3d assessment of follow-up: European Federation of National Organisations Working with the Homeless (FEANTSA) v. Slovenia, Complaint No. 53/2008, decision on the merits of 8 September 2009, Resolution ResChS(2011)7

Violation of Articles 31§1, 31§3, E in conjunction with Article 31§3, 16 and E in conjunction with Article 16

Decision of the Committee on the merits of the complaint

Resolution ResChS(2011)7

The Committee found a violation of Article 31§1 due to the revoking of acquired legal titles to homes following denationalisation, increasing the cost of dwelling and reducing the possibilities of acquiring adequate dwelling, thus encroaching upon acquired security of tenure; a violation of Article 31§2 in that the effect of the measures taken in respect of the vulnerable group in question was to provoke evictions and increase homelessness; a violation of Article 31§3 on the grounds of the failure to provide affordable housing; a violation of Article E in conjunction with Article 31§3 on the grounds of discrimination between former holders of a “housing right” and tenants of flats that were transferred to public ownership; and a violation of Article 16 and Article E in conjunction with Article 16 on the grounds of discrimination between former holders of a “housing right” and tenants of flats that were transferred to public ownership.

Information provided by the Government

ln the 15th report on the implementation of the Charter (2015), the Government informed the Committee 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. ln 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.

ln its Findings 2016, the Committee 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.

ln the 16th report 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 Findings 2017, the Committee 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 reply to the questions asked in the Findings 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:

rent the housing unit in which they lived for an indefinite period and for a non-profit rent; or

acquire a non-profit municipal housing unit; or

purchase the housing unit in which they lived with State support, provided the owner agreed to sell it; or

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 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 percent of the value of the housing unit and was paid in cash by the Slovenian Sovereign Holding, while an additional 25 percent was paid by the Slovenian Sovereign Holding in bonds and 13 per cent paid by Slovenia in securities. The tenant could request the Housing Fund 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 Slovenia recognised for the calculation of a loan.

In the period from 1994 - when the law provided tenants in denationalised dwellings the option to salve 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 salve their housing problem through purchase of homes supported by the State grants and favourable loans offered by the Housing Fund 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 - ZStip-1, 99/13, 14/15 - ZUUJFO, 57/15, 90/15, 38/16 - CC's Decision 51/16 - CC's Decision 88/16, 61/17 - ZUPS, 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 salve 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 rent, rent of non-profit municipal housing, purchase of the dwelling unit they lived in or

purchase of another dwelling).

Assessment of the follow-up

The Committee recalls that in its last Findings (Findings 2017) it noted the developments in the situation which were positive, however the Committee needed further information on measures to ensure that all those who held a “housing right” in a flat restored to its previous owners are not rendered homeless, for example, information on the number of tenants of denationalised dwellings who have not yet been rehoused, number of persons on waiting lists etc. The Committee takes note that 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.

The Committee concludes that according to the information at its disposal as regards former holders of a “housing right” over flats that had been restored to their private owners, there have been sufficient measures for the acquisition or access to a substitute flat, allowing them to effectively exercise their right to housing.

Former holders of a “housing right” have the possibility to:

rent the housing unit in which they lived for an indefinite period and for a non-profit rent; or

acquire a non-profit municipal housing unit; or

purchase the housing unit in which they lived with State support, provided the owner agreed to sell it; or

purchase another dwelling or build a house with State support.

The Committee therefore finds that the situation has been brought into conformity with the Charter and decides to bring its examination of the follow-up to the decision to an end.