EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

European Federation of National Organisations Working with the Homeless (FEANTSA) v. France

Complaint No. 39/2006

REPORT TO THE COMMITTEE OF MINISTERS

Strasbourg, 4 February 2008

Introduction

1. Pursuant to Article 8§2 of the Protocol providing for a system of collective complaints ("the Protocol"), the European Committee of Social Rights, a committee of independent experts of the European Social Charter ("the Committee") transmits to the Committee of Ministers its report[1] on Complaint No. 39/2006. The report contains the Committee's decision on the merits of the complaint (adopted on 5 December 2007). The decision on admissibility (adopted on 19 March 2007) is appended.

2. The Protocol came into force on 1 July 1998. It has been ratified by Belgium, Croatia, Cyprus, Finland, France, Greece, Ireland, Italy, the Netherlands, Norway, Portugal and Sweden. Furthermore, Bulgaria and Slovenia are also bound by this procedure pursuant to Article D of the Revised Social Charter of 1996.

3. The Committee based its procedure on the provisions of the Rules of 29 March 2004 which it adopted at its 201st session and revised on 12 May 2005 at its 207th session.

4. It is recalled that pursuant to Article 8§2 of the Protocol, this report will not be made public until after the Committee of Ministers has adopted a resolution or later than four months after it has been transmitted to the Committee of Ministers, namely 5 June 2008.

[1] This report may undergo stylistic changes.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS
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COUNCIL OF EUROPE CONSEIL DE L'EUROPE

DECISION ON THE MERITS

5 December 2007

European Federation of National Organisations working with the Homeless (FEANTSA)
v. France

Complaint No. 39/2006

The European Committee of Social Rights, a committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 226th session attended by:

Ms Polonca Končar, President
Messrs Andrzej Swiatkowski, First Vice-President
Tekin Akillioğlu, Second Vice-President
Jean-Michel Belorgey, General Rapporteur
Alfredo Bruto da Costa
Nikitas Aliprantis
Stein Evju
Ms Csilla Kollonay Lehoczky
Messrs Lucien François
Lauri Leppik
Colm O'Cinneide
Ms Monika Schlachter
Ms Birgitta Nystrom

Assisted by Mr Régis Brillat, Executive Secretary of the European Social Charter

Having deliberated on 18 September and 4 and 5 December 2007;

On the basis of the report presented by Mr Tekin Akillioğlu,

Delivers the following decision adopted on this date:

PROCEDURE

1. The complaint lodged by the European Federation of National Organisations working with the Homeless ("FEANTSA") was registered on 2 November 2006. The Committee declared the complaint admissible on 19 March 2007.

2. Pursuant to Article 7§§1 and 2 of the Protocol providing for a system of collective complaints ("the Protocol") and to the Committee's decision on the admissibility of the complaint, the Executive Secretary on 21 March 2007 transmitted the text of the decision on admissibility to the French Government ("the Government"), FEANTSA and the European Trade Union Confederation (ETUC), the Union of Industrial and Employers' Confederations of Europe (UNICE) and the International Organisation of Employers (IOE), and on 26 March 2007 to the States Parties to the Protocol and to the States having ratified the Revised Charter and having made a declaration under Article D§2 thereof.

3. Pursuant to Rule 31§1 of the Rules, the Committee set 8 May 2007 as the deadline for the presentation of the Government's written submissions on the merits. At the request of the French Government for an extension, the deadline was extended until 1 June 2007. The written submissions were registered on 1 June 2007.

4. In accordance with Rule 31§2 of the Rules, the President set 31 August 2007 as the deadline by which FEANTSA could submit its response to the Government's submissions. The response was registered on 30 August 2007.

5. The Committee had set 18 May 2007 as the deadline for the States Parties to the Protocol and for ETUC, UNICE and IOE to submit any observations. ETUC did so on 16 May 2007. It supported FEANTSA's complaint. Finland submitted initial observations on 25 May 2007, and additional observations on 6 September 2007. It rejected FEANTSA's complaint.

6. At its 221st session (19-23 March 2007), the Committee decided in accordance with Rule 33§1 of its Rules to hold a joint hearing with the representatives of the parties to the collective complaints International Movement ATD Fourth World v. France, Complaint No. 33/2006 and European Federation of National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, and set the hearing for 25 June 2007.

7. Owing to the extension of the deadline for presentation of the Governement's written submissions on the merits, the hearing date was postponed.

8. The public hearing took place in the Human Rights Building in Strasbourg on 17 September 2007.

9. The European Federation of National Organisations working with the Homeless (FEANTSA) was represented by:

Mr Robert ALDRIDGE, President,

Mr André GACHE President of FAPIL (Fédération des Associations pour la Promotion and l'Insertion par le Logement), member of FEANTSA,

Mr Marc UHRY, expert in housing law, FEANTSA,

and Mr Claude CAHN, external expert.

10. The ATD Fourth World was represented by:

Mr Paul BOUCHET, honorary Counsellor of State and former President of ATD Fourth World,

Mrs Cécile REINHARDT, ATD Fourth World activist,

and Mrs Madeleine WEISS, inhabitant of Kaltenhouse aerodrome.

11. The French Government was represented by:

Mrs Anne-Françoise TISSIER, Sub-Director of Human Rights, Ministry for Foreign Affairs, Directorate of Legal Affairs,

Mrs Marianne ZISS, Ministry for Foreign Affairs, Directorate of legal Affairs, Sub-Directorate of Human Rights,

Mrs Hélène DADOU, Sub-Directorate of Urban Development and Housing, Ministry of Ecology, Development and Sustainable Development, Directorate General of Town Planning, Housing and Construction, Housing Department,

and Mr François FASSY, Head of the Anti-Exclusion Office, Ministry of Labour, Social Affairs and Solidarity, Directorate General of Social Action, Sub-Directorate of Integration and Anti-Exclusion Policies.

