

FRAMEWORK FOR HOUSING RIGHTS AT INTERNATIONAL & EUROPEAN LEVEL

- ***Council of Europe level: the European Social Charter, the collective complaints mechanism and the role of the Commissioner for Human Rights***
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The European Social Charter

A Council of Europe Treaty safeguarding Human Rights

The **European Social Charter** sets out rights and freedoms and establishes a supervisory mechanism guaranteeing their respect by the States Parties.

Following its revision, the 1996 Revised European Social Charter, which came into force in 1999, is gradually replacing the initial 1961 treaty.

The Rights guaranteed by the Charter concern all individuals in their daily lives:

- **Housing**
- **Health**
- **Education**
- **Employment**
- **Legal and social protection**
- **Movement of persons**
- **Non-discrimination**

TWO SETS OF PROVISIONS ON HOUSING

- **The 1961 CHARTER**
 - Right to family life (Article 16)
 - Rights of migrant workers (Article 19 § 4)
- **The 1996 REVISED CHARTER**
 - A specific provision :
ARTICLE 31 (Right to housing)

European Committee of Social Rights

The European Committee of Social Rights monitors the honouring of undertakings set out in the Charter.

Its fifteen independent, impartial members are elected by the Council of Europe **Committee of Ministers** for a period of six years, renewable once.

It rules on the conformity of national situations with the Charter in the States Parties.

A Collective Complaints Procedure

Judicial assessment

Complaints lodged by trade unions, employers' organisations and NGOs alleging violations of the Charter



European Committee of Social Rights (ECSR)
decides whether the complaints are
admissible and well-founded

Follow-up

Committee of Ministers
Ensures that States bring situations
into conformity with the Charter.
If not, it addresses a Recommendation
to the State in question.

COMPLAINTS ON THE RIGHT TO HOUSING

- « **General** » complaints
 - **ATD Quart Monde v. France**
 - **FEANTSA v. France**
- « **Specific** » issues
 - **Roma Rights issues**
 - **Privatisation**
 - **Displaced persons**

FROM THEORY TO PRACTICE

In order to respect Dignity :

- QUALITY
- QUANTITY
- BUDGET

QUALITY

"adequate housing" means:

- a) accommodation with all the basic amenities (water, heating, garbage disposal, sanitation, electricity, etc..) and where certain risk factors, such as lead or asbestos, are under control;
- b) a dwelling not overcrowded : the size should be adapted to the composition of the household;
- c) a legal guarantee of tenure to ensure that the enjoyment of housing is not only temporary.

QUANTITY

- **Preventing homelessness**

the risk of expulsion must be prescribed by rules sufficient to protect the rights of persons concerned and expulsion shall be carried in accordance with these rules and in conditions that respect the dignity of the persons concerned.

legal remedies and legal assistance, compensation for illegal evictions.

- **Reducing the number of homeless**

States should work to gradually reduce the number of homeless. Emergency measures include their immediate shelter. Places must be sufficient and living conditions in these shelters must respect the dignity of the persons concerned.

However, the provision of temporary shelter, even decent, can not be regarded as a satisfactory solution and adequate housing must be provided within a reasonable time.

BUDGET

- A supply of affordable housing should be provided to persons who do not have sufficient resources.
- Housing is affordable when the tenant can pay the initial costs (deposit, advance rent), the current rent and other costs (operating expenses, maintenance) over a long period
- This implies
 - promoting housing construction, in particular for the most disadvantaged;
 - Reduce the waiting periods. Judicial remedies must exist;
 - Providing, where appropriate, housing assistance for low-income people and disadvantaged groups of population.

HOW ?

States party must:

- a. adopt the necessary legal, financial and operational means of ensuring steady progress towards achieving the goals laid down by the Charter;
- b. maintain meaningful statistics on needs, resources and results;
- c. undertake regular reviews of the impact of the strategies adopted;
- d. establish a timetable and not defer indefinitely the deadline for achieving the objectives of each stage;
- e. pay close attention to the impact of the policies adopted on each of the categories of persons concerned, particularly the most vulnerable

HOW ?(2)

- state parties must not merely **take legal action** but also to **make available the resources** and **introduce the operational procedures** necessary to give full effect to the rights
- states party must take steps to achieve the objectives of the Charter within a **reasonable time**, with **measurable progress** and **making maximum use of available resources**
- The authorities must also pay **particular attention** to the impact of their policy choices on the **most vulnerable groups**, in this case individuals and families suffering exclusion and poverty

NON DISCRIMINATION

- ARTICLE « E » OF THE REVISED CHARTER

For more information on the Charter

<http://www.coe.int/socialcharter>

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