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

2 August 2021

Case Document No. 5

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

**FEANTSA'S RESPONSE
TO THE GOVERNMENT'S SUBMISSIONS**

Registered at the Secretariat on 9 July 2021

Brussels, 9 July 2021

FEANTSA'S RESPONSE TO THE SUBMISSION OF THE GOVERNMENT OF THE CZECH REPUBLIC ON THE MERITS OF THE COMPLAINT

Having studied the observations on the merits of the complaint by the government of the Czech Republic, FEANTSA reaffirms the content of its original complaint. In our opinion, the Respondent State failed to refute the grounds of the complaint which are still valid. Individual observations to the response will follow.

General Comments about Homelessness and Housing Exclusion

FEANTSA welcomes the introduction of important innovations in the provision of homelessness services: there has been an increasing emphasis on social work with the homeless and on prevention, also embracing empowerment and participatory methods of working with the homeless, accompanied by specific targeted projects. Despite this, the ESPN Thematic Report on National strategies to fight homelessness and housing exclusion¹ found that studies on the effectiveness of the existing services in preventing homelessness were lacking. The report considers that the existing responses are not effective in providing access to permanent accommodation:

"First of all, the key instrument supporting affordability of rented housing takes the form of benefits (housing allowance, contribution to housing costs). Nonetheless, this support is more relevant for those who already have housing. The other forms of support for access to affordable rented housing are only marginal. The state support for programmes of supported housing is negligible. There is no systemic financial instrument for support of social housing since the legislation on social housing was not adopted. The support for social housing from ESIFs, provided under the relevant operational programmes, is definitely important; yet it is inadequate, when comparing the scope of support against the risk of homelessness. Housing First solutions exist only as pilot projects, with limited scope."

In many cases municipalities do not have any or have very limited housing stock in general. Where stock exists only a small portion is social housing. *"Municipalities have only a small portion of their housing stock available for the purposes of providing permanent housing for the homeless or people at risk of homelessness"*.

The ESPN report refers to several important systemic issues that limit the effectiveness of responses. Some of these issues are the rising cost of housing; (over-)indebtedness and poor consumer protection; poor regulation of evictions; family instability/breakdown and domestic violence; long-term unemployment among certain groups, such as low-skilled workers, workers with disabilities, and (lone) parents; and several policy deficits.

Additionally, a recent report by the OECD² reaffirms the fact that social housing stock in the Czech Republic is too small to meet the demand of all low-income and vulnerable households. It affirms that this very low number could be the consequence of an unclear definition of what constitutes social housing in the Czech Republic. The shortage of social housing is visible in the long waiting lists of aspiring tenants who apply for social housing, these are often as long as 24 months, and can even reach 60 months or longer. Social housing in the Czech Republic is mostly provided by municipalities, which have complete autonomy in deciding how to use the housing stock that they own. They can choose to rent it out at market rates, just as any private rental housing provider, or to provide social housing at reduced rents to specific population groups.

¹ Sirovátka T., Jahoda R., Malý I. Masaryk University. ESPN Thematic Report on National strategies to fight homelessness and housing exclusion. Czech Republic, 2019.

² Housing Affordability in Cities in the Czech Republic OECD, June 2021: <https://www.oecd.org/publications/housing-affordability-in-cities-in-the-czech-republic-bcdcf4a-en.htm>

General comments on the overall housing affordability strategy

FEANTSA welcomes the efforts of the Respondent State to provide the country with a legal framework as a basis for ambitious policies. In its response to the Collective Complaint the government of the Czech Republic refers **to the Social Housing Concept 2015-2025** in Paragraph 1 et seq. The assessment of the Social Housing in the Czech Republic Concept until 2020 (revised) clearly shows that the state policy does not follow the strategic plans which remain unfulfilled. The official assessment of the Concept's execution, which is a supplement of the new Concept, concludes that:

- The goal of balancing support between home ownership and rental housing was not met; the financing continues to strongly favour homeownership, which does not solve the housing distress issue. (*"The overall situation in favour of rental housing did therefore not improve"* p. 1)
- The goals set in the area of "social" (affordable) housing, especially the one of clearly legislatively defining "social" (affordable) housing, were not met.
- The investment support for "social" housing failed. The Ministry attributes this to the lack of interest by municipalities, but this is contradicted by, for example, the high demand for subsidy programs of "social" housing in the IROP.
- The priority of reducing the costs related to housing was also not met.
- The priority of increasing the affordability of housing was to be met by rent deregulation according to the Ministry of Regional Development, but the document states that general accessibility of rental housing increased, not its financial affordability.
- Financial stability of the housing support was not reached. According to the document, no regular income was made part of the financing of subsidy programs, neither revenue from any type of taxes nor the emission-trading revenue.
- A series of other priorities from the previous Concept went unmet.

