03/06/2019 RAP/RCha/SVN/18(2019)

EUROPEAN SOCIAL CHARTER

18th National Report on the implementation
of the European Social Charter

submitted by

THE GOVERNMENT OF SLOVENIA

Follow-up to European Federation of National Organisations Working with the Homeless (FEANTSA) v. Slovenia, Complaint No. 53/2008

Report registered by the Secretariat on

20 May 2019

CYCLE 2019

REPUBLIC OF SLOVENIA

The Eighteenth Report of the Republic of Slovenia

on the implementation of the European Social Charter (revised)

Simplified report

Reference period:

1 January 2017 to 31 December 2017

January 2019

TABLE OF CONTENTS

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 (Official Gazette of the Republic of Slovenia – International Treaties [*Uradni list RS – MP*], No. 7/99). The Charter was ratified on 7 May 1999 and has been applicable in Slovenia since 1 July 1999. With ratification of the Charter, the Republic of Slovenia also accepted the supervision over application of 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).

According to the applicable reporting system, the Republic of Slovenia is required to submit a simplified report. The simplified report contains information on further action of the Government of the Republic of Slovenia (hereinafter: the Government) to remedy the violation of the Charter found in the collective complaints procedure under the Additional Protocol. In its Conclusions 2017, the European Committee of Social Rights (hereinafter: the ECSR) noted that the violation of the Charter found in the collective complaint No. 53/2008 – FEANTSA v. Slovenia has not been remedied. In the 15th and 16th reports of the Republic of Slovenia on the implementation of the Charter, the Government took the position that the situation of tenants in denationalised dwellings had been appropriately regulated and pointed out that the European Court of Human Rights had found no violation of the rights of the tenants in denationalised dwellings. In the present report, the Government reiterates its position, adds further explanation regarding the arrangement, and provides data available from administrative sources as requested by the ECSR.

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

1. 1 Background

The collective complaint against Slovenia (No. 53/2008) was submitted in August 2008 by the European Federation of National Organisations Working with the Homeless (hereinafter: FEANTSA) and alleged 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. FEANTSA alleged that Slovenia:

- violated Article 31(1) by revoking acquired legal titles to homes, increasing the cost of dwelling and reducing the possibilities of acquiring adequate dwelling, thus encroaching upon acquired security of tenure;

- violated Article 31(2) in that the effect of the measures taken against the vulnerable group in question was to provoke evictions and increase homelessness;

- violated Article 31(3) by reducing in the long term the affordability of housing that was once guaranteed;

- violated Article 16 by having artificially created housing problems for the families of tenants in denationalised dwellings;

- violated Article E by having created unequal conditions for the two groups of previous holders of specially protected tenancy with respect to tenancy that replaced the former specially protected tenancy.

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

In September 2009, the ECSR delivered a decision that Slovenia was in violation of Article 31(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 the Republic of 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.

1.2 The follow-up action taken by the Government of the Republic of Slovenia to remedy the violation

In the 15th report of the Republic of Slovenia on the implementation of the Charter (2015), the Government informed the ECSR of its activities to eliminate non-compliance and emphasised that, with respect to appropriate protection and solutions, the tenants in denationalised dwellings had brought an action against the Republic of Slovenia before the European Court of Human Rights. In the case of *Berger-Krall and Others v. Slovenia*, the Court rejected all the tenants' claims and on 12 June 2014 issued a judgment finding that the rights of the tenants in denationalised dwellings guaranteed by the European Convention on Human Rights had not been violated. The judgment became final in October 2014.

In its Conclusions 2016, the ECSR stated nonetheless that the situation in Slovenia was not in conformity with the Charter, raised questions and requested statistical data on tenants in denationalised dwellings.

In the 16th report of the Republic of Slovenia on the implementation of the Charter, the Government explained that it had no required statistics available and pointed out that the measures described in the 15th report of the Republic of Slovenia on the implementation of the Charter had adequately regulated the situation of tenants in denationalised dwellings. Focus was again put on the judgement in the *Berger-Krall and Others v. Slovenia* case and the finding of the European Court of Human Rights that rights of the tenants in denationalised dwellings had not been violated.

