



Pilot project - Promoting protection of the right to housing - Homelessness prevention in the context of evictions

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Annex

**Human European Consultancy
School of Law, National University of Ireland Galway
FEANTSA**



EUROPEAN COMMISSION

Directorate-General for Employment, Social Affairs and Inclusion
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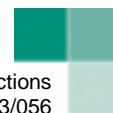
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Annex 1. Glossary of terms

Acceptance fee: The fee charged by some mortgage lenders to process a mortgage.

Administrative law: Administrative law is the body of law which regulates the activities and powers of administrative agencies, including state bodies in the decision-making and regulatory roles, and the relationship between them and citizens.

ADR: alternative (to judicial processes) dispute resolution methods, such as arbitration, conciliation or mediation. The parties usually submit their conflicts to these methods on a voluntarily basis (e.g. as a clause in a lease contract).

Advance: Amount of the mortgage loan to be issued by the lender.

Annual percentage rate (APR): The total cost of a credit facility, expressed as an annual percentage of the amount of credit granted. It takes into account the interest rate charged and any other fees.

Annuity (or repayment) mortgage: Sometimes referred to as a capital and interest mortgage (the most common type of mortgage), where the monthly repayment consists of an amount to repay the capital (original loan amount) plus an amount towards the interest charged to the mortgage account.

Appreciation: The amount a property has increased in value. Also refers to the process of increasing of value in property/housing.

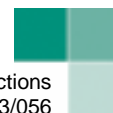
Arrears: Arrears occur where a mortgagor/renter falls behind with regular payments, or does not pay the full amount in the agreement.

Assured shorthold tenancy (AST): This form of tenancy for 6 or 12 months was introduced in England and Wales in legislation in 1988, and later in Scotland, where it is known as a short assured tenancy. It is now the principal form of private letting arrangement in the UK, and involves very limited protection for tenants, who must vacate after receiving notice at the end of the 6 or 12-month term of the tenancy. There is also an accelerated court procedure to deal with court authorisation for such tenancy terminations and repossession by the landlord.

Attachment: An attachment of earnings is where a lender or a Government administrator acquires the right to remove some fraction of the consumer's income from their salary at source i.e. before taxation and other deductions. This word is used interchangeably with 'garnishment of wages'. A garnishment or attachment can also be applied to social benefits.

Auction sale: the sale of real property or goods by public and competitive bidding, usually in a public and pre-advertised event.

Bad faith: dishonesty of belief or purpose, usually in terms of ignoring a claim of



which one has notice.

Bailiff: an official who executes writs and processes and carries out distraints (*also judicial officer*).

Bailiff's notification/ writ: a mandatory precept issued by the authority and in name of the sovereign or the state for the purpose of compelling a person to do something therein mentioned. It is directed to an officer who is authorised to execute it (bailiff/judicial officer). The writ itself contains directions as to what is required to be done (*See also writ*).

Bankruptcy: Bankruptcy is a process by which a debtor reaches a position of insolvency where they take all available action, in a judicially (or similar) and ordered way, to repay their debts as far as possible, including a process of asset liquidation to use assets to repay as much debt as possible. Some jurisdictions allow them, after an insufficient liquidation of goods, a so-called "fresh start", by which they are released from paying any further previous debts and can effectively start again without debts.

Bona fide: in good faith; without fraud; without notice.

Breakage costs: These are charges made by the lender for early repayment or alteration of the loan agreement. They usually arise where a fixed-rate mortgage is changed to a variable rate (and the lender has to refinance at a higher rate), or in some cases as a penalty for breaking the terms of the mortgage agreement. The latter may be illegal under the Unfair Contract Terms in Consumer Contracts EU law rules (Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, OJ L 095, 21.04.1993, 29-34).

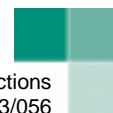
Broker: A mortgage advisor offering advice on the range of mortgage deals available from various lenders.

Buy-to-let/Investment mortgage: A mortgage loan for a property that will be let by the borrower to tenants as a source of income and investment – the buyer will not live in the actual property. This mortgage loan may have different conditions than those applicable to owner occupier loans.

Civil law: Civil law is the legal system across most European States, whose most prevalent feature is that its core principles and basic private law rules are set out in a Code, which serves as the primary source of law. This can be contrasted with common law systems (mostly Ireland and UK), where much law making takes place through court decisions, which are binding as precedents.

CJEU: Court of Justice of the European Union (formerly ECJ - European Court of Justice), based in Luxembourg.

Collateral: The security for a loan is sometimes described as collateral. In the case of a mortgage loan, the property being purchased is considered to be the collateral for the loan.



Co-owner: a person who is in concurrent ownership, possession, and enjoyment of property with one or more others.

Credit provider: Another name for creditor/bank/financial institution, etc.

Credit rating: The rating that lenders put on borrowers based on their credit worthiness - usually based on the borrower's credit history.

Credit search: This refers to the situation where a lender or landlord obtains credit references from a credit reference agency or agencies to enquire on the applicant/tenant's credit history.

Creditor: The party owed a debt by a second party, the debtor.

Datio in solutum: a situation by which a mortgagor can force (based on law or by contract) the lender to take the mortgaged property as payment for the full debt, regardless whether this was more or less than the value of the property. After the *datio in solutum* there is no remaining debt outstanding, so the debtor is no longer liable to the lender.

