15/02/2016 RAP/RCha/SVN/15(2016)

EUROPEAN SOCIAL CHARTER

15th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF SLOVENIA

Follow-up to Collective complaints 95/2013 and 53/2008

Report registered by the Secretariat on
15 February 2016

CYCLE 2016

REPUBLIC OF SLOVENIA

Fifteenth Report of the Republic of Slovenia

on the implementation of the European Social Charter (revised)

SIMPLIFIED REPORT

December 2015

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INTRODUCTION

The European Social Charter (revised) (hereinafter: the Charter) was adopted by the Council of Europe in 1996. The Republic of Slovenia signed the Charter on 11 October 1997; the Act Ratifying the Charter was adopted by the National Assembly on 11 March 1999 (*Uradni list RS – MP* [Official Gazette of the Republic of Slovenia – International Treaties], No. 7/99); the Charter was ratified on 7 May 1999 and has been applicable in Slovenia since 1 July 1999. Together with the ratification of the Charter, the Republic of Slovenia also accepted supervision of compliance with obligations under the Charter in accordance with the procedure laid down in the Additional Protocol to the European Social Charter providing for a system of collective complaints (hereinafter: the Additional Protocol).The Additional Protocol is a measure to improve the effective realisation of social rights guaranteed by the Charter. It governs the collective complaints procedure that certain international organisations may initiate against the contracting parties should they consider that the application of the Charter has been unsatisfactory.

The reporting system on the implementation of the Charter is often modified. The last modification was made in 2014, with the introduction of certain new features, among them periodic simplified reporting for signatory states which have accepted the collective complaints procedure. According to the reporting schedule, Slovenia has drawn up its simplified report for the first time. In compliance with the request of the Council of Europe, the report is to contain:

1. Information on the follow-up action taken by the Government of the Republic of Slovenia (hereinafter: the Government) in response to the Charter violations established by the European Committee of Social Rights (hereinafter: the ECSR) in the collective complaints procedures (Collective Complaints No. 53/2008, *FEANTSA v Slovenia*, and No. 95/2013, *APPROACH v Slovenia*);
2. Information on the follow-up action taken by the Government in response to the ECSR's latest conclusions on non-conformities with the Charter because of the lack of necessary information; this year, this refers to "Conclusions 2014", reached on the basis of the Thirteenth Report of the Republic of Slovenia on the implementation of the European Social Charter (Labour Rights), adopted by the Government in October 2013. Pursuant to "Conclusions 2014", the ECSR has found no such non-

conformities and thus does not require Slovenia to add consequent additional information to the present simplified report.

Consequently, this first simplified report only contains information on the follow-up action taken by the Government in respect of violations of the Charter which were established by the ECSR in the collective complaints procedures. The ECSR has established two such violations, namely violations of Article 17 of the Charter because of a lack of explicit prohibition of all corporal punishment of children in the national legislation (APPROACH) and Article 31 (in conjunction with Article 16 and Article E) of the Charter on the grounds of the violation of the rights of tenants in so-called restituted (denationalised) dwellings (FEANTSA).

1 The follow-up action taken by the Republic of Slovenia in response to the violation of Article 17 of the European Social Charter (Revised), which was established in the procedure of collective complaint lodged by APPROCH against Slovenia.

1.1 The background

The Collective Complaint against Slovenia (No. 95/2013) was submitted by the Association for the Protection of All Children Ltd (hereinafter: APPROACH), an international non-governmental organisation established in the United Kingdom, which has the right to lodge a collective complaint under Article 1b of the Additional Protocol. On 4 February 2013, APPROACH filed a collective complaint against Slovenia on the grounds of an alleged violation of Article 17 of the Charter (the right of children and young persons to social, legal and economic protection) as a result of Slovenia's failure to explicitly and effectively prohibit in the national legislation all corporal punishment of children in the family and other settings.