12. In accordance with Rule 33§4 of its Rules, the Committee invited ETUC to take part in the hearing. However, ETUC informed the Committee that they were unable to participate in the hearing.

13. In accordance with Rule 33§4 of its Rules of Procedure, the Committee invited the Finnish Government, which had indicated that it wished to intervene to call for the rejection of the FEANTSA v. France complaint, to participate in the hearing. The Finnish Government was represented by:

Mr Arto KOSONEN, Government Agent, Ministry for Foreign Affairs, Legal Department,

and Mr Peter FREDRIKSSON, principal adviser, Ministry of the Environment, Housing and Buildings Department.

14. The Committee was addressed by Ms Reinhardt, Mr Bouchet, Mr Aldridge, Mr Uhry, Mrs Tissier and Mr Kosonen and received answers to questions from its members.

15. Following the hearing, the Committee gave the government time to respond to some of these matters.

16. The replies were registered on 3 October 2007 and communicated to ATD Fourth World and FEANTSA.

SUBMISSIONS OF THE PARTIES

a) The complainant organisation

17. FEANTSA asks the Committee to find a violation by France of Article 31 of the Revised European Social Charter on the ground that France does not ensure an effective right to housing for its residents. In particular, it considers that the measures in place in France to reduce the number of homeless people are insufficient, that the construction of social housing is also insufficient, that a significant number of households live in poor housing conditions, notably with regard to sanitation and overcrowding, and argues that the implementation of legislation on the prevention of evictions is dysfunctional. FEANTSA also alleges that the system for allocating social housing and the associated remedies do not function properly and that there is discrimination in access to housing with regard to immigrants.

b) The defending Government

18. The Government maintains that Article 31 of the Revised Charter on the right to housing has not been breached. It considers that this provision only requires States to “take measures”, not to achieve “results”, and that the numerous laws, policies and plans on housing adopted by the authorities prove that France respects this provision. It therefore asks the Committee to dismiss the collective complaint lodged by FEANTSA as lacking in foundation.

RELEVANT DOMESTIC LAW

19. The main pieces of legislation concerning housing to which the parties have referred to comprises:

a) The legal basis of the right to housing
b) The right to decent housing
c) The right to housing fit for human habitation
d) Measures to combat eviction
e) Reducing the number of homeless and the number of people in emergency accommodation
f) Rehabilitation accommodation
g) Social housing construction

h) Conditions for the allocation of social housing
i) Means of appeal
j) Assistance with access to and retention of housing
k) Prohibition of discrimination in access to housing

a) <u>The legal basis of the right to housing</u>

20. **The Tenancy Act, No. 89-462 of 6 July 1989, reads:**

> "*Section 1: The right to housing is a fundamental right; it shall be exercised in accordance with the laws to which it is subject.*
>
> *This right implies freedom for all to choose a dwelling through the provision and development of rented and owner-occupied sectors open to all social groups. […]*".

21. **The Right to Housing Act, No. 90-449 of 31 May 1990, reads:**

> "*Section 1: Securing the right to housing is a duty for the entire nation*."

22. **Constitutional Council Decision No. 94-359 DC of 19 January 1995 on the Diversity of Housing Act reads:**

> "*Considering that, by virtue of these principles, the opportunity for everyone to have decent housing is an objective with the force of constitutional law"* and *"that it is for Parliament and the Government to determine, in accordance with their respective remits, arrangements for achieving this objective with the force of constitutional law" [...].*

23. **The Anti-Exclusion Act, No. 98-657 of 29 July 1998, as codified in Article L.115-2 of the Social and Family Action Code, reads:**

> "*Section 1: Combating exclusion is a national challenge, based on the principle of equal dignity for all human beings, and is a national policy priority.*
>
> *The Act seeks to ensure universal access to fundamental rights in the fields of employment, housing, health, justice, education, training and culture, and family and child protection.*
>
> *Central government, local and regional authorities and other public bodies such as municipal and joint municipal social services departments, social security bodies and other social and medical institutions shall contribute to implementing these principles.*
>
> *They should implement policies designed to identify, prevent and remedy situations that might lead to exclusion.*
>
> *They shall take the necessary steps to inform everyone of the nature and extent of their rights and help them, where necessary through personal assistance, to complete the necessary administrative and social procedures in the shortest possible time*."

b) The right to decent housing

24. **The Tenancy Act, No. 89-462 of 6 July 1989, reads:**

> "*Section 6: The landlord shall provide the tenant with decent housing with no manifest risks to the latter's physical safety and health, fitted out in such a way as to make it habitable*."

25. **Decree No. 2002-120 of 30 January 2002 concerning the features of decent housing, implementing Section 187 of the Urban Solidarity and Renewal Act, No. 2000-1208 of 13 December 2000, reads:**

> "*Section 3: The accommodation shall comprise the following fixtures and fittings:*
> *1. Facilities for proper heating, with arrangements for the supply of energy and the evacuation of combustion products suited to the features of the dwelling. […]*
> *2. A drinking water supply ensuring that water is supplied within the dwelling with a pressure and flow sufficient for normal use by tenants;*
> *3. Facilities for disposing of household waste water and domestic sewage, preventing the return of odours and effluent and equipped with a U- bend;*
> *4. A kitchen or kitchenette designed to accommodate a cooking appliance and including a sink with hot and cold running water and waste water disposal facilities;*
> *5. A sanitary facility inside the dwelling including a toilet separated from the kitchen and from the room in which meals are eaten, and facilities for washing, comprising a bath or shower, designed to ensure privacy, with hot and cold running water and sewage disposal facilities. The sanitary facility of a one-room dwelling may be confined to a toilet outside the dwelling provided it is in the same building and readily accessible;*
> *6. An electrical system providing adequate lighting in all rooms and including sockets, suitable for common household appliances essential to everyday life.*"

c) The right to housing fit for human habitation

26. **The Public Health Code reads:**

> "*Article L.1331-22: Cellars, basements, attics, rooms with no outside window and other premises inherently unfit for human habitation may be not be made available for habitation, either free of charge or in return for money*."

