



21/03/2011

RAP/RCha/SLE/X(2010)Add2

REVISED EUROPEAN SOCIAL CHARTER

Comments from the Association of Tenants of Slovenia
on the
10th National Report on the implementation of
the Revised European Social Charter

submitted by

THE GOVERNMENT OF SLOVENIA

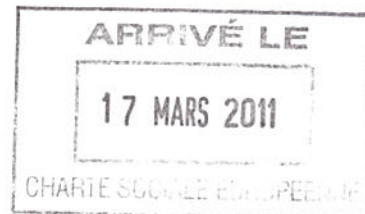
(Articles 8, 17, 27 and 31
for the period 01/01/2005– 31/12/2009;
(Articles 7, 16 and 19
for the period 01/01/2006– 31/12/2009)

Report registered by the Secretariat on 17 March 2011

CYCLE 2011

Tavčarjeva ulica 3, SI-1000 Ljubljana, Slovenija
☎ ++ 386 1 431 23 24 / gsm ++ 386 31 886 402
info@zdruzenje-najemnikov.si

Number: 32-CoE/2010
Date: 15 March 2011



Secretariat of the European Social Charter
Council of Europe
Directorate general of Human Rights and Legal Affairs
Directorate of Monitoring
F-67075 Strasbourg Cedex

**SUBJECT: 10th Report of the Republic of Slovenia on the
Implementation of the Revised European Social Charter**

To the Members of the European Committee of Social rights,

The Association of Tenants of Slovenia (hereinafter referred to as: association) has reviewed the 10th Report of the Republic of Slovenia on the Implementation of the Revised European Social Charter that was adopted on 16. December 2010 by the Government of the Republic of Slovenia and has been sent to the Council of Europe by the competent Ministry of Labour, Family and Social Affairs.

The association finds that the report is incomplete and misleading in a part that refers to Articles 16 and 31 of the Revised European Social Charter (hereinafter referred to as: RESC).

Article 31§1 RESC - Access to Housing of an Adequate Standard

Housing Inspection

The statement that the inspection of the implementation of public interest in the housing area shall be carried out by officers from the Housing Inspection Service is misleading.

It is correct that the law lays down such duties and competences for the Housing Inspection Service, yet until now the association is aware of only a few exceptional cases in which the Housing Inspection Service actually took action in case of a report of a situation that would require an emergency response.

Those few cases were always procedures that lasted more than 24 months from the submission of a report of inadequate condition to the actual issuing of a decision by an inspector, and then another 12 months until the actual execution of obligations imposed on an owner of a housing of an inadequate standard. Measures were taken only in cases, where tenants were represented by a lawyer.

In most of the cases the Housing Inspection Service does not react to the reports, does not conduct on-site inspections or declares itself as not competent to act.

Legal Protection of Tenants:

Tenants are left without sufficient legal protection. All the disputes are managed directly and immediately in the courts. It is well known, that the court procedures entail the high costs of court taxes, lawyer's representation and costs of experts. Therefore the judicial path proves too costly, especially as tenants usually are a financially weak population.

Mentioning provisions of the law that foresee and regulate the establishment of Councils for Protecting the Rights of Tenants is misleading.

Until this date, only one of 210 municipalities of the Republic of Slovenia established a Council for Protecting the Rights of Tenants; a National Council for Protecting the Rights of Tenants has not been established yet.

Article 31§2 RESC – Reducing the Number of Homeless Persons

Judicial Supervision over Forced Eviction:

Evictions in the Republic of Slovenia are carried out under a judicial supervision. Yet the following should be added to the description given in the report.

According to Article 112 of the Housing Act, when an owner demands an eviction of a tenant, such disputes are given priority in the court (preferential proceedings). That means that the court, which receives an owner's suit, requesting an eviction of a tenant, takes it into proceeding before other trials and renders an accelerated decision. Instruments that are to accelerate the execution of a forced eviction are described in the report. In practice this has substantially increased the number of evictions of tenants and accelerated them.