In its Conclusions 2017, the ECSR again noted that the situation in Slovenia was still not in conformity with the Charter, raised questions and requested statistical data on tenants in denationalised dwellings.

In the present report, the Government reiterates that the situation of the tenants in denationalised dwellings – former holders of specially protected tenancy – is appropriately regulated. In relation to Conclusions 2017, the Government provides the following explanations and data available from administrative sources.

The Government explains that after denationalisation previous holders of specially protected tenancy were given the following options:

1. rent the housing unit in which they lived for an indefinite period and for a non-profit rent; OR
2. acquire a non-profit municipal housing unit; OR
3. purchase the housing unit in which they lived with State support, provided the owner agreed to sell it; OR
4. purchase another dwelling or build a house with State support.

In any event, former holders of specially protected tenancy and their spouses or cohabiting partners had – and still have – the right to rent the housing unit in which they lived for an indefinite period and for a non-profit rent. According to the most recent data from the property sales register kept by the Surveying and Mapping Authority of the Republic of Slovenia, there were **656** former holders of specially protected tenancy living as **tenants** in the denationalised dwellings on a not-profit rent in July 2018.

Following denationalisation, other tenants – previous holders of specially protected tenancy – solved their housing problem by acquiring non-profit municipal housing units or purchasing housing units with State support. Within five years of the decision on denationalisation becoming final, they could exercise their right to purchase the housing unit in which they lived, provided the owner agreed to sell it, or their right to purchase another housing unit or to build a house. In the case of purchase (options 3 and 4), the tenant had the right to compensation that amounted to 36 per cent of the value of the housing unit and was paid in cash by the Slovenian Sovereign Holding, while an additional 25 per cent was paid by the Slovenian Sovereign Holding in bonds and 13 per cent paid by the Republic of Slovenia in securities. The tenant could request the Housing Fund of the Republic of Slovenia to approve a loan to the level of the purchase price of a suitable dwelling at a price that the Housing Fund of the Republic of Slovenia recognised for the calculation of a loan.

In the period from 1994 – when the law provided tenants in denationalised dwellings the option to solve their housing problem themselves – to the end of 2018, the Ministry of the Environment and Spatial Planning received **3,162 requests**; this is the number of the previous holders of specially protected tenancy that opted to solve their housing problem through purchase of homes supported by the State grants and favourable loans offered by the Housing Fund of the Republic of Slovenia.

The Government reiterates that appropriate arrangement was put in place for individual previous holders of specially protected tenancy, as is evident from the paragraphs above. According to the information provided by the ministry responsible for the environment and spatial planning, none of the previous holders of specially protected tenancy were evicted from their dwellings nor became homeless, because they all had the right to remain in the dwelling in which they lived or still live, together with their spouses or cohabiting partners, and for which they pay a non-profit rent. If the household income is not sufficient to cover the non-profit rent, the tenant can apply the competent social work centre for rent subsidy, which is means-tested and granted to any individual whose income

is not sufficient to cover the rent, under the conditions laid down by the Exercise of Rights to Public Funds Act (Official Gazette of the Republic of Slovenia [*Uradni list RS*], Nos 62/10, 40/11, 40/12 – ZUJF, 57/12 – ZPCP-2D, 14/13 56/13 – ZŠtip-1, 99/13, 14/15 – ZUUJFO, 57/15, 90/15, 38/16 – CC's Decision 51/16 – CC's Decision 88/16, 61/17 – ZUPŠ, 75/17 and 77/18).

The Government points out that non-profit rent subsidies ensure appropriate access to housing for the most disadvantaged, while grants and favourable loans ensure appropriate access to housing for other previous holders of specially protected tenancy who opted to solve their housing problem by purchasing a housing unit. Unfortunately, the Government does not have statistics available on the total number of denationalised dwelling units, the total number of previous holders of specially protected tenancy or the number of people who solved their housing problem through one of the above-mentioned four options (lifetime rental, rental of non-profit municipal housing, purchase of the dwelling unit they lived in or purchase of another dwelling).