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Rental Sector Reform Must Look at the European Dimension

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Rental sector reform must look at the European dimension

One of the key points of interest for me in Rebuilding Ireland, the recently published Action Plan for Housing and Homelessness, was how it proposed to deal with reform of security of tenure in the private rental sector. Under the plan, where a landlord proposes to sell 20 or more units within a single scheme, the tenants can remain in situ “other than in exceptional circumstances”. Hopefully, this will be amended in due course; the proposal affects few landlords, offers protection to only a small proportion of tenants, and is riddled with legal holes. I would argue that landlords with more than three properties lose all rights to evict tenants if the property is for sale or needed by a family member. In return, they would have more profitable tax treatment. On the upside, such reform of the private rental sector is long overdue, given its transformation since the last significant legislative change in 2004. Any future reform has an increasingly important European dimension, too, which shouldn’t be ignored. An EU rule in one area, such as what constitutes on- or off-balance sheet spending, can have considerable impacts across many fields, including housing. According to NUI Galway’s Dr Padraic Kenna, a member of the EU-funded TENLAW project, EU legislation affects Ireland in a number of housing areas. These include consumer law and policy, the regulation of construction, and energy-saving rules, he says. Other not so obvious areas include anti-discrimination legislation and policy against poverty and social exclusion. The same forces are affecting housing in Ireland as across Europe: the privatisation of social housing supply, declining numbers of government-funded houses, the liberalisation of movement of people leading to more immigration and emigration and an increase in people renting. Tenancy issues have become increasingly important across the EU, not just because of rising house prices and supply shortages, but also because of the demands created by this freedom of movement of labour and money. In addition, with significant cuts to, and the privatisation of, the provision of social housing, it’s no surprise that renting has become so important. The decline in this form of housing supply has had consequences: there has been a commensurate growth in black market tenancies in almost every state in the EU. The rise in importance of the rental sector has put pressure on governments to examine their tenancy laws. Several countries, including Spain and Portugal, have actually reduced the amount of tenant protection available on the premise of increasing supply (it hasn’t worked). Some eastern European countries have introduced tenant regulation for the first time to consolidate the position of landlords and tenants, and to counteract the black market. Last year, the Irish government introduced new legislation that froze rents for two years, and increased periods of notice for landlords and tenants. To date, however, many private rental sector reforms in EU countries have been halfconsidered, knee-jerk reactions to social and economic crises. It’s rare to see expert knowledge or foreign experience informing the legislative reform. Much European tenancy legislation — including some of Ireland’s — is of poor technical quality. As immigrants (and Irish emigrants) make up a considerable proportion of the private rental sector in almost every EU country, it is important that tenants are protected through legislation and the enforcement of standards. The challenge for most EU states is creating and maintaining equilibrium between the legal rights of tenants and landlords, something on which Ireland still has some way to go. Several EU states have adopted the principle of “tenure neutrality” — where renters and homeowners are treated the same by the state — and it is supported by international housing experts. Ireland adopted it in 2011’s housing policy statement but there’s no further mention of it in Rebuilding Ireland: this is a retrograde step. The impact of Europe and European law on housing is often

underestimated in Ireland, but across many dimensions from employment to investment, and standards to human rights, the EU will have an increasing influence on our national housing system. For more information on this topic, see Bremen University's Tenlaw project: tenlaw.uni-bremen.de/EuropeanRole.pdf