The new **Affordable Housing in the Czech Republic Concept 2021**, which is to replace the "Social Housing Concept" in the Czech Republic, does not include any concrete suggestions that may verifiably lead to increased housing affordability in the Czech Republic. The Concept correctly considers housing distress as a problem. Furthermore, the SWOT analysis draws attention to the underfinancing of housing support. There are no specific propositions of solution to this problem. The Czech Concepts have no measurable goals in the area of housing affordability, nor an insured budget to do so.³

The above-mentioned OECD report points out that the support of housing affordability in the Czech Republic has clear limits, including an excessive focus on homeownership. The Concept largely focuses on supporting homeownership. In Annex I, at the end of this response, we have listed the OECD's main recommendations.

Emergency housing has proved insufficient in the long run. Although it is presented as one of the pillars of "social" (affordable) housing in the Concept, the state does not support it in reality. The Czech government mention only a few cities who provide social housing in paragraph 61 of their response, the rest is only temporary accommodation provided by social services. Some municipalities may provide a small number of apartments (in the single digits) of their own accord, yet their quantity is completely insufficient, and the state does not participate in their development. Providing access to available social services who in turn facilitate access to accommodation, not housing, cannot be considered sufficient. It is in contradiction to the Concept itself since it provides merely temporary accommodation

³ The Canadian Housing Concept with its budget of CZK 1.2 billion commits to solve the housing distress of 530 000 citizens within ten years and reduce chronic homelessness by half.

(premises that are considered for the homeless according to the ETHOS⁴ typology) from which the permeability into standard housing is very low. Nor can it be supposed to fulfil the needs of a family as almost all of these facilities focus on single parents only. In some regions there is not a single social facility that offers even emergency housing for whole families.

Comments on welfare benefits and housing allowances

When describing its welfare assistance, the Czech government includes several inaccurate facts that make the strategy appear more effective than it is in reality. In paragraph 98, the government states that as of 1st July 2020 it is possible to receive housing allowance even without a permanent address in rental housing. It is true that the condition of having to have a permanent address has been removed as the complaint demanded. However, a rental or ownership form is still required. People living in rented homes are therefore left with only the option of welfare benefits which may not be available to most of them. Sublease agreement contracts are often used to protect homeowners dealing with NGOs, which is a highly problematic point because they directly affect people in "social" (affordable) housing. When living under sublease contracts in zones of "increased incidence of socially undesirable phenomena" (officially "OOP", but referred to informally as "non-benefit areas") the inhabitants are not eligible for any housing subsidy.

Receiving housing allowance is also incompatible with the non-standard forms of housing and, as we explained in the complaint, many people are forced to live in non-standard housing. According to the report on housing exclusion this is the case for 45 000 households.⁵ These households rely on welfare benefits whose payment has been decreasing in the long-term. The argument that this is due to the increase in the standard of living is unacceptable as the average income growth practically copies inflation. The living wage has not been increased for eight years which has led to a significant decrease in the number of people who are eligible for it: even people living on old age pensions, or on minimum wage are not eligible. Regarding the intensification of social and racial discrimination, including racial segregation. In a recent contribution to a call from the UN Special Rapporteur on adequate housing on housing discrimination and segregation, the European Roma Rights Centre (ERRC) refers to a Roma Civil Monitor's report⁶ that identified systemic practices that prevent Roma from being able to move out of segregated and often illegally occupied areas. According to this, some countries, such as the Czech Republic, are even witnessing a growth in the number and size of 'socially excluded localities', which are often in appalling conditions, lacking basic infrastructure and access to basic public services.

With reference to decreasing the number of socially excluded locations, the government of the Czech Republic, tries to give the impression in its answer that this is caused by the reduction of the number of Roma in these locations; but it does not say that the number of these locations has almost doubled between 2006 and 2014 (from 310 to 606). On the contrary, the absolute number of the Roma living in socially destitute locations has increased according to

⁴ ETHOS - European Typology on Homelessness and Housing Exclusion. FEANTSA

<https://www.feantsa.org/en/toolkit/2005/04/01/ethos-typology-on-homelessness-and-housing-exclusion>

⁵ Report on Housing Exclusion. Platform for Social Housing. 2018

<https://socialnibydeni.org/wp-content/uploads/2019/04/Zpr%C3%A1va-o-vylou%C4%8Den%C3%AD-z-bydlen%C3%AD-za-rok-2018.pdf>

⁶ Submission to the Special Rapporteur on the Right to Adequate Housing, to the General Assembly in 2021 and to the Human Rights Council in 2021. ERRC, April 2021 <http://www.errc.org/reports--submissions/submission-to-the-special-rapporteur-on-the-right-to-adequate-housing-to-the-general-assembly-in-2021-and-to-the-human-rights-council-in-2021-april-2021>

the latest analysis of social excluded localities in the Czech Republic.⁷ There is not a precise number, but it is estimated that the number of people living in such locations grew by up to 50 % and Roma people are still the majority.