> "*Article L.1331-23: Premises may not be made available for habitation, either free of charge or in return for money, under conditions that will manifestly lead to their being overcrowded*."

d) Measures to combat eviction

27. **The Tenancy Act of 6 July 1989 reads:**

> "*Section 24: Any clause providing for the automatic termination of the lease in the event of failure to pay the agreed rent, supplementary charges or a deposit shall not take effect until two months after notice to comply has remained without effect.*
> *On penalty of inadmissibility, the bailiff shall give notice of termination to the State representative in the* département*, by registered letter with a request for acknowledgement of receipt, at least two months before the hearing, so that the latter may, as necessary, refer to the bodies providing housing assistance, the housing support fund or the competent social services.*
> *The court may, even of its own motion, grant extra time for payment […]*"

28. **The Civil Enforcement Procedure [Reform] Act, No. 91-650 of 9 July 1991, reads:**

> "*Section 61: Unless otherwise provided, eviction or evacuation from a building or inhabited premises may take place only pursuant to a court decision or registered enforceable friendly settlement, and after formal notice to quit the premises […]*"
>
> "*Section 62: If the eviction concerns premises used as the principal residence of the person being evicted or anyone occupying them on the latter's initiative, it shall not take place […] until the expiry of a period of two months after formal notice has been served. […]*
> *The court ordering the eviction […] may, even of its own motion, decide that the order or judgment shall be forwarded by the registry to the State representative in the* département *so that the occupant's request to be rehoused may be addressed under the* département*'s housing action plan for disadvantaged persons, provided for in the Right to Housing Act, No. 90-449 of 31 May 1990.*
> *As soon as formal notice to quit the premises has been served, the bailiff responsible for enforcing the eviction order shall, on penalty of an extension of the period of time before which eviction may not take place, inform the State representative in the* département *so that the occupant's request to be rehoused may be addressed under* the département *plan referred to in the preceding paragraph*."

29. **The Building and Housing Code reads:**

> "*Article L.613-3: Notwithstanding any final eviction order and despite the expiry of the period of time specified in the preceding Articles, any eviction order that has not been enforced by 1 November of any year shall be suspended until 15 March of the following year, unless the persons concerned are rehoused under adequate conditions, such that the family is kept together and its needs are met.*"

30. **Circular UHC/IUH 1 No 2005-32 of 11 May 2005 on the prevention of tenant evictions reads:**

> "*The prevention of evictions is one of the government's priorities for combating exclusion*."

e) <u>Reducing the number of homeless (and the number of people in emergency accommodation)</u>

31. **The Social and Family Action Code reads:**

> "*Article L.345-2: A social surveillance unit shall be set up in each* département*, on the initiative of the State representative in the* département*, to inform and advise people in difficulty. It shall operate continuously, every day of the year, and any individual, body or local authority may apply to it.*
> *It shall be responsible for:*
> *1. Assessing the urgency of the situation of the individual or family in difficulty;*
> *2. Suggesting an immediate solution, in particular by indicating an establishment or service that can receive the individual or family concerned and arranging without delay for the effective implementation of this solution, in particularly with the help of the social services;*
> *3. Keeping records of the various accommodation facilities in the* département *up to date. […]*"

32. **The Housing Act, No. 94-624 of 21 July 1994, reads:**

> "*Section 21 (as amended by Act No 2007-290 of 5 March 2007): A plan for emergency accommodation for homeless persons shall be devised in each* département

[…] and prepared by the State representative in conjunction with the local and regional authorities and groupings of such authorities responsible for housing. […]
The département *plan shall analyse requirements and provide for emergency accommodation in premises where hygiene conditions and standards of comfort are in keeping with human dignity.*
The capacity required shall be at least one place per 2,000 inhabitants in the case of municipalities that are members of a joint municipal public body and whose population exceeds 50,000 inhabitants and municipalities with a population of at least 3,500 inhabitants which are included, according to the population census, in an urban area with more than 50,000 inhabitants including at least one municipality with more than 10,000 inhabitants. This capacity shall be increased to one place per 1,000 inhabitants in all municipalities in an urban area with more than 100,000 inhabitants. […]"

f) Rehabilitation accommodation

33. **The Social and Family Action Code reads:**

"*Article L.345-1: Individuals and families experiencing serious difficulties, in particular financial, family, housing, health or integration problems, shall receive, on request, social assistance so that they may be housed in public or private social rehabilitation accommodation and thus be helped to acquire or recover personal independence and social autonomy*."

g) Social housing construction

34. **The Social Cohesion Act, No. 2005-32 of 18 January 2005, reads:**

"*Section 87: Disregarding the national urban renewal programme specified in Sections 6 to 9 of the Urban Renewal Act, No. 2003-710 of 1 August 2003, 500,000 social housing units for rent shall be financed over the period 2005 to 2009, according to the following schedule*:

YEARS	2005	2006	2007	2008	2009	TOTAL
Dwellings financed by loans for the construction of "highly social" housing…….	58 00	63 000	63 000	63 000	63 000	310 000
Dwellings financed by loans for the construction of other social housing…….	22 000	27 000	27 000	32 000	32 000	140 000
Dwellings constructed by the authorised association specified in section 116 of the Finance Act 2002 (No. 2001-1275 of 28 December 2001)……	10 000	10 000	10 000	10 000	10 000	50 000
Totals	90 000	100 000	100 000	105 000	105 000	500 000

"*Section 107: To finance the renovation of 200,000 private rented dwellings with controlled rents and help restore vacant dwellings to the housing market, the Budget Acts 2005 to 2009 have made additional funding available to the national housing improvement agency, over and above that corresponding to its normal activities. This amounts to the following sums, at 2004 prices:*
1. € 70 million for programmes authorised in 2005 and € 140 million for ones authorised in the following four years;
2. In terms of payments authorised, € 70 million in 2005 and € 140 million for each of the following four years."

