

COVID19 GUIDANCE NOTE

PROTECTION HOUSING FROM FINANCIALIZATION

&

BUILDING BACK BETTER

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Worldwide, States are relying on people to stay home to prevent the spread of the novel coronavirus. As a result, housing has become the front-line defence against the disease. In light of the global recognition of the importance of housing to protect life, States must take urgent measures to ensure that adequate housing is available for people both during and after the crisis.

COVID-19 continues to have a devastating financial impact on local and national economies around the world. States have moved quickly to introduce measures, such as cutting interest rates, generating liquidity for banks and companies, and providing financial assistance for families, aimed at promoting growth and helping people to weather their loss of income. However, without human rights input and oversight, measures taken to stabilize economies and provide temporary relief to individuals and families may also be creating opportune conditions for investment actors to profit from COVID-19's impact, particularly in the area of residential real estate.

COVID-19 has already increased the amount of distressed real estate worldwide which means that investors have a growing pool of 'assets' they can purchase at low cost. This pool could increase vastly if renters and mortgagees who have been provided with temporary housing payment relief during the pandemic are not protected from evictions and find themselves unable to pay their debts or housing costs due to continuing financial insecurity after the pandemic.

At the same time, the decision of many States to cut interest rates has meant that there is greater availability of cheap credit, which entices the purchase of real estate. reducing the cost of buying real estate even further, and hugely increasing its potential for profitability. In a time of economic crisis, investors will flock to quality, low-risk investments like residential real estate that is likely to perform well in the medium to long-term, compared to other investment opportunities.

¹ This Guidance Note was developed through consultations with advocates and experts from Asia, Africa, Europe, North America and Latin America. This Guidance Note may be updated based on lessons learned, emerging concerns and good practices.

² Please ensure you are referring to the most recent version of this guidance note.

Already, investors have openly discussed that the conditions created by the pandemic may present an even greater opportunity to buy distressed assets than that of the Global Financial Crisis.³

Now that the world has seen exactly how important home is to the preservation of human life, States have a renewed obligation to protect the social function of housing. This requires concerted action to ensure housing is not reduced to a financial asset or a safe investment. To do this, they must ensure that human rights are central to financial policy, economic governance, and financial supervisory frameworks, which have traditionally only been responsive to the idea of housing as an asset or investment tool, measured by economic principles such as risk to financial stability, market failure and behavioural economics. Now is the time to address structural inequalities in our financial and housing systems and ensure that they are guided by, and responsive to, international human rights.⁴

To this end, and in keeping with international human rights obligations, governments must use this moment to correct the gross structural inequalities in housing systems, by: eliminating homelessness; regularizing informal settlements and ensuring access to basic services including water and sanitation; guaranteeing security of tenure for all residents; prohibiting all forced evictions and declaring a moratorium on evictions into homelessness; and regulating the cost of housing to ensure it is commensurate with household incomes, including for those living in low income and poverty. Communities, families and individuals must emerge from this pandemic whole, without crippling debts, without facing possible eviction or homelessness. They must also be provided with the necessary protections to endure any future pandemics and natural or human-made disasters triggered by climate-change or uncontrolled rapid urbanization, for example.

National, regional and local governments have implemented measures to protect those living in housing vulnerability in ways that would have been unthinkable just a few short weeks ago, through for example, moratoria on evictions, rent freezes, provision of water and sanitation services to informal settlements, and of shelter space for those living in homelessness. These measures demonstrate State recognition that access to adequate housing is essential to protect against the novel virus.

States must turn these emergency provisions into measures that protect humanity and promote human dignity after the pandemic ends and well into the future. And they must do more. They must recognize and address the role that the financialization of housing has played in creating homelessness, the rise in informal settlements, unaffordability and housing precarity.⁵ In this regard, I urge States to:

³ See Wall Street Journal, 7 April 2020, available at www.wsj.com/articles/real-estate-investors-eye-potential-bonanza-in-distressed-sales-11586260801

⁴ See Podraic Kenna, Housing must be respected and promoted by EU institutions for the benefits of EU citizens, Briefing paper 2, available at; www.nuigalway.ie/media/housinglawrightsandpolicy/files/Briefing-2---EU-Economic-Governance-and-Financial-Supervision---April-2020.pdf

⁵ On the impact of financialization on the right to housing, see the report of the Special Rapporteur, [A/HRC/34/51](https://www.unhcr.org/refugees/article/2019/07/16/5c90100c-9a10-4910-9000-000000000000.html).

1. Human rights principles and considerations should guide all financial interventions adopted both during and after the pandemic. All measures introduced to protect the economy and provide relief for individuals and families must be assessed to ensure positive human rights impact and progress toward the implementation of the right to housing.⁶
2. States should mandate national human rights institutions or another relevant independent body to monitor the development, implementation and impact of financial and fiscal policies and ensure consistency with economic, social and cultural rights obligations, including the right to housing. Activities of private financial actors should also be subject to human rights oversight to ensure that their business practices do not have an adverse effect on the right to housing, as was the case during the Global Financial Crisis.
3. Organize consultations at the national and local level between governments, relevant stakeholders, tenant unions, community housing associations, residents' and home owners' associations, housing finance providers, housing developers and construction companies to address housing issues aggravated by COVID-19 and develop rights-based housing strategies at national and local level in line with existing recommendations ([A/HRC/37/53](#)).
4. Re-engage in the provision of housing by increasing stock through acquisitions. This can be initiated by enacting the right of first refusal legislation for sub-national and national governments to purchase for sale properties on the private market. This may include taking steps to convert purchases commercial real estate into temporary and emergency housing in the short-term, with a view to converting the units into affordable a social housing in the long-term. Care must be taken to avoid private investors utilising their vast finances, which often exceed those of municipalities, to make bids for real estate that are far greater than the market value knowing these cannot be matched, and then implementing even higher rents to recoup the higher purchase price. Once purchased, these public assets must be used as social and affordable housing. To this end, States should work collaboratively with national and local public housing providers, community housing associations, housing unions and housing cooperatives.
5. Prohibit government bailout funding from being used to purchase residential real estate as an investment. Conditions for receipt of government bailouts must include a commitment to respect, protect and fulfil human rights, including the human right to housing. Government bailouts should not be provided to companies that hold offshore accounts or accounts in tax havens.

⁶ See United Nations Independent Expert on the effects of foreign debt, 'Guiding principles on human rights impact assessments of economic reforms', [A/HRC/40/57](#), principles 2 and 3.

6. Create, implement or strengthen policies and legislation regarding rent and mortgage relief to ensure that tenants and homeowners will not suffer eviction or foreclosure owing to their inability to pay outstanding debts once their rent or mortgage relief terminates.
7. Maximise financial assistance for individuals and households, particularly tenants, rather than providing benefits to investor companies and their shareholders for loss of rental income.
8. Ensure lenders provide preferential treatment to borrowers wishing to purchase real estate for its social function and create emergency, affordable and social housing to assist those in need both during and after the pandemic.
9. Ensure that any public support or stimulus packages directed to the real estate and construction sector is conditional on the building of affordable, accessible and environmentally sustainable housing guaranteeing a social mix. The percentage of units that must be made available as low-income or affordable housing must be calculated so that it meaningfully responds to the demand in the local context.