

Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; and the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

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Excellency,

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; and Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, pursuant to Human Rights Council resolutions 35/7 and 34/9.

We are writing to express our concern with respect to your Government's practice of adopting laws and policies which treat housing as a commodity and undermine the enjoyment of housing as a human right. We invite you to reflect on the following concerns with a view to developing a human rights based response.

Our chief concern lies with those laws and policies which have allowed unprecedented amounts of global capital to be invested in housing as security for financial instruments that are traded on global markets, and as a means of accumulating wealth. This expanding role and unprecedented dominance of unregulated financial markets and corporations in the housing sector is now generally referred to as the "financialization of housing" and it is having devastating consequences for tenants.

Contrary to international human rights obligations, investment in housing in Denmark has disconnected housing from its core social purpose of providing people with a place to live in with security and dignity.

We have been informed that the financialization of housing in Denmark has taken hold, affecting access to affordable housing for many.

The amount of foreign capital invested in the Danish housing market has risen from DKK 4.4 billion to almost DKK 5 billion during 2012-2017. Thereby foreign investments made up a total of 54 percent of the total sum of investments in 2017.

In Copenhagen alone, foreign investors bought real estate for DKK 22.2 billion in 2017 compared to DKK 2.3 billion in 2012. Foreign investors accounted for 71 percent of real estate bought in Copenhagen in 2017. Blackstone currently has a portfolio of 136 properties with 2,515 rental units in Denmark, bought through their Danish partner, North 360 in the last 2 years.

Because Blackstone relies on rental income to satisfy its investors, and to leverage further capital, their business model requires that they increase rents of the properties

they purchase. Under Danish law a landlord can increase rent levels with a new tenant. If a landlord renovates for more than DKK 250,000—what’s called a major improvement to living quality (e.g. put in a new kitchen and bathroom)— the rent can be further raised as the Housing Regulation Law §5.2 of 1996 allows the landlord to charge rent according to the “value of the rented dwelling” when renting to a new tenant. The Special Rapporteur has learned that North 360 is renovating apartments specifically for this purpose. If the renovations and threat of increased rental costs do not motivate a tenant to move, the Rapporteur was told that tenants in Copenhagen are offered money to vacate their homes.

Under this model, the maximum rent can increase from DKK700-900 DKK per square meter prior to the major improvement renovation to 1,800 DKK per square meter a year in a newly renovated unit – a rise of more than 100%. This leap in rental costs is pushing people out of their homes.

The financialization of residential real estate undermines the enjoyment of the right to non-discrimination and to housing. Because the business model associated with financialization demands short-term profits, there is heightened pressure placed on purchasing affordable housing - often where the most vulnerable communities are located - and then securing the highest possible return on investment through the persistent extraction of profits through monthly rents. The result of this is the constant escalation of housing costs for tenants. Turning housing into an investment leads to decision-making that is investor centric, rather than tenant centered. When the focus is on maximizing profits, housing becomes less affordable, less available, less secure, and less habitable.

We would like to remind your Excellency’s Government of its obligations under various international human rights instruments, in particular the International Covenant on Economic, Social and Cultural Rights to which Denmark has been a Party since 6 January 1972, and more specifically article 11.1 which states that “[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 food, clothing and housing, and to the continuous improvement of living conditions.” In addition, we would like to bring to your Government attention the UN Guiding Principles on Business and Human Rights (UNGPs), which remind States that they must protect against human rights abuse by business enterprises within their territory and/or jurisdiction. As part of their duty to protect against business-related human rights abuse, States are required to take appropriate steps to “prevent, investigate, punish and redress such abuse through effective policies, legislation, regulations and adjudication” (Guiding Principle 1). In addition, States should “enforce laws that are aimed at, or have the effect of, requiring business enterprises to respect human rights...” (Guiding Principle 3). In addition, business entities also have an independent responsibility to respect human rights, including the right to adequate housing, according to the UNGPs.

As you may know, according to international human rights law, your Government is required to take progressive measures, to the maximum of available resources, to ensure access to adequate housing for all without discrimination. To address the issue of financialization and its impact on the enjoyment of the right to housing, your Government

must develop policies and laws that include a full range of taxation, regulatory and planning measures in order to re-establish housing as a human right, promote an inclusive housing system, prevent speculation and limit the extraction of profits at the expense of tenants. This will require a transformation of the relationship between your Government and the financial sector, whereby human rights implementation becomes the overriding goal. In this regard, we would like to draw to your attention to the report of the Special Rapporteur on the financialization of housing (A/HRC/34/51).

Please note that a letter with a similar content has been sent to several countries concerned, and to the company Blackstone Group highlighting its human rights obligation as private actor to avoid any harm and to take positive steps to realize the right to housing.

We use this opportunity to encourage the Kingdom of Denmark to recognize the impact of the financialization of housing on the enjoyment of the right to adequate housing particularly for minority and vulnerable groups, and to take concerted steps towards returning housing to its core function as a social good. Failure to do so can only be regarded as a retrogressive step, and accordingly puts the State at odds with its obligations under international human rights law.

We intend to publicly express our concerns in the near future, as we believe that the wider public should be alerted to the potential implications of the above-mentioned policies. The press release will indicate that we have been in contact with your Excellency's Government's to clarify the issue/s in question.

This letter and any response received from your Excellency's Government will be made public via the communications reporting website within 48 hours. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

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

Surya Deva

Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Leilani Farha

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context