In July 2013, the ECSR declared the collective complaint lodged by APPROACH against Slovenia admissible. In its opinion submitted in September 2013, the Government relied on Article 7, paragraph 1, of the Additional Protocol and entirely rejected the allegations of APPROACH regarding the violation of Article 17 of the Charter, claiming that Slovenia fully complies with the obligations under Article 17 of the Charter, since the existing national legislation provides protection of children against negligence, violence or exploitation, and that Slovenia acts with due diligence in this area. The Government explained the provision of the prohibition of corporal punishment of children in family settings and educational institutions and described the measures intended to raise awareness and recognise all forms of violence in society and to develop appropriate social skills among the general public.

In January 2015, the ECSR found that Slovenia was in violation of Article 17, paragraph 1, of the Charter, since the national legislation does not contain an explicit and effective prohibition of all forms

of corporal punishment of children in the family and other settings (kindergartens, schools, institutional care institutions and foster care). The ECSR further noted that under the Charter reporting procedure, Slovenia had repeatedly received conclusions regarding non-conformity with Article 17 of the Charter.

In June 2015, the Committee of Ministers adopted Resolution CM/ResChS(2015)10, in which it calls on Slovenia to report on the follow-up action taken by the Government to remedy the established violations.

1.2 The follow-up action taken by the Government in response to the conclusions of the procedure of the collective complaint lodged by APPROCH against Slovenia

The Government already submitted its opinion during the collective complaints procedure, arguing that the explicit prohibition of corporal punishment in the national legislation alone does not and cannot provide children with adequate protection against violence. The Government maintains that, rather than a mere explicit prohibition in the legislation, the systemic regulation of violence prevention and various measures to raise awareness and recognise all forms of violence in society and to develop social skills among the general public are more effective in practice.

Nevertheless, with a view to reaching a wider consensus in relevant international legal instruments, the Government intends to incorporate into the national legislation an explicit prohibition of corporal punishment of children in family and other settings.

The provision for an explicit prohibition of corporal punishment of children was already incorporated in the 2010 Draft Family Code. This document was adopted by the Government and the Slovenian National Assembly in 2011 but was rejected in a referendum of 25 March 2012 and has, therefore, not entered into force.

In 2015, the Ministry of Labour, Family, Social Affairs and Equal Opportunities began to draw up legislation regulating family relations and protection of the rights of the child. The explicit prohibition of all forms of corporal punishment of children will be incorporated in the legislation that the competent ministry will submit to the Government for consideration in 2016. With the entry into force of this Act, corporal punishment of children in family settings will be prohibited.

The Republic of Slovenia also intends to explicitly prohibit all forms of violence in other settings. In 2014, the Ministry of Education, Science and Sport drew up amendments to the Organisation and Financing of Education Act (ZOFVI) that included a new article regarding the learning environment which explicitly prohibited all forms of violence in educational institutions. As a result of the change of government, the proposed amendments were put on hold until the beginning of 2016, when the competent ministry intends to submit them to the Government for considerations. The proposal for the article ("Learning environment") reads as follows: "In kindergartens, schools and other institutions for

education and training, it is necessary, in accordance with the objectives set out in the preceding Article, to provide a safe and supportive learning environment **where any form of violence** or unequal treatment based on gender, social and cultural origin, religion, race, ethnicity and national origin, or peculiarities of physical and mental development **shall be prohibited**."

The proposal for amendments to the ZOFVI further envisages a provision that a person against whom criminal proceedings have been instituted for a criminal offence against sexual inviolability may not conclude any employment contract in the area of education and training and neither may such person work for an education system on any other legal basis. This means that the restriction relating to the prohibition of concluding employment contracts in the area of education and training also extends to the prohibition of concluding other contracts (copyright contracts, work contracts, etc.). Such a provision will prevent any kind of working relationship between this person and an educational institution which would place such a person in direct or indirect contact with children.

In addition to legislative amendments, the Ministry of Education, Science and Sport is also drawing up proposals for working at education and training institutions with a view of dealing with and preventing violence. Besides the increased training of social competences within the future perspective of EU cohesion policy, the Ministry and the National Education Institute are drafting proposals for guidelines addressing violence in schools and materials to assist professionals in education and training.