35. **Decree No. 2005-1243 of 29 of September 2005 setting up an inter-ministerial committee and an inter-ministerial representative for the expansion of the housing supply reads:**

"*Section 1: There shall be an inter-ministerial committee for expanding the housing supply.. […]*

The committee shall establish guidelines for government policy on expanding the supply of housing. It shall deal with the various aspects of this policy, in particular the policy for making more building land available."
"*Section 2: An inter-ministerial office for expanding the housing supply shall be answerable to the minister responsible for housing. […]*"

36. **The Building and Housing Code reads:**

"*Article L302-5 (as amended by Act No. 2007-290 of 5 March 2007) : These provisions shall apply to municipalities with a population of at least 1,500 in Ile-de-France and 3,500 in the other regions that are included, according to the population census, in an urban area with more than 50,000 inhabitants with at least one municipality with more than 15,000 inhabitants, and in which the total stock of social housing for rent on 1 January of the previous year constituted fewer than 20% of principal residences. These provisions do not apply to municipalities in urban areas whose population declined between the last two censuses and that belong to a formal grouping of municipalities in either large or medium-sized urban areas or a grouping of other municipalities with local housing programme responsibilities, once such a programme has been adopted.*
From 1 January 2008, these provisions shall also apply, in accordance with the first sub-paragraph, to municipalities that are members of a joint local authority body with its own tax-raising powers with a population of more than 50,000 inhabitants and at least one municipality with more than 15,000 inhabitants, if the municipality in question has a population of at least 1,500 in Ile-de-France and 3,500 in the other regions and its total stock of social housing for rent on 1 January of the previous year constituted fewer than 20% of principal residences. The levy specified in Article L. 302-7 shall be operative from 1 January 2014."

"*Article L302-6 (as amended by Act No. 2007-290 of 5 March 2007): In municipalities situated in urban areas covered by this section, legal persons that are owners or managers of social housing within the meaning of Article L. 302-5 are required, each year before 1 July, to supply the prefect with a list, by municipality, of the social housing they owned or managed on 1 January of the current year. […]*."

"*Article L302-7 (as amended by Act No. 2007-290 of 5 March 2007): From 1 January 2002, a levy shall be imposed on the tax income of municipalities specified in Article L. 302-5, other than ones that receive the urban solidarity and social cohesion allowance specified in Article L. 2334-15 of the Local and Regional Authorities Code when their stock of social housing exceeds 15% of principal residences.*
The levy shall be 20% of the per capita tax-raising potential, as defined in Article L. 2334-4 of the Local and Regional Authorities Code, multiplied by the difference between 20% of the principal residences and the number of social housing units in the municipality concerned in the previous year, as defined in Article L. 302-5, but may not exceed 5% of the municipality's real operating expenditure as recorded in the last but one financial year.
The levy shall not be imposed if it less than € 3,811.23."

37. **The Right to Housing Act, No. 90-449 of 31 May 1990, reads:**

"*Section 2, inserted pursuant to Section 65 of the Local Responsibilities and Freedoms Act, No.2004-809 of 13 August 2004:*
Each département *shall draw up a housing action plan for the disadvantaged, setting out the planned measures to enable persons specified in section 1 to obtain or retain decent and independent housing with water and energy supplies and telephone services*."

"*Section 3, as amended by Act No. 2006-872 of 13 July 2006, Section 60 I: Housing action plans shall be drawn up and implemented by the State and the* département*. Municipalities and their groupings shall be consulted, together with other legal persons concerned, in particular associations whose objectives include the integration or housing*

of disadvantaged persons and associations that defend persons who are excluded from housing, family allowance and agricultural mutual funds, water and energy suppliers, telephone operators, public and private landlords and those responsible for collecting employers' contributions to housing construction. Plans shall be drawn up for a minimum of three years.[…]"

"*Section 4, as amended by Act 2006-872 of 13 of July 2006 , Section 60 II:* Département *plans shall be based on a qualitative and quantitative assessment of needs in the area concerned and shall take account of the boundaries of any joint municipal public housing bodies. Plans shall specify the needs arising from the application of Section 1 and shall distinguish between situations where individuals' or families' difficulties in obtaining or retaining housing arise purely from financial circumstances and those connected with a combination of financial circumstances and problems of social integration.*
Action plans shall give priority to persons and families who are completely homeless, at risk of eviction without rehousing, in temporary accommodation, housed in slums, or unfit, uncertain or improvised homes, or faced with a combination of difficulties.
Plans shall specify the local bodies responsible for identifying the needs specified in the first paragraph of this Section and, where appropriate, for implementing all or part of the relevant plan's provisions. The geographical jurisdiction of these bodies must take account of the joint municipal bodies responsible for town planning and housing established under part 5 of the Local and Regional Authorities Code.
Plans shall lay down, by geographical sector and having regard to local housing programmes and "housing basins", the objectives to be achieved to ensure that individuals and families concerned by the relevant plan have long-term access to housing and that there is an adequate social mix in cities, towns and neighbourhoods. They shall therefore lay down appropriate measures, concerning:
a. The response to requests for housing from individuals and families concerned by the relevant plan;
b. The construction or provision of additional dwellings covered by so-called "social agreements";
c. Principles governing the priority allocation of housing;
d. The prevention of tenant evictions, and accompanying social support. […]
e. The accommodation of persons placed in temporary or transitional dwellings;
f. The contribution of the housing solidarity fund to achieving the objectives of the plan;
g. The identification of unfit dwellings and premises unsuitable for accommodation, and action to absorb the corresponding requirements for rehousing, together with dwellings deemed to be substandard following inspections by bodies paying housing assistance."