Debt: A debt is an obligation owed by one party (the debtor) to a second party, the creditor; usually this refers to loans granted by the creditor to the debtor. In relation to mortgages we consider debt as an agreement to lend a fixed amount of money, called the principal, for a fixed period of time, with this amount to be repaid by a certain date, or it may be paid periodically in the interval, such as annually or monthly.

Debt cancellation: Debt cancellation refers to all debt solutions which involve the writing-off of all remaining outstanding debt, as a rule, whether the creditor wishes to write off the debt or not.

Debt distress: The situation in which debtors find themselves when it has become difficult or impossible for them to pay the debts they owe, according to the schedule of payments they agreed in the debt agreement. Also known as over-indebtedness.

Debtor: The party owing a debt to a second party, the creditor.

Debt relief: Debt relief refers to all debt solutions which involve the writing off of a portion of any remaining outstanding debt. It includes processes which either require creditor agreement to write off the debt or not.

Debt reorganisation: This refers to all debt solutions which involve attempting to reduce the burden of the debt on the consumer whilst writing off one of the remaining outstanding debts. It includes processes which reduce instalments without changing the principal debt.

Debt solutions: Are arrangements which take payments or instalments which have become unaffordable to the debtor and make them affordable by reorganising, reducing or cancelling the value of the debt.



Default: Where a borrower misses one or more repayments on a loan on the due date(s) or otherwise breaks the terms and conditions of the agreement, they are in default. “In default” then means the subsequent state of being in breach.

Deposit: 1. In the field of property sale, a sum of money paid to the seller on exchange of the contract for the purchase of property that acts as a sign of good faith and real interest in buying the property. This may be subject to forfeit in favour of the seller if the purchaser does not complete the transaction. 2. In the field of leases, the amount of money required (by law or by contract) from the tenant by the landlord at an initial stage, usually to secure the payment of the rent and/or to compensate for the damages that the tenant could potentially cause to the property. Its amount is usually equivalent to X monthly rents.

Discounted rate: An initial discount off the original interest rate, typically for a period of one or two years.

Dispossess: to oust or evict someone from property.

Dwelling: the structure/accommodation in which a person lives, whether occupied legally or not. The ‘inviolability’ of the dwelling is protected in most EU Member State Constitutions and in Article 8 ECHR. This means that it cannot be entered forcibly except through legally permitted arrangements.

ECHR: European Convention on Human Rights.

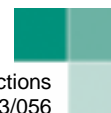
ECtHR: European Court of Human Rights, based in Strasbourg.

Endowment mortgage: A mortgage loan advanced by the lender which is intended to be repaid principally by means of a life endowment insurance policy taken out by the borrower and assigned to the lender.

Enforcement: This is the legal process through which a lender seeks to recover the balance of a loan on a property after the borrower has been in arrears, by forcing the sale of the property on which the loan is secured. There are different legal definitions in different legal systems. For instance, “enforcement” (also “foreclosure”, although this is not used accurately) is taken to mean, in common law countries, repossession by the lender, followed by sale and forfeiture of any remaining equity by the borrower. In fact, this approach has been mediated by the law of equity and statute in the common-law countries of Ireland and England and Wales, whereby the borrower is entitled to any remaining equity after the sale and repayment of outstanding mortgage. In some countries, any equity in the property after the loan is repaid can be confiscated by the lender.

Equity: The difference between the market value of a home and the outstanding mortgage debt.

ETHOS: European Typology on Homelessness and Housing Exclusion. FEANTSA has developed a European Typology of Homelessness and Housing Exclusion as a means of improving the understanding and measurement of homelessness in



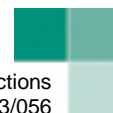
Europe, and to provide a common language for transnational exchanges on homelessness. This typology was launched in 2005 and is used for different purposes: as a framework for debate, for data collection purposes, for policy purposes, monitoring purposes, and in the media. ETHOS was developed through a review of existing definitions of homelessness and the realities of homelessness which service providers are faced with on a daily basis. ETHOS therefore categories attempts to cover all living situations which amount to forms of homelessness across Europe:

- rooflessness (without a shelter of any kind, sleeping rough);
- houselessness (with a place to sleep but temporarily in institutions or shelter);
- living in insecure housing (threatened with severe exclusion due to insecure tenancies, eviction, domestic violence);
- living in inadequate housing (in caravans on illegal campsites, in unfit housing, in extreme overcrowding).

The ETHOS approach confirms that homelessness is a process (rather than a static phenomenon) that affects many vulnerable households at different points in their lives. For the detailed typology (in many European languages) see <http://www.feantsa.org/spip.php?article120&lang=en>.

ETHOS LIGHT: Harmonised definition of homelessness.

Operational category		Living situation		Definition
1	People living rough	1	Public space / external space	Living in the streets or public spaces without a shelter that can be defined as living quarters
2	People in emergency accommodation	2	Overnight shelters	People with no place of usual residence who move frequently between various types of accommodation
3	People living in accommodation for the homeless	3	Homeless hostels	Where the period of stay is time limited and no long-term housing is provided
		4	Temporary accommodation	
		5	Transitional supported accommodation	
		6	Women's shelter or refuge accommodation	
4	People living in institutions	7	Healthcare institutions	Stay longer than needed due to lack of housing No housing available prior to release
		8	Penal institutions	
5	People living in non-conventional dwellings due to lack of housing	9	Mobile homes	Where the accommodation is used due to a lack of housing and is not the person's usual place of residence
		10	Non-conventional buildings	
		11	Temporary structures	
6	Homeless people living temporarily in conventional housing with family and friends (due to lack of housing)	12	Conventional housing, but not the person's usual place of residence	Where the accommodation is used due to a lack of housing and is not the person's usual place of residence



European Central Bank (ECB): The European Central Bank is an institution of the European Union, and is the central bank for Europe's single currency, the euro.

