

Collective complaint No. 53/2008 *Fédération européenne des Associations nationales travaillant avec les Sans-abri* (FEANTSA) v. Slovenia

The complainant organisation, *Fédération européenne des Associations nationales travaillant avec les Sans-abri* (FEANTSA), is an international non-governmental organisation, alleging a violation of Articles 16 and 31 of the Revised European Social Charter, taken alone or in conjunction with Article E, on the ground that Slovenia has failed to ensure an effective right to housing for its residents, especially families. In particular, it submits that the Housing Act of 1991 placed some 13,000 families in an extremely precarious position by exempting public entities from the obligation of selling to former holders of the Housing Right, on advantageous terms, the flats which had been transferred to public ownership through nationalisation, confiscation or expropriation, and without offering such tenants security of tenure equivalent to the option of buying on advantageous terms.

In its report¹ on complaint No. 53/2008, containing its decision on the merits of the complaint. The European Committee of Social Rights The European Committee of Social Rights concluded that the situation in Slovenia constituted a violation of Articles 31§1, 31§3, 16 and E of the Revised Charter in conjunction with Articles 31§3 and 16.

More information

(i) Violation of Article 31§1 of the Revised Charter (unanimously)

The Committee has consistently held that the right to adequate housing means *inter alia* a right that is protected by law. It considers that the status conferred to tenants of non-profit flats in Slovenia prior to the 1991 Housing Act clearly fitted this definition. The rules introduced by the 1991 Act allowing former holders of the Housing Right – which the Act abolished - to purchase at an advantageous price the flats in respect of which they had previously held this right, also ensured sufficient legal security of tenure for the persons concerned.

The Committee considers, however, that as regards the situation of former holders of the Housing Right over flats which were restituted to their private owners, that the combination of insufficient measures for the access to or purchase of a substitute flat, the changes in the rules on tenancy and the increase in rents, are likely to place a significant number of households in a very precarious position and to prevent them from effectively exercising their right to housing, at the end of the Slovenian Government's reforms.

(ii) Violation of Article 31§3 of the Revised Charter (unanimously)

The Committee considers that, in order to establish that measures are being taken to make the price of housing accessible to those without adequate resources, States Parties to the Charter must show not the average affordability ratio required of all those applying for housing, but rather that the affordability ratio of the poorest applicants for housing is compatible with their level of income, something that is clearly not the case with former holders of the Housing Right, in particular elderly persons, who have been deprived not only of this right, but also of the opportunity to purchase the flat they live in, or another one, on advantageous terms, and of the opportunity to remain in the flat, or move to and occupy another flat, in return for a reasonable rent

(iii) Violation of Article E of the Revised Charter in conjunction with Article 31§3 (9 votes to 5)

¹ It is recalled that pursuant to Article 8§2 of the Protocol, this report is not made public until after four months after it has been transmitted to the Committee of Ministers, namely 30 January 2010.

The Committee considers that the treatment accorded to former holders of the Housing Right in respect of flats acquired by the state through nationalisation or expropriation, and restored to their owners, is manifestly discriminatory in relation to the treatment accorded to other tenants of flats that were transferred to public ownership by other means, there being no evidence of any difference in the situation of the two categories of tenants, and the original distinction between the forms of public ownership in question, of which, moreover, they were not necessarily aware, being in no way imputable to them, and having no bearing on the nature of their own relationship with the public owner or administrator.

(iv) Violation of Article 16 of the Revised Charter (13 votes to 1)

The Committee considers that in view of the scope it has constantly attributed to Article 16 as regards housing of the family, the findings of a violation of Article 31, taken alone or in conjunction with Article E, amount to a finding that there has also been a breach of Article 16.

(v) Violation of Article E of the Revised Charter in conjunction with Article 16 (11 votes to 3)

The Committee considers that in view of the scope it has constantly attributed to Article 16 as regards housing of the family, the findings of a violation of Article 31, taken alone or in conjunction with Article E, amount to a finding that there has also been a breach of Article 16, and of Article E in conjunction with Article 16.