2 The follow-up action taken by the Government in response to the violation of Article 31 of the Charter, which was established in the procedure of the collective complaint lodged by FEANTSA against Slovenia

2.1 The background

The Collective Complaint against Slovenia (No. 53/2008) was submitted by the European Federation of National Organisations working with the Homeless (hereinafter: FEANTSA), alleging a violation of Article 31 (the right to housing) in conjunction with Article 16 (the right of the family to social, legal and economic protection) and Article E (non-discrimination) of the Charter. Slovenia was alleged by FEANTSA to have violated:

- Article 31, paragraph 1, by revoking acquired legal titles to homes, increasing the price of accommodation and reducing the possibilities of acquiring adequate accommodation, thus encroaching upon acquired security of tenure;
- Article 31, paragraph 2, in that the effect of the measures taken against the vulnerable group in question was to provoke evictions and increase homelessness;
- Article 31, paragraph 3, by reducing in the long term the affordability of housing that was once guaranteed;

- Article 16, by having artificially created housing problems for the families of tenants in denationalised flats;
- Article E, by having created unequal conditions for both groups of previous holders of the housing right with respect to tenancy, which replaced the former right to housing.

In January 2009, the Government submitted its opinion based on Article 7 of the Additional Protocol and fully denied the allegations of violations of the Charter by describing the legal arrangement of the status of tenants in denationalised flats, which in no way violates the Charter.

In September 2009, the ECSR delivered a decision that Slovenia was in violation of Article 31, paragraphs 1 and 2 (the right to housing), Article 16 (the right of the family to social, legal and economic protection) and Article E (non-discrimination), in conjunction with Articles 16 and 31 of the Charter.

In June 2011, the Committee of Ministers adopted Resolution CM/ResChS(2011)7, in which it called on Slovenia to amend the arrangement to bring it into compliance with the Charter by the submission of the next national report on the relevant Articles of the Charter.

2.2 **The follow-up action taken by the Government in respect of the conclusion of the procedure of the collective complaint lodged by FEANTSA against Slovenia**

Following the conclusion of the procedure of the collective complaint lodged by FEANTSA against Slovenia, the Government appointed an inter-ministerial working group at the level of competent state secretaries, which was fully informed of the problems of tenants in denationalised dwellings.

The minister responsible for housing appointed a new Housing Council in 2013; the Council is an advisory working body that also includes representatives of the Association of Tenants of Slovenia. The Housing Council, *inter alia*, actively participates in drafting and adopting the national housing programme, monitors the implementation of national and local housing policies, assesses the efficiency of instruments, and drafts proposals for measures under the competency of the ministry responsible for housing issues. The Association of Tenants of Slovenia actively participated in drafting a new National Housing Programme, which was sent to the National Assembly for consideration and adoption.

In 2014, the Rules on the Rental of Non-Profit Dwellings (*Uradni list RS*, Nos. 14/04, 34/04, 62/06, 11/09, 81/11 and 47/14) were amended to allow the tenants in denationalised dwellings to obtain other rental homes considerably faster if they so wish (for whatever reason). Pursuant to these Rules, they are awarded a status that places them high on the priority list of applicants expecting to be allocated non-profit rental housing. With the amendment to the aforementioned Rules, non-profit rental housing

owned by municipalities, housing funds, non-profit housing organisations and the state are to be awarded to tenants in denationalised dwellings much faster than before.

As regards appropriate protection or solutions for tenants in denationalised dwellings, the Republic of Slovenia notes that some such tenants lodged an application against the Republic of Slovenia with the European Court of Human Rights; in the case of *Berger-Krall and Others v. Slovenia*, the Court rejected all the tenants' claims and issued its judgment of 12 June 2014 finding that the rights of the tenants of denationalised dwellings had not been violated. The judgment became final in October 2014.