Eventually executed evictions: the actual evictions.

Eviction: The process of removing or dispossessing a person from a place of accommodation. In this study we have identified the process of eviction as beginning at the moment when an occupier is formally instructed to leave the home. This excludes situations where an occupier willingly moves out, including leaving at the natural end of a tenancy

Eviction case: A legal procedure via a court or tribunal that may end with an eviction of the current occupier of a property/accommodation (e.g. mortgagor, tenant, squatter). A similar result of dispossession may also be achieved through other procedures, such as divorces or domestic violence, by which one person of the couple is judicially expelled from the property he or she was living in. Even the administrative declaration of ruin of a property may compel its current occupiers to leave the accommodation.

FEANTSA: la Fédération Européenne des Associations Nationales Travaillant avec les Sans-Abri; in English the European Federation of National Organisations working with the Homeless.

First legal charge: A mortgage lender takes a first legal charge on the property being purchased, which means that if a borrower defaults on mortgage repayments and the property is sold to repay debts etc., the mortgage lender will be the first party to receive any proceeds of the sale.

Fixed interest rate: The rate payable on a mortgage loan which does not change for a specified period, regardless of changes to the lender's variable rates. The specified period is known as the fixed period.

Forbearance (practices): this applies to number of arrangements between the lender and the borrower to prevent or delay a mortgage's foreclosure. These may include a moratorium on the legal action of eviction, reductions of (principal and/or interest) payments due, deferred payments, split mortgages, etc.

Foreclosure: see: *Eviction case*.

Garnishment: A garnishment of wages is a process which enables a lender or a government administrator to receive a fraction of the consumer's income from their income at source, i.e. before taxation or other deductions. Garnishment or attachment (see above) can also be applied to social benefits.

Good practice: Any legal provision, policy, soft-law or other measure which mitigates the impact of evictions on homelessness.

Guarantor: A guarantor is a person (e.g. relative, friend) other than the borrower who guarantees mortgage loan repayments, that is, they are liable with their own assets



for the fulfilment of the borrower's obligations towards the lender.

Headlease: a primary lease under which a sublease has been granted.

Homelessness: Situation of people who are excluded from several of the three main domains of a home (social domain, physical domain, legal domain). This study uses the revised ETHOS definition (also called ETHOS LIGHT).

Household: A single person (one-person household) or a group of persons (multi-person household) occupying a housing unit

Houselessness: Situation of people who, while having a roof over their heads, are excluded from the legal rights of occupancy and do not have a place to pursue normal social relations. Houselessness refers to people who are temporarily accommodated in accommodation for the homeless and are living in institutions longer than needed, due to a lack of housing.

Housing tenure: The legal right by which a household occupies the respective dwelling, for example owning or renting.

Immovable: in this context, this is the term for real property, land and real estate. The term excludes personal property, chattels, goods and other movables.

Interest: The rate of return for the creditor; the additional moneys the debtor pays the creditor in return for the loan of the principal sum. See also *APR*.

Interest-only mortgage: With an interest-only mortgage, the whole of the monthly mortgage payment is comprised of interest, and no part of the payment relates to repayment of the capital sum. Interest-only loans are popular ways of borrowing money to buy an asset which is unlikely to depreciate much and which can be sold at the end of the loan to repay the capital.

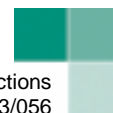
Judicial officer: an official who executes writs and processes and carries out distraints (See also *Bailiff*).

Judicial sale: a sale of property by an official/bailiff under authority of a court's judgment and writ of execution in order to satisfy an unpaid judgment, mortgage lien or other debt of the owner.

Landlord: one who leases an immovable to another; (See also *Lessor*).

Lease: A contract by which the rightful possessor (usually the owner) of an immovable property grants the exclusive right to occupy and use the property in exchange for consideration, usually rent (when short in duration, the usual term is *tenancy*). Leases do not include situations of shared or temporary accommodation, such as hostels, hotels, or family/friends sharing arrangements.

Lease agreement: A written instrument recording the conveyance of a lease and its covenants.



Leasehold: The right to possess immovable property for an agreed period of time for an agreed rent. The term is usually used for long leases (say over 7 to 21 years) as opposed to tenancies or rentals, which are shorter.

Lessee: the technical term referring to a person to whom a property is rented under a lease (*See also tenant*).

Lessor: the technical term referring to a person who rents property to another under a lease (*See also landlord*).

Letter of loan offer: Once a mortgage application is approved, a formal letter of loan offer is sent to the borrower setting out the conditions of the loan. The borrower's solicitor will also receive a copy with a request to proceed with the legal formalities.

Loan-to-value (LTV): Loan to values are shown as percentages and represent the relationship between the size of the mortgage loan and the value of the property. For example, a mortgage of EUR 90 000 on a property valued at EUR 100 000 would be shown as 90% LTV.

Mortgage: a charge over property that gives the mortgagee a right to recover the secured obligation (usually a loan) enforcing that property with preference against other creditors of the same debtor. In continental Europe the word 'hypothec' is commonly used. Other security rights *in rem* that achieve a similar goal as mortgages are land debts (e.g. *Sicherungsgrundschulden*).

