed 10 April 2024.

⁸³ Human Rights Council Resolution 52/10 of 3 April 2023.

⁸⁴ UN Doc. A/HRC/43/43, 26 December 2019.

⁸⁵ Eurostat Housing in Europe 2023, *loc. cit.*, note 21.

only 8.9% are renters. The answer to the question why Croats prefer owning to renting lies primarily in the fact that investing in real estate is a safe form of saving, and according to existing regulations, real estate is not taxed. Croats are also at the top of the list of countries with the highest share of the population living in a house because as many as 77.4% live in houses and 22.6% in apartments. However, the data for Croatian cities show that in cities more people live in apartments (i.e. 53.9%), while 46.1% live in houses, which is explained by an increase in the number of inhabitants living in cities and their urbanisation.

Compared to most of Europe, as shown in section 2, with 2.6%, Croatia is among the countries that have the lowest rates of burdened housing costs in cities of all the EU Member States (only Slovakia has a slightly lower rate), and the share of housing costs in total disposable income for 2022 in Croatia was 15.1%. Based on the aforementioned data, it follows that the average situation in Croatia is not so dramatic compared to the rest of Europe. However, the current situation on the real estate market in Croatia shows that the prices of apartments for purchase and rent are still too high compared to the average salary of Croats. According to Eurostat annual data on the price index of apartments and houses in Croatia, as well as the level of rents, a constant trend of price increases can be seen in the period from 2015 to 2023. Furthermore, according to statistical data contained in the Review of the real estate market in Croatia for the year 2022,⁸⁶ it follows that the median price of an apartment per m² in 2022 compared to a year earlier increased by 15.7%, and the increase in the median rental price compared to 2021 occurred in most of Croatia, i.e. in 14 counties.

The least affordable apartments are recorded in the coastal part of Croatia, where citizens have to allocate more than 30% of their annual income for one m² apartment (in seven cities). The data also show that for the average annual income in twenty least affordable cities, citizens can buy between 2.4 and 3.9 square meters of living space, and in cities where real estate is more affordable, between 11.7 and 12.8 square meters. This problem especially affects young families, who are just entering the labour market and do not have enough financial resources either to buy real estate or to pay for an expensive rent, so for them solving the housing issue is a big challenge, which directly affects demographic trends. All this is a result of the lack of a systematic housing policy, which has not been adopted in Croatia since its establishment in the 1990s. Instead of a coherent housing policy, the issue of housing in Croatia has been dispersed under different regulations to this day. If this problem is to be solved and citizens are to be guaranteed the right to affordable housing, it will be necessary in the coming period to review the existing

⁸⁶ See *Pregled tržišta nekretnina Republike Hrvatske za 2022.*, Ekonomski institut Zagreb, p. 196.

legal framework, adopt a specific housing policy and connect it with economic, demographic and social policy.

Let us see how housing policies are regulated in Croatian law and whether there are provisions on housing affordability.

First of all, it should be said that in Croatia there is no regulation that comprehensively deals with the topic of housing; it is rather the subject of several laws regulated from different aspects. The multidimensional character of housing policy is a significant challenge to researchers because the study of individual public policies necessarily involves questions about the character of the ideas based on which they are formulated⁸⁷.

The highest legal act in Croatia, the Constitution of the Republic of Croatia,⁸⁸ unlike the constitutions of some other democratic and social states,⁸⁹ does not recognise the right to housing as the highest value of the constitutional order. However, through personal and political freedoms and rights, the Constitution guarantees the inviolability of the home, just as the European Convention on Human Rights does.⁹⁰ It protects citizens from forced eviction from their homes, but this constitutional right is not correlated with the obligation of the state to help citizens meet their housing needs. Incorporating the right to housing as a stand-alone article in a constitution is probably the strongest expression of recognition of housing as a national issue.⁹¹

In the context of rights and obligations related to renting an apartment, the area of housing is regulated by the Apartment Lease Act.⁹² It is the only regulation in Croatia that partially regulates the issue of the amount of rent. Namely, the act defines two types of rent that can be paid by the tenant, namely, protected rent, the amount of which is determined by the Government of the Republic of Croatia

⁸⁷ Pandžić, *Stambena politika...*, *op. cit.*, note 13, pp. 330.

⁸⁸ Constitution of the Republic of Croatia, Official Gazette Nos. 56/1990, 135/1997, 113/2000, 28/2001, 76/2010, 5/2014.