h) Conditions for the allocation of social housing

38. **The Building and Housing Code reads:**

"*Article L.411 (inserted pursuant to Act No. 98-657 of 29 July 1998): The construction, fitting out, allocation and management of social housing for rent shall be designed to improve the living conditions of persons on low incomes and other disadvantaged persons. These operations shall contribute to the implementation of the right to housing and help to meet the need for social mix in the towns and neighbourhoods concerned*."

"*Article L.441: The allocation of social housing shall contribute to implementing the right to housing by meeting the needs of those on low incomes and other disadvantaged persons.*
The allocation process must take account of the variety of local demand and the need for equal opportunities for applicants and social mix in the towns and neighbourhoods concerned.
Local and regional authorities shall contribute, in accordance with their powers and responsibilities, to achieving the objectives specified above.
Social landlords and letting agencies shall allocate social housing in accordance with the provisions of this sub-section.
The State shall ensure that the rules governing the allocation of social housing are complied with."

"*Article L.441-1: The order of the* Conseil d'Etat *specified in Article L. 441-2-6 shall lay down the rules governing the allocation of dwellings built, improved or acquired and improved with State financial support or giving entitlement to personalised housing assistance and belonging to or managed by social housing agencies. The order shall require allocation procedures to take account of households' assets, composition, income and current housing circumstances, distance from their place of work and the availability of local facilities reflecting applicants' needs. If any household members are employed as registered maternal or family assistants this shall also be taken into account.*
The order shall establish the general criteria for the allocation of housing, with priority given to:
a. persons with disabilities or families caring for a person with a disability;
b. persons who are poorly housed, disadvantaged or otherwise experiencing housing problems for financial or social reasons;
c. persons housed or accommodated temporarily in a transitional dwelling or establishment;
d. persons who are poorly housed and are resuming work after a period of long-term unemployment.
The order shall determine the arrangements for consulting mayors of municipalities where social housing is located on the principles governing its allocation and the consequences of their application.
The order shall also specify the conditions governing, and restrictions on, social housing agencies' right to reserve certain initial and subsequent lettings of dwelling specified in the previous sub-section for particular categories of applicant, in exchange for the provision of land, financing or a financial guarantee. Reservation agreements that fail to comply with the restrictions specified in this sub-section shall be null and void.
The order shall specify the procedure for concluding such reservation agreements, in exchange for the provision of land, financing or a financial guarantee by a municipality or a joint municipal public body. These reservation arrangements shall continue for five years after loans contracted by letting agencies and guaranteed by municipalities or joint municipal public bodies have been fully repaid. […]"

"*Article L 441-1: [The order] shall also specify the conditions governing, and restrictions on, the right of State representatives in départements to reserve dwellings for priority applicants, particularly those who are poorly housed or disadvantaged.*
State representatives in départements *may reach an agreement with any mayor to delegate to that mayor or, with the mayor's agreement, to the chair of the joint municipal public body responsible for housing, all or part of their reserved quota of dwellings in the area of the municipality or joint municipal public body concerned.*
The agreement shall establish the obligations of the assignee concerning the application of the right to housing, the procedure for assessing the delegation once a year and the procedure for terminating it should the assignee fail to comply with the obligations.
If a State representative finds that the previous year's objectives in the housing action plan for the disadvantaged have not been fulfilled and a notice to comply has remained without effect for three months, he or she shall replace the mayor or the chair of the joint municipal public body and decide directly on the allocation of reserved dwellings."

"*Article L.441-1-1: Joint municipal public bodies with housing responsibilities that have approved a local housing programme may invite bodies with social housing within their geographical jurisdiction to enter into three-year joint municipal agreements with them.*
Such agreements, which must observe the principle of social mix in the towns and neighbourhoods concerned and take account, by geographical sector, of the capacity of and living conditions in the buildings owned or run by the various bodies, shall specify:
- for each body, a quantified annual commitment to allocate housing to persons experiencing financial and social difficulties, particularly the individuals and families specified in section 4 of the Right to Housing Act, No. 90-449 of 31 May 1990, whose needs are identified in the département *housing action plan for the disadvantaged;*
- the support measures and other necessary arrangements for fulfilling and monitoring this annual commitment.
Each agreement shall be submitted for consultation to the committee responsible for the département *housing action plan for the disadvantaged. If the committee has not*

responded within two months of receiving the agreement, it shall be deemed to have given its approval.
Joint municipal agreements shall also stipulate the establishment of a co-ordinating committee chaired by the chair of the joint municipal public body concerned. Each committee shall be composed of the State representative in the département*, the mayors of the municipalities that are members of the joint municipal public body, and representatives of the social letting agencies operating in the relevant area, the* département*, any body with reservation rights and recognised associations working in the* département *whose objectives include the integration or housing of disadvantaged persons. The Committee shall consider applications for social housing concerned by the joint municipal agreement. The co-ordinating committee shall not take decisions that are the responsibility of the letting committees specified in Article L. 441-2, but shall issue opinions on the appropriateness of allocating social housing units in the public body's geographical jurisdiction. Committees shall establish their own rules of procedure […]*"