Mortgagee: The lender providing the mortgage loan.

Mortgage enforcement: see *Foreclosure*.

Mortgage loan: A loan from a creditor to a debtor, which is secured on a property.

Mortgagor: The person who takes out the mortgage loan i.e. the borrower.

Mortgage term: The agreed length of time taken to make the full repayment of the mortgage loan.

Multi/single decision level court/administrative system: Many countries have a number of levels of courts making decisions in relation to evictions, such as local courts, district courts, regional courts, courts of appeal etc. There may be local/regional laws and national federal laws and courts. Equally, there may be administrative systems for making decisions on evictions at similar levels.

Natural person: A legal term for an individual consumer, as opposed to a legal person/ legal personality, which could include firms, businesses, or traders. Some countries (particularly Italy) also include farmers in the group of firms and businesses.

Negative equity: When the value of the property has fallen below the outstanding mortgage debt.



Notice period: Period given by the landlord to the tenant to vacate the dwelling.

Notice to quit: 1. A landlord's written notice demanding that a tenant surrender and vacate the leased property, thereby terminating the tenancy; 2. A landlord's notice to a tenant to pay any back rent within a specified period of time or else vacate the leased premises (also **notice to pay rent or quit**); 3. Less often, a tenant's written notice indicating an intent to vacate the leased property.

Over-indebtedness: The situation a debtor finds themselves in when it has become difficult or impossible for them to pay the debts owed, according to the schedule of payments agreed in the debt agreement. Also known as debt distress.

Payment plan: An agreement between the debtor and the creditor(s) under which some compromise is reached relating to the amount of principal to be repaid, how interest is applied to it, and for how long payments will last.

Personal: of or affecting a person; (*contrast real*)

- **personal action:** an action brought against a person rather than property;
- **personal right:** a right regarding a person's legal status or personal condition, as opposed to the person's estate.

Possession (right to): in this context, the right to use/occupy a property/accommodation based on the law; a contract that entails the possessor a right of use (e.g. sales contract leads to homeownership; lease contract leads to a lease/tenancy; commodatums/licenses allow possession for free) or a judicial decision (e.g. in a divorce case, the judge decides which member of the couple can remain in the property and who must leave it, i.e. who is dispossessed). Squatters, however do not possess the property, technically speaking, even though they are there – that is, they are occupying it without having a title to do so.

Private law: Private law is that part of law which relates to legal relationships between individuals and companies, such as contracts. It is distinguished from public law, which applies to relationships between individuals (and companies) and the state.

Real: of, relating to, or attached to a thing (movable or immovable) rather than a person; (*contrast personal*).

- **Real action:** an action to protect a real right;
- **Real right:** a right that is connected with a thing rather than a person, and is enforceable against the whole world.

Recourse and non-recourse mortgage: Non-recourse mortgages are loans where the mortgaged property is the only security for the lender, and in default the borrower is not liable for any more than that security. However, in a recourse mortgage, where the borrower fails to repay, and the value of the underlying asset is not enough to cover the debt, a recourse loan allows the lender to recover any outstanding amount from the debtor's other assets.



Redemption: When a mortgage loan is paid in full – including interest to date and all charges. This usually occurs when moving to another property or when the end of the mortgage term is reached.

Remortgage: A process whereby the mortgage loan due to one mortgage lender is repaid by a new mortgage loan issued by a new mortgage lender, usually also requiring a new mortgage over the property.

Rent: consideration paid under a lease, usually periodically, for the use or occupancy of an immovable.

Repayment break: Repayment breaks allow the borrower to spread monthly repayments over a shorter number of months, for example 10 months instead of 12, or to postpone repayments for a time, for example 3 months.

Retaliatory eviction: An illegal eviction commenced in response to a tenant's complaints or involvement in activities with which the landlord does not agree.

Rooflessness: Situation of people who sleep rough (outdoors) or only use overnight shelters.

Standard variable rate: A standard variable rate is a variable rate that is set by the lender and that may change at any time at the lender's discretion.

Sublease: a lease by a lessee to a third party, conveying some or all of the leased property for a shorter term than that of the lessee, who retains a reversion in the lease.

Subprime mortgages: Mortgages made available to borrowers whose credit history or income does not qualify them for a prime or mainstream mortgage. These are usually charged at a higher interest rate and with a high LTV ratio. Many subprime borrowers have been unable to repay these loans, and generally have a higher risk of eviction.

Summary eviction: an eviction accomplished through a simplified legal procedure, without the procedural formalities of a trial – these may breach ECHR Articles 6 & 8.

Surcharge interest/Compound interest: This is additional interest that may be charged on the amount unpaid on any repayments due on a loan.

Tax relief at source (TRS): Tax relief for home mortgage interest is provided by the lender. The lender either reduces the mortgage repayment by the amount of the tax relief, or a credit is lodged into the account from which the repayments are made. This applies in respect of a main residence only.

Tenant: one who pays rent for the use and occupation of an immovable owned by another under a lease or similar arrangement (also *Lessee*).

Tenancy: 1. Possession or occupation of an immovable under a lease; 2. The period



of such possession or occupancy. (See also *Lease*).

Tenancy agreement: The document by which a tenant holds an interest in a property.