⁸⁹ See e.g. Art 65 of the Constitution of Portugal, [<https://www.parlamento.pt/sites/EN/Parliament/Documents/Constitution7th.pdf/>], Accessed 19 April 2024; and Art. 47 of the Constitution of Spain, [<https://www.boe.es/legislacion/documentos/ConstitucionINGLES.pdf/>], Accessed 19 April 2024.

⁹⁰ See *supra*, note 71.

⁹¹ See Oren, M.; Alterman, R.; Zilbershats, Y., *Housing rights in constitutional legislation: a conceptual classification*, in: Kenna, P. (ed.), *Contemporary housing issues in a globalized world*, Routledge, 2016, pp. 141–158.

⁹² Apartment Lease Act, Official Gazette Nos. 91/1996, 48/1998, 66/1998, 22/2006, 68/2018, 105/2020.

in the Regulation on conditions and criteria for determining protected rent,⁹³ and freely negotiated rent, the amount of which is determined by the market. According to the legal provisions, protected rent is intended for contracts with people of weaker financial status, people who use the apartment pursuant to the regulations on the rights of Croatian veterans, as well as people who had previously been right-of-occupancy apartment holders. It is, as a rule, several times lower than the amount of freely negotiated rent on the market of apartments for rent, which makes it affordable for the mentioned categories of tenants, although the term affordability is not mentioned in the text of the act itself.

The second aspect of housing, i.e. the construction of apartments or residential buildings, is regulated by the Act on State-Subsidised Housing Construction (or POS in Croatian).⁹⁴ According to this act, socially encouraged housing construction is made possible by public funds (the state or local self-government units), in order to satisfy the housing needs and improve the quality of a wider range of citizens, whose apartments are intended for sale or rent, with more favourable interest rates and repayment terms than market ones. According to this act, 8,356 apartments in 260 buildings have been built in Croatia since the beginning of its implementation.⁹⁵ According to many professionals, the POS flats are not real social housing in the sense developed by European countries, but a kind of partly subsidised housing.⁹⁶

The act that resolves the issue of territorial competence for housing regulation is the Act on Local and Regional Self-Government.⁹⁷ It enables each local self-government unit to independently regulate issues related to housing through its by-laws. Therefore, cities with a large number of inhabitants who own a certain number of apartments for rent, as a rule, make decisions that regulate the issue of living in their apartments, and above all, the procedure, criteria, amount of rent, rights and obligations of the contracting parties and conditions for renting city-owned apartments.

⁹³ Regulation on the conditions and criteria for determining protected rent, Official Gazette Nos. 40/1997, 117/2005.

⁹⁴ Act on State-Subsidised Housing Construction, Official Gazette Nos. 109/2001, 82/2004, 76/2007, 38/2009, 86/2012, 7/2013, 26/2015, 57/2018, 66/2019, 58/2021.

⁹⁵ Official website of the Agency for Transactions and Mediation in Immovable Properties, [<https://apn.hr/izgradnja-i-prodaja-stanova-pos/izgradeni-stanovi/>], Accessed 11 April 2024.

⁹⁶ Svirčić Gotovac, *Kvaliteta života...*, *op. cit.*, note 15, pp. 45-72.

⁹⁷ Act on Local and Regional Self-Government, Official Gazette Nos. 33/2001, 60/2001, 129/2005, 109/2007, 125/2008, 36/2009, 150/2011, 144/2012, 19/2013, 137/2015, 123/2017, 98/2019, 144/2020.

The key condition for renting city-owned apartments is the amount of total monthly income of the tenant or the members of their household, which, as a rule, must not be higher than the average monthly wages paid in Croatia. For example, decisions on renting apartments in four large cities in Croatia - Zagreb, Split, Rijeka and Osijek - differ only in nuances. Thus, the City of Osijek has determined that the total average net monthly income of the applicant's family household must not exceed twice the amount of the average monthly net salary paid in Croatia, and for a single person, it is the single amount.⁹⁸ The City of Rijeka stipulates that the total average monthly income of the family household must not exceed the following amounts: for a single person, 90% of the average monthly paid net salary in Croatia, and for a family with two or more members, 50% of the average paid salary per member of the family household specified in the application.⁹⁹ In the City of Split, the total average monthly income per member of the family household must not exceed the following amounts: for a single person, 50% of the amount of the average monthly salary in Croatia, and for a family with two or more members, 30% of the amount.¹⁰⁰