"*Article L.441-2: Each social housing agency shall establish a letting committee to allocate individually each dwelling. Letting committees shall comprise six members, one of whom they shall elect as chair. […]*
Such committees shall allocate housing in accordance with the objectives specified in Article L. 441 and the priorities laid down in Article L. 441-1, on behalf of disadvantaged persons and those experiencing housing difficulties.
Letting committees shall include, as specified in a decree, a representative appointed by associations previously recognised by the State representative in the département*, excluding any letters or managers of housing for disadvantaged persons, that are actively concerned with the integration or housing of disadvantaged persons in the area where the dwellings concerned are located. This representative shall participate, in an advisory capacity, in the committee's letting decisions […]*"

"*Article L.441-2-1: The conditions governing applications for social housing to offices, organisations or other legal persons shall be specified in an order of the* Conseil d'Etat*. There shall be a single* département *registration number for each application. Offices or organisations receiving applications shall communicate the relevant* département *number to applicants within a month of the application's being lodged […]Applications shall also be advised of the periods specified in Article L. 441-1-4 beyond which they can refer their case to the mediation committee specified in Article L. 441-2-3, together with the referral procedure.*
The purpose of the registration system, managed jointly by the State and the social letting agencies operating in the département *concerned, is to secure applicants' rights and ensure that priority is given to considering applications that have not been dealt with satisfactorily in the periods specified in Article L. 441-1-4. […]*"

"*Article L. 441-2-2: Decisions to refuse applications for social housing must be notified to the applicant, in writing, accompanied by the reason or reasons for refusal*."

"*Article L. 441-2-3-2 (inserted pursuant to Act No. 2007-290 of 5 March 2007): State representatives in* départements*, in consultation with organisations, associations and public authorities contributing to achieving their département's housing policy objectives, shall ensure that persons covered by the first two paragraphs of Article L. 441-2-3 II shall have access to information on the right to housing*."

"*Article L.641-1: At the suggestion of the municipal housing department and after consulting the mayor, the State representative in the département may, for a maximum period of one year renewable, requisition all or part of habitable premises that are vacant, unoccupied or insufficiently occupied, in order to assign them to the persons specified in Section L. 641-2.*
This power shall extend to the total or partial requisition of hotels, lodging houses and similar premises, with the exception of hotels and lodging houses used for tourism.
As a transitional measure, the State representative in the département *may, after consulting the mayor, exercise the requisition right provided for in this Section in any municipality in which there is a housing crisis*."

"*Article L.641-2: Only the following shall be entitled to benefit from the provisions of this chapter:*
Homeless persons or persons housed under manifestly inadequate conditions;
Persons subject to a final court eviction order."

"*Article L.642-1: In order to safeguard the right to housing, the State representative in the* département *may requisition, for a minimum of one year and a maximum of six years, premises which a legal person has a right in rem to use and which have been vacant for more than eighteen months, in municipalities where there is a substantial imbalance between housing supply and demand that adversely affects persons on low incomes and other disadvantaged persons*."

"*Article R.441-1: Social housing agencies shall allocate the housing specified in Article L. 441-1 to the following persons:*
1. Natural persons of French nationality and natural persons lawfully resident on French territory […] whose income does not exceed certain limits set for the entire household, account being taken of dependants."

"*Article R.441-5: The state, local authorities, their public institutions, joint municipal public bodies, employers, those responsible for collecting employers' contributions to housing construction, chambers of commerce and industry and certain non-profit making organisations may all be beneficiaries of the housing reservations specified in the second paragraph of Article 441-1.*
Any housing reservation agreement entered into under this paragraph shall be notified to the prefect of the département *where the dwellings concerned are located.*
Agreements shall specify the period within which the body concerned must respond to the nomination of candidates by the beneficiary of the reservation and the arrangements for allocating the housing if no offer is made within that period.
The total number of dwellings reserved for local authorities, groupings of such authorities and chambers of commerce and industry in exchange for financial guarantees for loans may not exceed 20% of the stock of housing in each programme.
Prefects may exercise their right of reservation under paragraph 3 of Article L. 441-1 when dwellings are first offered for rent or as they become vacant. Such reservation shall be the subject of an agreement with the social housing agency. In the absence of an agreement, it shall be regulated by a prefectoral order.
The total number of dwellings reserved by prefects for priority applicants may not represent more than 30% of the total stock of housing of each body, including 5% for civil and military state personnel. Exceptionally, prefects may issue an order overriding these limits for a specific period, to permit the accommodation of persons performing public safety duties or in response to economic needs. […]"

39. **The Circular of 17 January 2005 implementing Section 60 of the Local Responsibilities and Freedoms Act, No. 2004-809 of 13 August 2004, concerning the possibility of delegating prefectoral reservations of social housing for rent, reads:**

"*The State shall remain the ultimate guarantor of the right to housing. The [reservation] quota shall not be delegated unless […] this will be at least as efficient in housing the most disadvantaged members of the community as would direct management of the quota*."