The goals in the “social” affordable housing area do not focus on the Roma at all, as the government has itself pointed out. The argument that this is to prevent segregation is erroneous since this would entail segregation of all other target groups of affordable housing. Although the Czech Republic pleads the Roma Integration Strategy, it must be emphasized that all indicators mentioned therein for the area of housing cannot be assessed or are not being followed. Members of the Council for Roma Minority Affairs and others point to the fact that the Roma Integration Strategy⁸ is seen only as a formal condition enabling the acquisition of European Funds. The lack of Concept behind the Czech Republic’s course of action also manifests in the fact that besides the Ethnic Friendly housing, all examples of good practice are short-term projects financed through OP Employment+ and social innovations where the sustainability is only formal. In reality, no long-term increase in capacity is taking place in this area.

Threats to security of tenure and risk of eviction for poor households

Cancellation of the obligation to provide alternative accommodation, stringing together of short-term contracts

Nine years ago, new practice was put in place in the domain of landlords and tenants` rights. Since then, it has become apparent that the previously intended prevention of eviction is absolutely inefficient. Given the fact that it does not specify any steps other than informing the municipality, it is not used in prevention of eviction (it is merely information that eviction will take place) and in an overwhelming majority of municipalities it does not serve to establish the necessary assistance.

The new insolvency law does not offer sufficient protection especially to the most vulnerable. All public assistance available is calculated from the income before seizure/insolvency deduction. People who are subject to these income deductions are often not eligible for welfare assistance although their income is in reality significantly lower, and they are unable to cover the costs related to housing.

The opinion of the government of the Czech Republic, that a person who lives in accommodation based on stringed together short-term contracts enjoys the same protection as a tenant living in a standard apartment, cannot be accepted as valid. Although it is theoretically possible to derive this protection from the Civil code, in practice this is never the case. The position of people living in short-term accommodation is so marginalized that they cannot actively take advantage of their rights in this area. The fact that there has not been a single lawsuit in this case clearly shows that the situation is only theoretical. 18 000 households are in this predicament at present.⁹

The use of short-term contracts may be justified in some cases, but a clear analogy can be drawn with labour law where their use is regulated by law. Non-regulation in this area creates a significant disbalance between tenant and landlord who can bypass notice periods that are supposed to protect the tenant by stringing these contracts together. In the case of lease contract expiration, the tenant does not have a legal possibility to secure housing and prevent

⁷ Analysis of social excluded localities in the Czech Republic, 2015 <https://bit.ly/3jT0E34>

⁸ Civil society monitoring report on implementation of the national Roma Integration Strategy in the Czech Republic: <https://cps.ceu.edu/sites/cps.ceu.edu/files/attachment/basicpage/3034/rcm-civil-society-monitoring-report-2-czech-republic-2018-eprint-fin.pdf>

⁹ See note 5. Report on Housing Exclusion. Platform for Social Housing. 2018

eviction.

Regarding the designation of some territorial areas as ineligible for certain forms of housing supplement

It is “necessary to fight against poverty and not against the poor” and benefit-free areas cannot be a means to tackle poverty. The information given by the Czech Republic in paragraphs 163 and 165 conflicts with the Social Welfare Benefits Act. Although this measure does not apply to citizens who have a permanent address in a “benefit-free area”, it does affect those who move house within it. This is critical for two reasons: on the one hand people living in unsuitable housing conditions often change house (e.g. from one hostel to another). Secondly, “benefit-free zones” are often proclaimed over a larger area and in one case over a whole town.

According to the Czech Republic (paragraph 164) the introduction of “benefit free zones” concerns predominantly persons disadvantaged on the housing market. They therefore cannot choose these locations of their own accord but because it is their only way to secure a home, albeit often an expensive and low-quality home. Housing allowance is not a solution for them since they usually use the type of accommodation for which this assistance is not paid (see above). It follows clearly from the above that “benefit-free areas” have significant impact on residents and significantly affect the right to adequate housing and the right to choose freely one’s place of residence.