Tenancy obligations: Obligations to be fulfilled by any of the parties that arise from a tenancy contract or under the law related to tenancies.

Tenure: The legal method of holding a legal interest in an immovable property. From the French *tenir*. This is not the same as a tenancy in landlord and tenant law.

Title deeds: Legal documents that provide evidence of a person's ownership of a property.

Top-up mortgage loan: An additional mortgage loan given by the lender to an existing borrower on the same mortgage security. The mortgage loan 'tops up' an existing mortgage to a higher level.

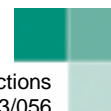
Tracker rate mortgage: A tracker rate is an interest rate usually at a set percentage (margin) (usually between 0.25% and 2%) above the European Central Bank (for eurozone countries) or national central bank rate, which tracks changes in the relevant central bank rate. This margin is guaranteed for the full term of the loan unless there is a material change in the terms of the loan.

Void: having no legal force or effect.

Voidable: capable of being affirmed or rejected by one of the parties; valid until annulled.

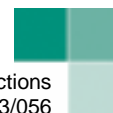
Writ: a mandatory precept issued by the authority and in the name of the sovereign or the state for the purpose of compelling a person to do something therein mentioned. It is directed to an officer authorised to execute it (bailiff/judicial officer). The writ itself contains directions as to what is required to be done (*See also Bailiff's notification*).

Wrongful-eviction action: a lawsuit brought by a former tenant or possessor of an immovable against one who has put the claimant out of possession, alleging that the eviction was illegal.



Annex 2. Inviolability of Home Provisions in EU Member State Constitutions

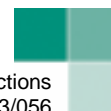
	CONSTITUTION	ARTICLE ON THE INVIOABILITY OF THE DWELLING/HOME (OR WORDS TO THAT EFFECT) PREVENTING FORCIBLE ENTRY TO THE HOME WITHOUT DUE PROCESS OR LAW.
Austria	Austrian Constitution Austria - Law on the Right of the Home	<p>Chapter VIII Final Provisions Article 149 [Old Laws] (1) In addition to the present law, the following laws, with the modifications necessitated by this law, shall, within the meaning of Article 44 (1), be regarded as constitutional laws ... Law of 27 Oct 1862 on protection of the rights of the home</p> <p>Law on the Right of the Home Section 1 [Domiciliary Visit] A domiciliary visit, that is, a search of a home or the appurtenant premises may, as a rule, only be undertaken on the strength of a judicial warrant stating the reasons...</p> <p>Section 3 [Financial Supervision] Domiciliary visits for the purpose of police and financial supervision may be undertaken by officials of these departments only in the cases determined by law. Nonetheless, here too the regulations in the foregoing paragraphs hold good with respect to authority for a domiciliary visit and the certification about its execution.</p> <p>Section 4 [Criminal Liability] Every domiciliary visit contrary to the preceding provisions undertaken in exercise of office or in line of duty shall in case of malice aforethought be treated as an offence constituting abuse of official authority and in other cases as punishable in accordance with the regulations in Criminal Law as a misdemeanour against the duties incumbent on a government office.</p>
Belgium	Belgian Constitution	<p>Article 15 One's home is inviolable; no house search may take place except in the cases provided for by the law and in the form prescribed by the law.</p>
Bulgaria	Bulgarian Constitution	<p>Article 33. (1) The home shall be inviolable. No one shall</p>



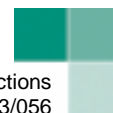
		<p>enter or stay inside a home without its occupant's consent, except in the cases expressly stipulated by law.</p> <p>(2) Entry or stay inside a home without the consent of its occupant or without the judicial authorities' permission shall be allowed only for the purposes of preventing an immediately impending crime or a crime in progress, for the capture of a criminal, or in extreme necessity.</p>
Croatia	Croatian Constitution	<p>Article 34</p> <p>1. Homes shall be inviolable ... Only a court may by a warrant based on law and a statement of reasons order the search of a home or other premises.</p>
Cyprus	Cypriot Constitution	<p>Article 16</p> <p>1. Every person's dwelling house is inviolable. 2. There shall be no entry in any dwelling house or any search therein except when and as provided by law and on a judicial warrant duly reasoned or when the entry is made with the express consent of its occupant or for the purpose of rescuing the victims of any offence of violence or of any disaster.</p>
Czech Republic	The Constitution of the Czech Republic	Not mentioned.
Denmark	Danish Constitution	<p>Article 72</p> <p>The dwelling shall be inviolable. House search, seizure, and examination of letters and other papers, or any breach of the secrecy that shall be observed in postal, telegraph, and telephone matters, shall not take place except under a judicial order, unless particular exception is warranted by statute.</p>
Estonia	Estonian Constitution	<p>Article 33</p> <p>The home is inviolable. No one's dwelling, real or personal property under his or her control, or place of employment shall be forcibly entered or searched, except in the cases and pursuant to procedure provided by law, to protect public order, health or the rights and freedoms of others, to combat a criminal offence, to apprehend a criminal offender, or to ascertain the truth in a criminal procedure.</p>
Finland	Finnish Constitution	<p>Section 10 - The right to privacy</p> <p>Everyone's private life, honour and the sanctity of the home are guaranteed ...</p>



