

DECISION ON ADMISSIBILITY

25 January 2011

Centre on Housing Rights and Evictions (COHRE)
v. France

Complaint No. 63/2010

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 248th session attended by:

Mssrs Luis JIMENA QUESADA, Président
Colm O'CINNEIDE, Vice-Président
Mrs Monika SCHLACHTER, Vice-Président
Mr Jean-Michel BELORGEY, General Rapporteur
Mrs Csilla KOLLONAY LEHOCZKY
Mssrs Andrzej SWIATKOWSKI
Lauri LEPPIK
Rüçhan IŞIK
Petros STANGOS
Mrs Jarna PETMAN
Elena MACHULSKAYA
Mr Giuseppe PALMISANO
Mrs Karin LUKAS

Assisted by Mr Régis BRILLAT, Executive Secretary

Having regard to the complaint dated 12 November 2010, registered on 15 November 2010 as number 63/2010, lodged by the Centre on Housing Rights and Evictions (“COHRE”) and signed by its Coordinator of Litigation Programme, Mr Bret G. Thiele, requesting the Committee to find that the situation in France is not in conformity with Articles 16, 19§8, 31 of the Revised European Social Charter (“the Revised Charter”), as well as with Article E in conjunction with each of these provisions;

Having regard to the documents appended to the complaint;

Having regard to the Revised Charter and, in particular, to Articles 16, 19§8, 31 and E, which read as follows:

Article 16 – The right of the family to social, legal and economic protection

Part I: “The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development.”

Part II: “With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.”

Article 19 – The right of migrant workers and their families to protection and assistance

Part I: “Migrant workers who are nationals of a Party and their families have the right to protection and assistance in the territory of any other Party.”

Part II: “With a view to ensuring the effective exercise of the right of migrant workers and their families to protection and assistance in the territory of any other Party, the Parties undertake: (...)

8 to secure that such workers lawfully residing within their territories are not expelled unless they endanger national security or offend against public interest or morality; (...)

Article 31 – The right to housing

Part I: “Everyone has the right of housing.”

Part II: “With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

1. to promote access to housing of an adequate standard;
2. to prevent and reduce homelessness with a view to its gradual elimination;
3. to make the price of housing accessible to those without adequate resources.”

Article E – Non-discrimination

“The enjoyment of the rights set forth in this Charter shall be secured without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status.”

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints ("the Protocol");

Having regard to the Rules of the Committee adopted by the Committee on 29 March 2004 at its 201st session and revised on 12 May 2005 at its 207th session and on 20 February 2009 at its 234th session ("the Rules");

Having deliberated on 25 January 2011;

Delivers the following decision, adopted on the above-mentioned date:

1. The complaint concerns the eviction and expulsion of Roma from their homes and from France during the summer of 2010. COHRE alleges that such evictions and expulsions amount to violations of Article 16 (right of the family to social, economic and legal protection), Article 31 (right to housing) and Article 19§8 (guarantees concerning expulsion) of the Revised Charter. The complainant organisation also argues that the facts at stake constitute discrimination (Article E) in the enjoyment of the above mentioned rights.

THE LAW

2. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by France on 7 May 1999 and entered into force for this state on 1 July 1999, the complaint has been submitted in writing and concerns Articles 16, 19§8, 31 and E of the Revised Charter, provisions accepted by France when it ratified this treaty on 7 May 1999 and to which it is bound since the entry into force of this treaty in its respect on 1 July 1999.

3. Moreover, the grounds for the complaint are indicated.

4. The Committee notes that, in accordance with Articles 1 b) and 3 of the Protocol, COHRE is an international non-governmental organisation with participative status with the Council of Europe. It is included in the list, established by the Governmental Committee, of international non-governmental organisations that are entitled to lodge complaints before the Committee.

5. The Committee has already considered that COHRE has particular competence for the purposes of the collective complaints procedure within the meaning of Article 3 of the Protocol (COHRE v. Croatia complaint No. 52/2008 decision on admissibility of 30 March 2009, §13 ; COHRE v. Italy, complaint No.58/2009, decision on admissibility of 8 December 2009, §6). It confirms this decision since no significant change has taken place in this regard.

6. The complaint is signed by Mr Bret G. Thiele, Coordinator of Litigation Programme of COHRE. The Committee has already considered that Mr Thiele is entitled to represent COHRE for the purposes of the collective complaints procedure (COHRE v. Croatia, complaint n° 52/2008, decision on admissibility of 30 March 2009, §14; COHRE v. Italy, complaint n° 58/2009, decision on admissibility of 8 December 2009, §7). The Committee, therefore, considers that the condition provided for in Rule 23 of the Rules is fulfilled.

7. For these reasons, the Committee, without finding it necessary to invite the respondent Government to submit observations on admissibility (Article 6 of the Protocol and Rule 29§3), on the basis of the report presented by Mr Luis JIMENA QUESADA and without prejudice to its decision on the merits of the complaint,

DECLARES THE COMPLAINT ADMISSIBLE

In accordance with Rule 26 *in fine* and in view of the seriousness of the allegations, decides to give precedence to this complaint and thus sets time limits for the proceedings which will not be extended.

In application of Article 7§1 of the Protocol, requests the Executive Secretary to notify the complainant organisation and the Respondent State of the present decision, to transmit it to the parties to the Protocol and the states having submitted a declaration pursuant to Article D§2 of the Revised Charter, and to make it public.

Requests the Executive Secretary to publish the decision on the Internet site of the Council of Europe.

Invites the Government to make written submissions on the merits of the complaint by 10 March 2011;

Invites COHRE to submit a response to the Government's submissions by 14 April 2010;

Invites parties to the Protocol and the states having submitted a declaration pursuant to Article D§2 of the Revised Charter to make comments by 10 March 2011, should they so wish;

In application of Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the Charter to make observations by 10 March 2011.

Luis JIMENA QUESADA
Président and Rapporteur

Régis BRILLAT
Executive Secretary