Further we would like to draw attention to the fact that no law makes it possible to postpone an eviction in a case a tenant has no possibility to access alternative housing solutions. Namely, regarding general provisions on postponing evictions, judicial practice already stated that inability to access other housing solutions is not a reason to postpone an eviction.

Further it should be taken into consideration that only in the year 2009 did the Ministry of Labour, Family and Social Affairs cancel the provision in Article 7 of the Rules on Renting Non-Profit Apartments by which a tenant, who had been evicted on fault-based grounds, was not able to apply again for renting a public non-profit housing. However municipalities make good use of Article 4 of the stated Rules by

which lessors are, according to these Rules, able to prescribe additional requirements next to general ones. Those requirements are to be met by applicants and those usually include exclusionary causes to a successful application in form of circumstances that bring the same effect as the former Article 7 of the cited Rules. As a result, the impact remains as it was before the cancellation of the provision contained in Article 7 of the Rules. Evicted tenants who as such have no own means to assure a rental or an own housing in the market, consequently have no possibilities to legally fulfil their housing needs in a public non-profit housing. In practice those situations are often solved by moving in with relatives, friends or acquaintances and by applying to new tenders for non-profit housing in the hope that municipality bodies will not acquire information on the previous eviction and the like. Otherwise, people become homeless.

Article 31§3 RESC – Accessible Housing

Housing Construction:

The statement that approximately 90% of the envisaged housing construction was to be actually realised, is misleading.

Regarding construction, the report confuses information about planned and actually completed construction and defines only joint information on the envisaged and actually realised construction without making a distinction – that is clearly stated in the National Housing Programme - between the number of the apartments that were to be allocated to the public sector and those built for the private sector. Actual data show that in period of years 2000 – 2009 the construction was conducted over the envisaged scope only regarding own and profit housing in the free housing market by private investors, whereas the supply of housing to be allocated to the public sector was realised only in its minimum range.

The National Housing Programme was published in the Official Gazette No. 43/2000 dated 24 May 2000 and had in Article 2.12.1. a) envisaged the following structure of construction of new housing in period of years 2000 – 2009:

Year	Private Sector		Public Sector		Sum	
	Own	Profit	Social	Non-profit	Number	Index
2000	5500	50	300	350	6200	100
2001	5600	100	400	450	6550	106
2002	5700	150	500	600	6950	112
2003	5800	200	600	800	7400	119
2004	5900	250	800	1000	7950	128
2005	6000	300	1000	1250	8550	138
2006	6000	350	1200	1500	9050	146
2007	6000	400	1400	1800	9600	155
2008	6000	450	1700	2100	10250	165
2009	6000	500	2000	2500	11000	177
Sum:	58500	2750	9900	12350	83500	

Comparing the stated and the information from the report, it is clear that the public sector of the Republic of Slovenia only reached the target for construction of new social and non-profit housing in the year 2000. In the following nine years it had more and more obviously lagged behind goals of the National Housing Programme.

In the whole period only 4.513 housing units out of 22.250 housing units were intended for use by the public sector, which means only a few more than 20 %.

A detailed presentation can be seen in the following chart:

year	planned (public sector)			realized (public sector)			% realized
	social	non-profit	sum	social	non-profit	sum	
2000	300	350	650	33	642	675	103,85 %
2001	400	450	850	121	323	444	52,24 %
2002	500	600	1100	220	318	538	48,91 %
2003	600	800	1400	0	411	411	29,36 %
2004	800	1000	1800	0	264	264	14,67 %
2005	1000	1250	2250	0	524	524	23,29 %
2006	1200	1500	2700	0	358	358	13,26 %
2007	1400	1800	3200	0	401	401	12,53 %
2008	1700	2100	3800	0	498	498	13,11 %
2009	2000	2500	4500	0	400	400	8,89 %
sum	9900	12350	22250	374	4139	4513	20,28 %

In the report it is stated that approximately 4.800 applicants are currently waiting to acquire non-profit rental housing. This information is misleading. In fact the public administration bodies have never performed an analysis of what is the actual scope of population that would need non-profit rental housing (regardless of those who live in too small or inappropriate housing, live with their families, live in market-priced housing, or have no housing and similar situations). Namely practice shows that numerous individuals and families do not apply for tenders due to their legal illiteracy, lack of information, too long waiting lists or even because they do not fulfil the requirements.