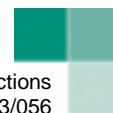
		Measures encroaching on the sanctity of the home, and which are necessary for the purpose of guaranteeing basic rights and liberties or for the investigation of crime, may be laid down by an Act.
France	French Constitution	Not Mentioned.
Germany	German Constitution	<p>Article 13 (Inviolability of the home). (1) The home is inviolable. (2) Searches may be ordered only by a judge or, in the event of danger in delay, by other organs as provided by law and may be carried out only in the form prescribed by law. (3) Otherwise, this inviolability may be encroached upon or restricted only to avert a common danger or a mortal danger to individuals, or, pursuant to a law, to prevent imminent danger to public security and order, especially to alleviate the housing shortage, to combat the danger of epidemics or to protect endangered juveniles.</p> <p>Also see: Article 17a(2) Laws for defence purposes, including the protection of the civilian population may provide for the restriction of the basic rights of freedom of movement (Article 11) and inviolability of the home (Article 13).</p>
Greece	Greek Constitution	<p>Article 9 1. Every person's home is a sanctuary. The private and family life of the individual is inviolable. No home search shall be made, except when and as specified by law and always in the presence of representatives of the judicial authorities. 2. Violators of the preceding provision shall be punished for violating the home's asylum and for abuse of power, and shall be liable for full damages to the sufferer, as specified by law.</p>
Hungary	Hungarian Constitution	<p>Article 59 (1) In the Republic of Hungary everyone is entitled to the protection of his or her reputation and to privacy, including the privacy of the home, of personal effects, particulars, papers, records and data, and to the privacy of personal affairs and secrets.</p>
Ireland	Irish Constitution	<p>Article 40.5 The dwelling of every citizen is inviolable and</p>



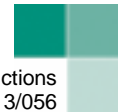
		shall not be forcibly entered save in accordance with law
Italy	Italian Constitution	Art. 14 The home is inviolable ... Personal domicile shall be inviolable ... Home inspections, searches, or seizures shall not be admissible save in the cases and manners complying with measures to safeguard personal liberty. Controls and inspections for reason of public health and safety, or for economic and fiscal purposes, shall be regulated by appropriate laws.
Latvia	Latvian Constitution	Article 96 Everyone has the right to inviolability of his or her private life, home and correspondence.
Lithuania	Lithuanian Constitution	Article 24 The home of a human being shall be inviolable ... Without the consent of the resident, entrance into his home shall not be permitted otherwise than by a court decision or the procedure established by law when this is necessary to guarantee public order, apprehend a criminal, save the life, health, or property of a human being.
Luxembourg	The Constitution of Luxembourg	Article 15 [Home] The home is inviolable. No domiciliary visit may be made except in cases and according to the procedure laid down by the law
Malta	The Constitution of Malta	Article 38. Protection for privacy of home or other property. (1) Except with his own consent or by way of parental discipline, no person shall be subjected to the search of his person or his property or the entry by others on his premises. (2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this article to the extent that the law in question makes provision - (a) that is reasonably required in the interest of defence, public safety, public order, public morality or decency, public health, town and country planning, the development and utilisation of mineral resources, or the development and utilisation of any property in such a manner as to promote the public benefit;



		(b) that is reasonably required for the purpose of promoting the rights or freedoms of other persons ...
Netherlands	The Constitution of the Netherlands	<p>Article 12 [Home]</p> <p>(1) Entry into a home against the will of the occupant shall be permitted only in the cases laid down by or pursuant to an Act of Parliament, by those designated for the purpose by or pursuant to an Act of Parliament.</p> <p>(2) Prior identification and notice of purpose shall be required in order to enter a home under the preceding paragraph, subject to the exceptions prescribed by Act of Parliament. A written report of the entry shall be issued to the occupant.</p>
Poland	The Constitution of Poland	<p>Article 50</p> <p>The inviolability of the home shall be ensured. Any search of a home, premises or vehicles may be made only in cases and in a manner specified by statute.</p>
Portugal	The Constitution of Portugal	<p>Article 34 (Inviolability of home and correspondence)</p> <ol style="list-style-type: none"> 1. Personal homes and the secrecy of correspondence and other means of private communication shall be inviolable. 2. Entry into a citizen's home may only be ordered by the competent judicial authority and then only in such cases and in compliance with such forms as may be laid down by law. 3. No one shall enter any person's home at night without his consent, save in situations of flagrante delicto, or with judicial authorisation in cases of especially violent or highly organised crime, including terrorism and trafficking in persons, arms or narcotics, as laid down by law ...
Romania	Constitution of Romania	<p>ARTICLE 27 Inviolability of domicile</p> <p>(1) The domicile and the residence are inviolable. No one shall enter or remain in the domicile or residence of a person without his consent.</p> <p>(2) An exemption from the provisions of paragraph (1) can operate, according to the law, for the following instances:</p> <ol style="list-style-type: none"> a) carrying into execution a warrant for arrest or a court decree;



		<p>b) removing a risk to someone's life, physical integrity, or a person's assets; c) defending national security or public order; d) preventing the spread of an epidemic.</p>
Slovakia	The Constitution of Slovakia	<p>Article 21 (1) A person's home is inviolable. It must not be entered without the resident's consent ... (3) Other infringements upon the inviolability of one's home can be permitted by law only if this is inevitable in a democratic society in order to protect people's lives, health or property, to protect the rights and liberties of others, or to ward off a serious threat to public order.</p>
Slovenia	The Constitution of Slovenia	<p>Article 36 (Inviolability of Dwellings) Dwellings are inviolable. No one may, without a court order, enter the dwelling or other premises of another person, nor may he search the same against the will of the resident ...</p>
Spain	The Constitution of Spain	<p>Article 18 2. The home is inviolable. No entry or search may be made without the consent of the occupant or a legal warrant, except in cases of <i>flagrante delicto</i> ...</p>
Sweden	The Constitution of Sweden	<p>Article 6 All citizens shall be protected in their relations with the public administration against any physical violation also in cases other than those referred to in Articles 4 and 5.</p>
UK	No written constitution	