40. **Circular UHC/FB 3 No. 2006-90 of 12 December 2006 concerning the means-testing of beneficiaries of social housing legislation and the new forms of government aid in the rental sector sets out the scale applicable to the allocation of social housing:**

CATEGORY OF HOUSEHOLDS	PARIS and surrounding municipalities (in euros)	ILE-de-FRANCE other than Paris and surrounding municipalities (in euros)	OTHER REGIONS (in euros)
1……	18 463 €	18 463 €	16 052 €
2……	27 593 €	27 593 €	21 435 €
3……	36 172 €	33 169 €	25 778 €
4……	43 187 €	39 730 €	31 119 €
5……	51 382 €	47 033 €	36 608 €
6……	57 819 €	52 926 €	41 256 €
Per additional person	6 442 €	5 897 €	4 602 €

41. **The Planning Code reads:**

"*Article L.121-1: Regional, local and municipal land use and development plans shall establish suitable conditions for ensuring […]:*
2. A diversity of urban functions and social mix within urban and rural environments, including sufficient provision for new build and refurbishment to satisfy, without discrimination, present and future needs for housing, economic, especially commercial, activities, sporting, cultural and public-interest activities and public amenities with due regard in particular for a balance between employment and housing, means of transport and water management."

i) Means of appeal

42. **The Building and Housing Code reads:**

"*Article L.300-1 (inserted pursuant to Act No. 2007-209 of 5 March 2007): The State shall secure the right to decent and independent housing, as embodied in section 1 of the Right to Housing Act, No. 90-449 of 31 May 1990, for all persons residing in French territory lawfully and on a permanent basis, as defined in an order of the* Conseil d'Etat*, who have insufficient resources to obtain or retain such housing themselves.*
This right shall be exercised through a conciliation procedure followed, if necessary, by a judicial appeal as specified in this Article and in Articles L. 441-2-3 and L. 441-2-3-1."

"*Article L.441-1-4: After consulting the committee responsible for the* département *housing action plan for the disadvantaged, joint municipal public bodies that have concluded an agreement specified in Article L. 441-1-1 and representatives of social letting agencies in the* département*, the State representative in the* département *shall, having regard to local circumstances, issue an order specifying the period beyond which persons who have applied for social housing may refer the matter to the mediation committee specified in Article 441-2-3*."

"*Article L.441-2-3 (as amended by Act No. 2007-290 of 5 March 2007):*

I. The State representative in each département *shall establish, by 1 January 2008, a mediation committee and appoint a qualified person to chair it.*
As specified in an order of the Conseil d'Etat*, such committees shall be composed of equal numbers of:*
1. State representatives;
2. representatives of the département*, joint municipal public bodies specified in Article L. 441-1-1 and municipalities;*
3. representatives of letting agencies and bodies responsible for managing any of various forms of short term or transitional housing, hostel or hotel-type accommodation for social purposes operating in the département*;*

4. representatives of tenants' associations and recognised associations working in the département *whose objectives include the integration or housing of disadvantaged persons.*

II. Cases may be referred to mediation committees by persons meeting the statutory eligibility criteria for social housing who have not received a suitable offer of housing in response to their request within the period laid down in accordance with Article L. 441-1-4. Cases may also be referred without any qualifying period by applicants who, in good faith, are deprived of accommodation, threatened with eviction without rehousing, housed or accommodated temporarily in a transitional dwelling or establishment or accommodated in premises that are unfit for habitation or otherwise unhealthy or dangerous. Cases may also be referred without any qualifying period by applicants who are accommodated in manifestly overcrowded premises or ones that fail to meet the requirements of decent housing and who have at least one under-age child, are disabled, as defined in Article L. 114 of the Social and Family Action Code, or have at least one dependent household member with such a disability.
Applicants may be assisted by an association whose objectives include the integration or housing of disadvantaged persons or an association that defends the socially excluded and is recognised by the State representative in the département.
The letting agency or agencies to whom such applications have been made shall supply committees with all relevant information on applicants' status and why no offer has been made.
Within a period specified in a decree, mediation committees shall designate applicants whom they consider to be priority cases and who must be offered housing as a matter of urgency. They shall specify for each applicant the nature of this housing, having regard to their needs and their abilities. Applicants shall be notified in writing of the decision, for which reasons must be given. Committees may make proposals for dealing with applications that they do not consider to be priorities.
Mediation committees shall transmit to the State representative in their département*, a list of applicants who must be offered housing as a matter of urgency.*
After consulting the mayors of the municipalities concerned and having regard to the social mix objectives specified in the joint municipal or département *collective agreement, the State representative shall allocate each applicant to a social letting agency with accommodation corresponding to the application. State representatives shall specify the geographical area within which such accommodation must be located. They shall also set deadlines within which letting agencies are required to house applicants. Any such housing allocated shall be offset against the reservation rights of the State representatives in the* départements*. […]*
State representatives shall supply persons who receive offers of housing with written information on the social support facilities and arrangements in the département concerned.
Should letting agencies refuse to house applicants, the State representative in the département *concerned shall allocate accommodation corresponding to their needs from his or her reservation rights. […]*

III. References may also be made to mediation committees without any qualifying period by persons who have received no suitable offers in response to their applications for one of various forms of short-term or transitional housing, hostel or hotel-type accommodation for social purposes. […]

IV. When an application for accommodation is referred to a mediation committee under the conditions specified in II and it considers that the application is a priority but that the offer of accommodation is not suitable, it shall transmit the application to the State representative in the département *concerned and the applicant shall be offered accommodation in a form of short-term or transitional housing, hostel or hotel-type accommodation for social purposes. […]*"

