



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

20 November 2020

Case Document No. 3

**European Federation of National Organisations Working with the Homeless
(FEANTSA) v. Czech Republic**
Complaint No. 191/2020

**RESPONSE BY FEANTSA TO THE GOVERNMENT'S
OBSERVATIONS ADMISSIBILITY**

Registered at the Secretariat on 9 November 2020

Mr. Henrik KRISTENSEN
Deputy Executive Secretary
Department of the European Social Charter
STRASBOURG
DGI-ESC-Collective-Complaints@coe.int

Brussels, 9 November 2020

Ref: FEANTSA's Response to the Czech Republic Government's observations. Collective complaint no. 192/2020

Dear Mr. Kristensen,

In its response to FEANTSA's collective complaint No. 192/2020, the Government of the Czech Republic deemed inadmissible aspects linked to *"the local residence permit requirements raised under Article 16 of the European Social Charter"*, as, in their opinion, we failed to clearly identify or demonstrate negative impacts of the said legislation on ensuring the rights stemming from Article 16. We respectfully request that the Committee dismiss this objection as unfounded, as follows:

One essential element of the right to housing is security of tenure. FEANTSA strongly believes that if a person cannot enjoy genuine security of tenure and he/she is under constant threat of being expelled from the municipality in which he/she resides, and if at the same time there are housing forms to which no right of local residence in a given municipality is attached, then this is a serious concern and should, therefore be studied by the Committee at a further stage.

General comment number 4 of the CERCR Committee establishes that *"all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats"*. This protection is reinforced in General comment number 7 which states that legislation against forced evictions is an essential basis upon which to build a system of effective protection. Such legislation should include measures which *"provide the greatest possible security of tenure to occupiers of houses and land."*

Furthermore, article 8 (1) of the ECHR provides that *'everyone has the right to respect for his private and family life, his home and his correspondence'*. In this respect, we would like to bring to your attention the judgement of the ECtHR, *Smirnova v. Russia*, where the Court ruled

that denying legal status was in breach of article 8¹. The Court established in this case that the deprivation of a passport represented a continuing interference with the applicant's private life.² We would argue in the present case that the lack of a local residence permit could similarly interfere with the private life of all the vulnerable people that are deprived of it.

Furthermore, in *Timishev v. Russia*³, the Court ruled that limiting free movement constituted discrimination. In the same judgement, the Court recognized that, for the purposes of adjudicating discrimination cases, *inter alia* the adjudicator should draw inferences based on the facts before it.⁴ In the current proceedings, there are strong grounds for linking evaluation of the right to housing with barriers to possibilities for individuals and/or families to establish locally.

As the European Committee of Social Rights has established, the notion of adequate housing must be defined in law, including a dwelling with secure tenure supported by the law. This issue is covered by Article 31§2 of the Social Charter.⁵ In *COHRE v. Italy*⁶ the Committee established that the notions of adequate housing and forced eviction are identical under Articles 16 and 31.

As such, we respectfully suggest that the Government's admissibility objections be dismissed, and indeed that the Committee recognise the intrinsic link between rights to freedom of movement, rights to establish with equal dignity in a given municipality, and the right to housing as established in law.

With best regards,

Ian Tilling
President of FEANTSA



¹ Case of *Smirnova v. Russia* (Applications nos. 46133/99 and 48183/99)

² §95 *Smirnova*

³ Case of *Timishev v. Russia*, (Applications nos. 55762/00 and 55974/00)

⁴ § 39 *Timishev*

⁵ Conclusions 2003, France

⁶ *Centre on Housing Rights and Evictions (COHRE) v. Italy*, Complaint No. 58/2009, Decision on the merits of 25 June 2010, § 115