Annex 3. Minimum protected income across EU Member States

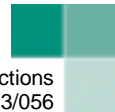
A minimum protected income is the amount which states either grant or ensure that a household retains for subsistence living costs. In the event of a court judgment, eviction or action for debt or orders for attachment to income, compulsory repayments or instalments on income etc., the protection of this amount must not be infringed. The following table shows the range of such protected incomes, up to date as at 6 May 2015.

Country	Minimum protected income	Additional information
Austria (AT)	EUR 872/month (single person)	EUR 1 913.90/month for 2 adults and 2 children. ¹
Belgium (BE)	EUR 1 069 per month plus EUR 66 per child.	Monthly incomes above this threshold are split according to the following brackets: <ul style="list-style-type: none"> - EUR 1 069 - 1 149: only 20 % can be attached. - EUR 1 149 - 1 267: only 30 % can be attached. - EUR 1 267 - 1 386: only 40 % can be attached. - above EUR 1 386: all can be attached.
Bulgaria (BG)	EUR 115* to EUR 409/month depending on the income of the debtor and whether the debtor has children to take care of. *Function of the minimum monthly wage for 2014 after deduction of the bigger percentage for a debtor without children, as provided in the Civil Procedure Code (2008), Article 446(1), point 2.	According to the Civil Procedure Code (2008), Article 446(1), execution could be directed against income which is above the guaranteed minimum monthly remuneration. The law provides for four different schemes for deduction of amounts from the monthly income of the debtor in case of enforcement: 1) income up to EUR 153 – ¼ of this amount if the debtor has no children and 1/5 if they have and maintain children; 2) income between EUR 153 and EUR 307 – ⅓ (no children) and ¼ (with children); 3) income between EUR 307 and EUR 613 – ½ (no children) and ⅓ (with children); 4) income over EUR 613 – the surplus above EUR 307 (no children) and the surplus above EUR 409 (with children).

¹ Existenzminimums-Verordnung 2015.



		The minimum monthly wage is established each year by the Council of Ministers. It is BGN 340 (EUR 174) for 2014. According to the case law, once the monthly net income reaches the minimum monthly wage, deductions for debt enforcement could be made in accordance with the scheme provided for in the law, and the final minimum sum that the debtor can retain could reach levels below the minimum monthly wage.
Croatia (HR)	In Croatia, the minimum income that can be retained by the debtor is 1/3 of income, while they must not claim different types of financial social assistance or child allowance.	
Cyprus (CY)	Decided by the court	
Czech Republic (CZ)	EUR 226/month for a single person.	This represents 2/3 of the sum of the subsistence minimum and the housing standard level, with 1/4 of this sum added for each household member (spouse, dependent children); the final sum thus varies according to the number of persons in the household.
Denmark (DK)	No right for private creditors to attachment of income.	
Estonia (EE)	EUR 355 per month	Plus EUR 118 33 for each dependant family member.
Finland (FI)	EUR 677.70 per month for single debtor (EUR 22.59 per day for the debtor and EUR 8.11 per day for each dependent)	EUR 921 per month for debtor and one dependent, EUR 1 164 for debtor and two dependents and EUR 1 408 for debtor and three dependents.
France (FR)	Creditor cannot attach more than minimum-income <i>revenue de solidarité active</i> (RSA).	
Germany (DE)	A single person may retain EUR 1 045.04 of his or her net income	In the case of one dependent relative, the retainable income may be up to EUR 1 439.99; in the case of two dependent relatives, up to EUR 1 659.99; in the case of three dependent relatives, up to EUR 1 879.99.



Greece (EL)	Does not exist	
Hungary (HU)	66 % of the salary of the debtor under a mortgage or lease can be retained, with a minimum of approx. EUR 95, which cannot ensure a decent living.	
Ireland (IE)	EUR 938 per month for a single person.	Plus housing and childcare costs.
Italy (IT)	Up to 20 % of salaries, wages, indemnities due in execution of a labour contract.	Governmental subsidies and charitable grants, along with bequests and other sums for the purpose of maintenance, are not subject to execution.
Latvia (LV)	EUR 360 per month for debtor and for each member of household or dependents. ²	
Lithuania (LT)	No regulation on minimum income debtor should retain, however there are maximums which can be attached.	
Luxembourg (LU)	The sizeable part of the salary of a debtor is defined by law under a progressive system: the first EUR 550 per month is protected; then, between EUR 551 and EUR 850, 10 % of the additional salary can be seized; between EUR 851 and EUR 1 050 per month, 20 % of the additional salary can be seized; between EUR 1 051 and EUR 1 750 per month, 25 % of the additional salary can be seized; each euro above EUR 1 750 can then be seized by the creditors.	
Malta (MT)	Salaries, wages, benefits, pensions and allowances up to EUR 698.81 in cases of executive garnishee orders. Clothes for daily wear, bedding, utensils and furniture considered reasonably necessary for the decent living of the debtor and his family in case of warrant of seizure of movable property.	Charitable grants made by Government, bequests for the express purpose of maintenance and other sums due for maintenance in general would fall beyond the reach of the order. This protection is not applicable to defaulting lessees.
Netherlands (NL)	Debt management laws enable the debtor to become debt free after 3 years, in the meantime retaining	

² The amount of minimum monthly salary since 1.1.2015.



