

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**



8 June 2007

Case document No. 4

**European Federation of National Organisations Working with the Homeless
(FEANTSA) v. France**

Complaint No. 39/2006

**OBSERVATIONS FROM THE FINNISH GOVERNMENT ON
THE MERITS**

Registered at the Secretariat on 25 May 2007

Helsinki, 25 May 2007

Mr Régis Brillat
Executive Secretary
Secretariat of the European Social Charter
Directorate of Human Rights
Council of Europe
F-67075 Strasbourg CEDEX

Collective Complaint No. 39/2006

European Federation of National Organisations

Working with the Homeless (FEANTSA) v. France

Sir,

With reference to your letter of 26 March 2007, I have the honour on behalf of the Government of Finland, to submit the following comments.

1. According to the aforementioned collective complaint, France has not sufficiently complied with the provision of Article 31 of the revised European Social Charter concerning the right to housing. The complaint is directed against the objectives, instruments and results of the French housing legislation and policy.
2. The current interpretation of Article 31 is based on the decisions and conclusions of the European Committee of Social Rights taking into consideration the Periodic Reports by the Member States of the Council of Europe having ratified Article 31 and the collective complaints lodged by non-governmental organisations. At the moment, ten Member States of the Council of Europe have

ratified Article 31. So far, only four collective complaints have been lodged against Member States on account of the right to housing, three of which concern the housing conditions of the Roma in Greece, Italy and Bulgaria.

3. In this regard, the collective complaint under consideration has relevance in principle, since it concerns all the paragraphs of Article 31 in parallel (access to housing of an adequate standard, homelessness, the price of housing).

4. From the point of view of developing the case law, at least three important issues can be distinguished in general, and, with regard to dealing with homelessness, in particular.

5. The first paragraph of Article 31 provides for the right to housing in general. It concerns a individual right, which should be made enforceable by effective measures of the State. The availability of and accessibility to housing as well as adequate housing standards are emphasized in the provision.

6. The European Committee of Social Rights has not, so far, specified minimum standards for the availability of and access to housing.

7. When evaluating the availability of housing, it must be taken into account how the housing market is functioning and what is the supply of moderate-priced housing in the country in question. In case there are moderate-priced dwellings to be purchased or rented, the state's responsibility for housing policy has less relevance. The possibilities of having access to housing of those who have low incomes and experience difficulties in the housing market depend in many respects on the supply of dwellings granted on social grounds. Therefore, setting a minimum level could be one way of progress in this matter. On the other hand, social housing should not be defined as low-price or low-quality but as standard housing with the role of the public authorities exercising control as to the choice of lodgers.

8. When evaluating the accessibility to housing, housing possibilities of different population groups, non-discriminatory treatment as well as supporting citizens with difficulties must be taken into account. The latter is important when considering means of reducing social segregation. The State can give priority to providing housing to persons and families living in difficult conditions, including families with children, the homeless, persons with disabilities and the elderly persons. Whether the right to housing presupposes setting a maximum waiting time for a dwelling (as in health services (Article 11, para. 1)) should be considered.

9. When considering the maximum length of time for waiting for a dwelling the prioritization of the state concerned must be taken into account as well. Giving priority to persons and families without any kind of dwelling must be considered acceptable enough. The maximum length could vary from six months to one year: in the case of families with children and minors it would not exceed six months

while in the case of homeless people belonging to other categories it would be one year.

10. In the Revised Social Charter, adequacy refers, first and foremost, to the qualitative requirements attached to housing such the suitability of the dwelling, how well it meets the needs of the person or family in question or how well it suits one's cultural background. The European Committee of Social Rights has stated as a requirement that a dwelling must meet the requirements of being healthy and hygienic, and - an essential precondition- have access to necessary public services such as water, light and heating. In a broader sense, the basic conditions of suitability may also be considered to comprise the safety of the immediate living environment.

11. As to the suitability of a dwelling, so far, the European Committee of Social Rights has only taken a stand on the requirements regarding its size: "A dwelling over-crowded means that the size of the dwelling is not suitable in light of the number of persons and the composition of the household in residence:" Instead, any position regarding the suitability of the immediate environment, the distance between the dwelling and the place of work or the suitability of the housing from the cultural perspective has not been expressed so far.

12. In this connection, it may be referred to the General Comment of the Committee on Economic, Social and Cultural Rights of the United Nations (CESCR General Comment 4; 13 December 1991), according to which adequate housing presupposes seven features. It has been required that a dwelling is a) safe to the lodger, b) it has access to well-functioning public services c) its price is reasonable d) it is suitable, e) accessible, f) appropriately situated and g) suitable for the person or family from the cultural point of view.

Accept, Sir, the assurance of my highest consideration.

Arto Kosonen
Director,
Agent of the Government of Finland before
the European Committee of Social Rights