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**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

9 September 2013

**Case No. 6**

**European Federation of National Organisations working with the Homeless  
(FEANTSA) v The Netherlands**  
Complaint No 86/2012

**SUBMISSIONS OF THE GOVERNMENT IN RESPONSE  
TO THE REQUEST FOR IMMEDIATE MEASURES**

**Registered at the Secretariat on 9 September 2013**





## Ministry of Foreign Affairs

Mr Régis Brillat  
Executive Secretary of the European Committee of Social Rights  
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### **By e-transmission only**

Date 9 September 2013  
Re Complaint No. 86/2012  
European Federation of National Organisations Working with the Homeless  
(FEANTSA) v. the Netherlands

**Encl. 2**

Dear Mr Brillat,

Further to your letters of 8 July, 16 July and 19 July 2013 respectively, concerning the above complaint, I have the honour, on behalf of the Government of the Netherlands, of drawing the attention of the European Committee of Social Rights to the following.

Please find enclosed the report '*Opvang landelijk toegankelijk? Onderzoek naar regiobinding en landelijke toegankelijkheid van de maatschappelijke opvang*' (Is shelter accessible nationwide? Study of the local connection and nationwide access to community shelter services) by the Trimbos Institute, the Netherlands Institute of Mental Health and Addiction ([Annexe 1](#)). The report is the result of a survey on the functioning of the local connection criterion and the nationwide accessibility of (emergency) shelter, carried out at the request of the State Secretary for Health, Welfare and Sport. It was commissioned in response to repeated signals about possible problems involving nationwide accessibility, signals that have been strengthened by the present complaint. The national system for facilitating access to (emergency) shelter and the role of the local connection criterion were set out in the Government's observations on the admissibility and merits of the complaint of 16 October 2012.

I should like to draw your attention in particular to pages 51 to 60 of the report. They show that under the current system nationwide accessibility of shelter cannot be adequately guaranteed. There is room for improvement at various levels, such as in regard to setting out policy and objection procedures, making

explicit agreements between municipalities and institutions providing shelter, and providing better instructions for staff.

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On 2 September 2013 the State Secretary sent a letter accompanying the above report to Parliament (Annexe 2). In this letter, he conceded that he was shocked by the findings of the Trimbos study. According to the State Secretary, municipalities are apparently failing in practice to fulfil their statutory obligation to make community shelter accessible nationwide to anyone who needs it. Although it can be difficult in practice, given the pressure that the community shelter system is under to provide everyone eligible for shelter with a place immediately, municipalities should be ensuring that those entitled to shelter have access to it, even if they have no ties to a given region.

Until now, the procedures to be followed by municipalities were laid down in guidelines on ensuring nationwide access to community shelter services. Further to the findings of the above report, however, the State Secretary has concluded that working with guidelines alone makes the process too non-committal. He has made it clear to the Association of Netherlands Municipalities (VNG) and the members of the municipal executives concerned that he wants to see improvement. To start with, he expects the municipal executives concerned to formalise the agreements contained in the guidelines in a voluntary agreement.

Where necessary the VNG and the Dutch federation of community shelters (*Federatie Opvang*) will be offered support in clarifying the guidelines and developing an instrument that helps ensure an effective assessment of what course of action has the greatest chance of success for each client. If necessary the State Secretary will also facilitate guidelines for institutions that provide shelter, and he will encourage shelters and municipalities to clarify the agreements in place with regard to the local connection.

In 2014 the State Secretary will commission a repeat study to establish whether the foreseen improvement in nationwide accessibility has actually been achieved.

In light of the above developments, which relate directly to the Government's observations on the merits of the complaint, the Government would observe the following. Since international judicial or quasi-judicial human rights scrutiny, based on an individual or a collective right of petition, should always be subsidiary to domestic scrutiny (the latter being better placed to assess the background and detail of a domestic situation), there should be no scope for international

examination of a complaint while the merits thereof are being considered by the national authorities, provided of course such consideration is *bona fide* and effective. This holds true even more where, as in the present case, the Government acknowledges that the situation addressed by the complaint is – to the extent described above – less than satisfactory and, in addition, is taking measures to improve the situation.

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From the above the Government concludes that, at present, the conditions for upholding the complaint are no longer met. The Government therefore invites the Committee to strike the complaint off the list of pending complaints, as provided for in Rule 39 of the Committee's Rules. Alternatively, it invites the Committee to postpone its consideration of the merits of the complaint at least until after a follow-up review has been carried out.

Finally, I wish to express my Government's willingness to discuss these proposed options with the Committee and the complainant organisation if the Committee so desires.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'R. Böcker', with a long horizontal stroke extending to the right.

Roeland Böcker  
Agent of the Government of the Netherlands