The City of Zagreb went a step further in the creation of housing policy and changed its decision on renting apartments in 2023, trying to fit it into the topic of affordable housing. Accordingly, apartments owned by the City of Zagreb are rented according to the Decision on renting apartments,¹⁰¹ for housing based on socioeconomic status, and for providing housing for people with lower and middle income at affordable prices. The applicant's socioeconomic status necessitates that their average income per household member for the year preceding the year of publication of the tender must not exceed 30% of the average monthly net salary per employee in the economy of the City of Zagreb for multi-member households and 50% for single households. It also provides housing for people with lower and middle income at affordable prices. In this case, apartments can be rented to applicants whose income per household member ranges between 30% and 80% of the average monthly net salary per employee in the economy of the City of Zagreb in the case of multi-member households, and between 50% and 100% for single households.

Based on the aforementioned decisions of all four cities, it follows that the basic condition for renting a city-owned apartment is that the applicant's income is

⁹⁸ Decision on renting city-owned apartments, Official Gazette of the City of Osijek No. 8/2008.

⁹⁹ Decision on renting apartments, Official Gazette of the Primorsko-Goranska County Nos. 12/2011, 15/2011, 54/2012.

¹⁰⁰ Ordinance for renting apartments, Official Gazette of the City of Split No. 40/2021.

¹⁰¹ Decision on renting apartments, Official Gazette of the City of Zagreb No. 32/2023.

related to the average monthly net salary per employee in the economy in Croatia, i.e. in the city of Zagreb. Therefore, citizens (singles) whose salary is higher than the average salary in Croatia, i.e. in the city of Zagreb, are not eligible for tenders or public calls issued by cities, and are thus unable to rent a city-owned apartment. Considering the extent of housing neglect and housing unaffordability for the wider strata of the urban population, there is a need in Croatia to pass a law that would encourage the construction of (new) social apartments and rental apartments.¹⁰²

Therefore, if the intention of big cities is to have a more serious impact on the apartment rental market, it is necessary to find new models, which would increase the supply of apartments that can be rented to a wider class of citizens, for whom apartments should also be affordable for rent. Namely, the goal of affordable housing is to reduce inequality between people, among other things, by building public apartments for public rent, which would be cheaper for vulnerable groups and young families, especially those who are at risk of poverty and social exclusion. In Croatia, the shortage of apartments and living space is mainly present in larger cities, where the largest part of the biologically reproductive population is concentrated. In this sense, an inadequate standard of housing appears as a limitation to desirable population growth.¹⁰³

In order to respond to this challenge, in March 2023, the four largest cities in the Republic of Croatia - Zagreb, Split, Rijeka and Osijek - launched an initiative called the Four Cities Initiative, as a platform for inter-city cooperation on topics and projects of common interest. There are three key issues that plague all large cities, including the cities in Croatia: the lack of affordable housing, the need to preserve the environment, and the transition to the systematic use of digital technologies. These topics appear as global challenges in society, but they are also important for the local population. Therefore, through working groups made up of city officials and employees, the representatives of the four cities decided to discuss the issues of affordable housing, green transition and digitalisation, and set the goal of the initiative to speed up the process and find new solutions in the topics mentioned above, while respecting the positive experiences of other cities or countries. The main task of the affordable housing working group is to answer the question as to how cities can influence housing affordability in their area and

¹⁰² Bežovan, G., *Stambena prava u Hrvatskoj i problemi njihova ostvarenja*, Revija za socijalnu politiku, Vol. 11, No. 1, 2004, p. 98.

¹⁰³ Bežovan, G., *Stambena statistika – standard stanovanja u Hrvatskoj*, Revija za socijalnu politiku, Vol. 11, No. 2, 2004, p. 268.

which models of affordable housing are acceptable for cities.¹⁰⁴ At the time of writing this paper, the Four Cities Initiative has not published any official conclusions, so their analysis will be the subject of future research.