	95 % of the statutory assistance amount, taking into account housing costs, health insurance and both partners' income.	
Poland (PL)	Protected minimum income is the minimum wage (approx. EUR 295 net income per month). The minimum wage during the first year of employment is lower (80 % - approx. EUR 240 net income per month). If the debtor does not receive a fixed salary, the subject of the execution cannot be an amount of money necessary for the debtor and his family to survive two weeks (in such cases, this amount is estimated each time by the bailiff).	The following cannot be subjected to enforcement: (1) maintenance obligations, (2) monetary benefits paid in the event of ineffective execution of maintenance obligations, (3) family benefits and allowances, (4) social assistance benefits, (5) 'helplessness allowances' and other similar sources of income.
Portugal (PT)	EUR 505 ³ minimum (single person) and, if they earn more, 1/3 of the wage can be retained.	
Romania (RO)	Does not exist ⁴ in this form, but similar.	According to Arts. 452 and 453 of the Civil Procedure Code, all the assets of the debtor can be sold without restriction, but when it comes to income, according to the Code of Civil Procedure, they are subject to seizure. The seizure is regulated mainly by Arts. 452-461 of the Code. - For maintenance obligations in respect of children – a

³ From 1 October 2014 (Decree-law 144/2014, available at http://www4.seg-social.pt/documents/10152/6829461/DL_144_2014).

⁴ The Romanian Parliament is currently (March/April 2015) debating the Individuals' Insolvency Law, which does not directly stipulate a protected income for cases of eviction, but in a way it could tackle some forms of protection. The law has already been approved by the Senate, but not yet by the Chamber of Deputies. If the personal bankruptcy law is approved, it will be linked to the (minimum) protected income to the extent that the total debt of the individual exceeds a certain threshold over a reference period (to be determined by law). In cases of bankruptcy, the effect is liquidation of all assets of the debtor, execution and debt cancellation income in the future. However, as the bill is still in draft form before being published in its final form for public debate, it may be modified in any respect and in full. Parlamentul României, 2015, Lege privind insolvența persoanelor fizice / *Individuals' Insolvency Law* <http://www.senat.ro/Legis/PDF%5C2014%5C14L370FG.pdf>.



		<p>share of up to 1/2</p> <ul style="list-style-type: none"> - For any type of debts – 1/3 of the debtor's income share - If there are multiple deductions, the maximum amount of deductions cannot exceed 1/2 - Where net income is less than the minimum net wage per economy, the percentage of 50 % will apply to the portion exceeding half of that amount, not to the entire net revenue. <p>In Romania the minimum amount secured to the borrower is expressed as a percentage and not a fixed amount. Therefore, a share of total income is guaranteed, according to the debt, of between 2/3 and 1/2 of the revenue obtained.</p>
Slovakia (SK)	<p>In enforcement proceedings, the enforcement official must allow the debtor to withdraw EUR 100 from the account before its attachment, they must leave 60 % of the subsistence minimum (EUR 198.09) and they must not claim some social benefits provided by the state, benefits in material need (EUR 61.60 – the basic benefit) and family child benefits (EUR 23.52 for 1 child).</p>	<p>In case of regular monthly wage or pension deductions, the enforcement official must let the debtor keep 60 % of the subsistence minimum. Currently, this amount is EUR 118.90 a month.</p>
Slovenia (SI)	<p>The following cannot be subjected to enforcement: social transfers, scholarships, child support and other similar sources of income. Furthermore, the debtor is entitled to retain 70 % of the minimum wage. This applies to both mortgages and leases.</p>	
Spain (ES)	<p>After mortgage enforcement: EUR 962/month (single person); Other cases (e.g. rent default): EUR 645.30 (single person).</p>	<p>After mortgage enforcement: EUR 1 539/month for 2 adults and 2 children.</p>



Sweden (SE)	<p>Amounts during 2015.⁵</p> <p>The minimum income according to the National Board of Health and Welfare:</p> <p>Single person: EUR 307; 2 cohabitating people: EUR 554; Children: from 0 years old: EUR 181, increasing to EUR 339 for children aged 15-18 years. Housing costs are not included.</p> <p>The minimum income according to the bailiff:</p> <p>Single person: EUR 487; 2 cohabitating people: EUR 805; children up to 6 years old: EUR 258; children 7 years and older: EUR 297. The bailiff can increase the amount because of costs for medicine and healthcare, journeys to and from work, child care, special food, spectacles and more expensive dental care.</p>	<p>There are two minimum incomes in Sweden. The first is decided by the National Board of Health and Welfare (<i>Socialstyrelsen</i>). This regulates the minimum standard of living for people dependent on means-tested social assistance. The second is decided by the bailiff and regulates the standard of living after distraints on salaries. The first is lower than the second because it should not be possible to get social assistance to cover for income losses due to distraint on salaries.⁶</p>
United Kingdom (UK)	Decided by the court.	

⁵ EUR 1 = SEK 9.6.

⁶ <http://www.socialstyrelsen.se/ekonomisktband/riksnormen>
<https://www.kronofogden.se/Existensminimum.html>.

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