By that it is to be stressed that the report failed to provide information on an average waiting period to gain non-profit rental housing. The last official analysis of the National Housing Programme, which was conducted by the competent Ministry of Labour, Family and Social Affairs, shows that it ranges from 3 to 5 years.

Non-Profit Rental Fees:

The information given regarding the level of non-profit rental fees is misleading.

Until the year 2000, according to the valid regulations, a yearly non-profit rental fee was calculated according to the following formula:

$$\text{area} \times \text{number of points} \times 2,54 \text{ DEM} \times \text{correction factor} \times 2,9 \%$$

In the year 2009 and after, according to the valid regulations, a yearly non-profit rental fee is calculated according to the following formula:

area x number of points x 2,63 EUR x correction factor x 4,68 %

That means that due to numerous intermediate changes regarding individual elements, the non-profit rent raised from years 2000 to 2009 by approximately 226 %.

The report failed to give information on municipalities having the possibility to raise non-profit rent for additional 30 % over the new fee in the name of location, which means that the non-profit rent in individual municipalities could be as much as 324 % higher than a non-profit rent in year 2000.

Further, the report failed to represent information that in the year 2004 a new methodology for evaluation of housing was introduced, which is less favourable to tenants comparing with previous methodology, namely it raises the number of points and, with that, the level of non-profit rent. An official analysis on rent increases as a result of changes in the methodology was never performed.

Further, the report also failed to provide information on the fact that the Ministry of Labour, Family and Social Affairs announced that it would propose changes of law that would even more increase the level of non-profit rents.

It is to be stressed that non-profit rent and non-profit housing are not self-subsistent, but are supposed to be a meaningful attempt to solve housing problems of socially weak individuals and families. The purpose of a non-profit rent should be enabling tenants to ensure that they have a suitable residence despite being unable to satisfy a housing need in a free housing market. By no means can the purpose of those institutes be in the possibility of owners of surplus capital to profitably invest their capital and to finance purchases and construction of real estate property by renting non-profit housing. Namely, such purpose is pursued in a free market by a free housing construction and not by a regulated public market that is to be designed for socially disadvantaged groups. Approach of national authority that is constantly going in this direction is conceptually mistaken, namely it is in its extreme execution contradictory in its nature and according to the nature of things incompatible to the notion of non-profitability.

Also the concept of defining rents on the basis of an average net-salary is mistaken, as non-profit tenants in a disproportionate share do not receive average net-salaries, but have usually minimum or no income at all, indeed, they are candidates for non-profit rental housing for socially weak individuals and families.

The Problem of Tenants in Denationalised Flats:


The European Committee of Social Rights of the Council of Europe has rendered the Decision on the Merits of the Complaint No. 53/2008 dated 8 September 2009, in which it concluded that, due to inadequate legal solutions for tenants in denationalised flats, the Republic of Slovenia is violating the Revised European Social Charter which is an international charter ratified by a number of countries, including Slovenia (Articles 16, 31 and E).

This is a distinctively vulnerable group of tenants in the Republic of Slovenia, whose problem lasts from the beginning of the 90s and was artificially created by a poorly thought-out transitional legislation and that still affects several thousand Slovenian families.

The report does not even address the stated problem nor does it propose any solutions to that problem. National authorities obviously do not intend to solve the stated problem despite the mentioned decision. What is worse is that the Ministry of Labour, Family and Social Affairs and the Government already repeatedly and publicly expressed their viewpoint that the mentioned decision is not binding for the Republic of Slovenia.

Yours faithfully,




On behalf of the Executive Board of
Association of Tenants of Slovenia
Tanja Šarec, LL.B.
The President

CC:

FEANTSA
194, Chaussée de Louvain
1210 Brussels
Belgium