In addition to the aforementioned activities of the Four Cities Initiative, the Government of Croatia is also making an effort to solve the problem of housing availability and affordability. Namely, in 2021, the Government of Croatia adopted the Report on the Spatial Situation in the Republic of Croatia for the period 2013-2019. This Report establishes the basic goals of demographic development from a spatial aspect in Croatia, and the key recommendation is to adopt and implement a housing strategy at the national, local and regional level, especially for young people entering the labour market and starting families.¹⁰⁵ In line with the above, the Government of Croatia plans to adopt in 2024 the National Housing Policy Plan of the Republic of Croatia until 2030,¹⁰⁶ which will finally define the goals of affordable housing in Croatia. Namely, the main goal of the National Plan is to provide citizens with affordable housing that must at the same time meet the established quality standards. Rental subsidies to property owners up to the market price, activation of vacant properties and a modified programme of state-subsidised housing construction are housing policy models currently considered by the state. These models should reduce apartment rental prices on the market. The consequence of the aforementioned models will be a change in the existing legislation, so taking into account the results of the Four Cities Initiative and the activities of the Croatian Government, it follows that the year 2024 will mark the beginning of the more significant changes in Croatia regarding housing affordability in Croatia.

6. CONCLUSION

When discussing affordable housing, it should be emphasised that the issue of its realisation is a multidisciplinary area in which, *inter alia*, we must take into account social and economic policy, urbanism, environmental protection and sustainable development. As has been seen, in Croatian science, mostly social workers, sociologists and economists have primarily dealt with this topic. Until now, this area has not been the subject of more comprehensive research in Croatian

¹⁰⁴ Official website of the City of Zagreb, [<https://www.zagreb.hr/pokrenuta-inicijativa-4-grad-a-sastanak-gradonaceln/186970/>], Accessed 19 April 2024.

¹⁰⁵ Report on the Spatial Situation in the Republic of Croatia for the period 2013-2019, Official Gazette No. 105/2021, p. 217.

¹⁰⁶ Decision on the initiation of the process of drafting the National Housing Policy Plan of the Republic of Croatia until 2030, official website of the Ministry of Physical Planning, Construction and State Assets, [<https://mpgi.gov.hr/print.aspx?id=15323&url=print&page=1/>], Accessed 11 April 2024.

legal science. This paper aims to give an incentive to fill this gap in the Croatian legal literature.

The aim of this paper was to determine issues and challenges primarily referring to affordable housing in the Republic of Croatia. Considering the lack of legal research on this topic in the Republic of Croatia, it was necessary to lay certain foundations for such research in the future. First, according to the analysed Eurostat data, there is a concrete social problem in the EU Member States, including the Republic of Croatia. This problem is manifested in difficult access to housing, especially in cities, due to a number of factors, such as accelerated urbanisation and the lack of houses and apartments, as well as an increase in real estate prices and real estate rentals. Secondly, in order to determine what exactly we are talking about here, it was necessary to engage in terminological analyses and attempts to define the term affordable housing, which is much broader than e.g. the term social housing. We have taken a clear position that affordable housing is one in which the housing costs of a person or family do not exceed 30% of their total income. Any discussion about the adoption of new and/or application of existing legal regulations requires a (more) precise terminological definition of the term affordable housing. Thirdly, when it comes to the role of the central and local self-government of the Republic of Croatia in the realisation of the right to affordable housing, it was also crucial to see exactly what the relevant international legal obligations of states consist of. Although the provisions of some older treaties such as the ICESCR are rather short, and even do not always explicitly mention affordability as a component of the right to adequate housing, somewhat more recent treaties (such as a revised version of the European Social Charter) bring more precise and clearer provisions. In addition, the actions of the implementing bodies of such treaties as well as recent international soft law documents provide valuable guidelines on the meaning of the right to affordable housing and the ways of its realisation. Last but not least, it was necessary to analyse relevant data on housing in the Republic of Croatia, provide an overview of the arrangement of legal regulations on housing at the national and local levels, and establish to what extent this problem is recognised in the context of existing initiatives aimed at improving affordable housing.

In conclusion, it must be said that a serious housing crisis has been developing in the Republic of Croatia in the last ten years, especially in larger cities. With regard to the initiation of the aforementioned initiatives at both the national and local levels, it is evident that the problem of achieving affordable housing is recognised in the Republic of Croatia. More and more questions are being asked about ways to achieve affordable housing in larger Croatian cities. Legal science must also contribute to solving this problem. The authors of this paper will continue to re-

search this issue. It would be worthwhile, for example, to compare those countries that have good practice of solving housing affordability in cities, such as e.g. Singapore, Vienna, Copenhagen, Freiburg, Amersfoort, Eindhoven, Rotterdam and Zurich. Such research would provide a more concrete basis for the establishment of appropriate models for the realisation of affordable housing in larger cities in the Republic of Croatia.

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