In its concluding Observations in 2019, the Committee on the Elimination of Racial Discrimination (CERD)¹⁰ was concerned that Roma continue to face barriers and discrimination in the Czech Republic. The Committee was concerned about:

The widespread discrimination faced by Roma on the housing market and the high proportion of Roma residing in socially excluded localities, often in so-called residential hotels, with no security of tenure and facing risks of forced eviction; and the recent practice on the part of some municipalities of designating specific areas as housing-benefit-free zones (...).

The CERD observations called on the Czech authorities to increase access of Roma to adequate and secure housing; to develop social housing in socially and ethnically mixed neighbourhoods; and to combat discriminatory and abusive practices in the housing market.

Conclusions

It is possible to agree that the Czech Republic has strategic plans and laws that should lead to the fulfilment of the Social Charter goals. Nevertheless, their implementation is absolutely insufficient and keeps being postponed. The Czech Republic thus lacks the necessary legislative and financial framework for social housing that could lead at least to steady progress towards achieving the goals laid down in the Charter. Furthermore, the government of the Czech Republic did not ensure sufficient funds and did not include strong indicators for evaluation. The regular reviews of the impact of the strategies have merely a formal character (often because of the impossibility to assess goals) and do not lead to their improvement. As the Czech government rightly points out, the rights recognised in the Social Charter must take a practical and effective, rather than a purely theoretical form.¹¹ As the government reminds us, for the situation to be compatible with the Charter, States Party must:

¹⁰ CERD/C/CZE/CO/12-13 Concluding observations on the combined twelfth and thirteenth periodic reports of Czechia, September 2019.

https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD%2fC%2fCZE%2fCO%2f12-13&Lang=en

¹¹ International Commission of Jurists v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, 32).

- 1) Adopt the necessary legal, **financial**, and operational means of ensuring steady progress towards achieving the goals laid down by the Charter;
- 2) Maintain meaningful statistics on needs, resources, and results;
- 3) Undertake regular **reviews of the impact of the strategies adopted**;
- 4) Establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage; and
- 5) Pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly **the most vulnerable**, including families at risk of eviction and poverty. ¹²

¹² European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, 54

ANNEX I.

The OECD report on housing affordability in the Czech Republic¹³ states that:

“The Czech Housing Strategy provides a dedicated national framework for housing affordability policy in the Czech Republic. It focuses on three priorities: i) affordability of adequate housing; ii) stability of the housing market; and iii) quality of housing. However, its implementation is hampered by several factors, including a lack of a clear definition of “social housing”, the multiplicity of actors involved in the housing policy framework and limited financial resources.

Direct policy instruments to support housing affordability exist but have limitations. Several programmes are in place to help specific groups access homeownership. However, supporting homeownership may not be enough to solve the affordability issue for low-income families and can even be counterproductive in some cases by hampering labour mobility. Housing benefits exist but eligible households may not necessarily claim them because they might not be aware of their availability, the administrative process used to allocate the housing allowance is too complicated and recent adjustments to the formula determining the income taken into account to assess eligibility have resulted in more complexity.”

Following you will find a selection of the OECD recommendations which could be connected with our arguments:

- “Use local land use planning instruments to encourage private sector construction of affordable housing. Where housing demand is high, **the use of developer obligations within local land use planning policies, such as inclusionary zoning, could be broadened. (...)**
- Encourage municipalities to scale up rental housing in their planning policies. Considering the social housing shortage and given that rental housing is the only solution for most low-income households and the “squeezed” middle class that do not have access to social housing and are unable to afford homeownership, **public policies at all levels of government should encourage the construction and provision of rental housing. (...)**
- Introduce a **national deposit scheme and rent guarantees** to support vulnerable households in accessing the private rental market and reduce risks of rent loss for landlords in order to increase housing supply. (...)
- **Increase public investment in social housing.** Reducing the shortage of social housing will require greater public investment by national and local governments. (...)
- **Remove barriers to access social housing,** such as deposit requirements and debt restrictions that prevent the most vulnerable households from accessing social housing, by exploring other options such as a national legal basis allowing municipalities to withhold rent payments from the housing allowance in the event of repeated failure to pay rents. (...)
- **Simplify the application process for housing allowances and subsidies. (...)**
- Make more use of the power of municipalities to **increase property tax rates** in order to increase revenues and invest more in housing, while introducing means-tested exemptions to avoid adding to low-income households’ tax burden. (...)
- **Shift to a value-based property tax,** and/or introduce other various “value-capture” mechanisms linked to specific public infrastructure projects to allow for a more equitable sharing of the increase in property value between private individuals, businesses and municipalities.”

¹³ Housing Affordability in Cities in the Czech Republic OECD, June 2021: <https://www.oecd.org/publications/housing-affordability-in-cities-in-the-czech-republic-bcdcf4a-en.htm>