"*Article L.441-2-3-1 (inserted pursuant to Act No. 2007-290 of 5 March 2007):*

I. Applicants who are recognised by a mediation committee as being priorities and requiring emergency accommodation, and have not received, within a period specified in a decree, an offer of housing that has regard to their needs and their abilities may apply to the administrative court for an order that they be housed or rehoused.
Applicants may be assisted by an association whose objectives include the integration or housing of disadvantaged persons or an association that defends the socially excluded and that is recognised by the State representative in the département*.*
From 1 December 2008 this remedy shall be available to persons specified in the second paragraph of II of Article L. 441-2-3 and, from 1 January 2012, to those specified in the first paragraph.
In the absence of a mediation committee in the département *concerned, applicants may exercise the remedy specified in the previous paragraph if, after referring the matter to the State representative in the* département*, they have not received an offer of housing that has regard to their needs and their abilities within a period specified in law.*
The president of the administrative court concerned or a judge nominated by him or her shall rule on the matter under the urgent procedure within two months of referral. Unless the case is heard by a bench of judges, the hearing shall take place without the submissions of the government law officer.
If the president of the administrative court or the judge nominated by him or her finds that the mediation committee has recognised the application as a priority that requires an urgent response and that the applicants have not received an offer of housing that has regard to their needs and their abilities, he or she shall order the applicants' housing or rehousing by the State, and may order a penalty for failure to comply.
The proceeds of such fines shall be paid into the funds specified in the last paragraph of Article L. 302-7 in the region of the mediation committee concerned.

II. Applicants who are recognised by a mediation committee as being priorities for accommodation in a form of short-term or transitional housing, hostel or hotel-type accommodation for social purposes and have not been accommodated, within a period specified in a decree, in such a facility may apply to the administrative court for an order that they be found a place in such a facility.
This remedy shall be available from 1 December 2008. […]

III. Administrative courts to whom applications are made under I may order that a place be found in a form of short-term or transitional housing, hostel or hotel-type accommodation for social purposes."

j) Assistance with access to and retention of housing

43. **The Right to Housing Act, No. 90-449 of 31 May, 1990 reads:**

"*Section 1: Any person or family experiencing particular difficulties on account of inadequate resources or unsuitable living conditions shall be entitled to public assistance, in accordance with the provisions of this Act, in obtaining or retaining decent and independent housing and the supply of water and energy and telephone services.*
The National Housing Council shall report annually on action taken, and this shall be published."

"*Section 6: There shall be a housing solidarity fund in each* département*.*

Solidarity funds shall allocate, in accordance with their rules of procedure, financial assistance in the form of repayable deposits, loans or advances, guarantees and grants to persons meeting the conditions laid down in Section 1 who take up a tenancy, who as existing tenants, sub-tenants or residents of hostel accommodation are unable to meet the cost of their rent, supplementary charges or tenants' insurance or who as the normal occupants of their accommodation are unable to meet the cost of their water or energy supplies or telephone bills.

Debts for unpaid rent or energy, water or telephone bills may be paid from the housing solidarity fund if their settlement is a condition of rehousing. […]
Solidarity funds meet the cost of individual and group support to enable persons and families benefiting from département *plans to be housed or remain in their accommodation, whether they be tenants, sub-tenants, owners of their dwelling or seeking a home. They may also provide financial guarantees to associations offering accommodation or guarantees to disadvantaged persons covered by Section 1. […]*"

"*Section 6-3 (introduced pursuant to Act No. 2004-809) of 13 August 2004): Housing solidarity funds shall be financed by* départements."

44. **National Housing Commitment Act 2006-872 of 13 July 2006:**

"Article 60: To this end, the committee responsible for the plan may set up a specialised committee to co-ordinate preventive action on tenant evictions, tasked with providing opinions to the bodies responsible for making decisions on personal housing assistance, the award of financial assistance in the form of loans or grants and social support in the housing sphere, for persons in arrears with their payments. Where this committee is set up, the responsibilities of the committee provided for in Article L.351-14 of the Building and Housing Code shall be exercised by the bodies which pay the personalised housing assistance. The *modus operandi* and membership of the committee shall be laid down by decree".

45. **The Building and Housing Code reads:**

"*Article L.351-2: Personalised housing assistance shall be granted in respect of the principal residence, regardless of where it is located on national territory. It shall cover:*
1. Owner-occupied housing built, purchased or improved, as of 5 January 1977, with the help of specific forms of State aid or loans whose characteristics and conditions of award are laid down by decree;
2. Rented housing belonging to social housing agencies or managed by them or belonging to landlords in the rental sector […]"

46. **The Social Security Code reads:**

"*Article L.542-1: Housing shall be allocated in accordance with the conditions laid down in the following Article to:*
1) persons receiving, on any grounds, any of the following:
a. family allowances;
b. family income supplement;
c. the family support allowance;
d. the education allowance for a child with a disability;
2) households or individuals not entitled to any of the benefits referred to in sub-section 1 but with a dependent child within the meaning of Article L. 512-3;
3) couples without a dependent child, for a fixed period as from their marriage, provided the marriage took place before the spouses reached a specified age limit;
4) households or individuals with a dependent ascendant over a specified age living with them;
5) households or individuals with a dependent ascendant or descendent or person of common descent but by a different line to the second or third degree, living with them and suffering from a permanent disability to an extent at least equal to a percentage laid down by decree or who has, on account of the disability, been acknowledged by the technical guidance and vocational rehabilitation committee specified in Article L.241-5 of the Social and Family Action Code to be unable to obtain employment;
6) single persons with no dependants from the first day of the calendar month following the fourth month of pregnancy until the calendar month in which the child is born."

k) Prohibition of discrimination in access to housing

47. **The Tenancy Act of 6 July 1989 reads:**

> "*Section 1 […] No one may be refused rental of a dwelling on account of his or her extraction, surname, physical appearance, sex, family status, state of health, disability, morals, sexual orientation, political opinions, trade union activities and actual or presumed membership or non-membership of a particular ethnic group, nation, race or religion.*
> *In the event of a dispute in connection with the application of the preceding paragraph, the person who has been refused rental of a dwelling shall submit factual information pointing to the existence of direct or indirect discrimination. In the light of this information, it shall be up to the defendant to prove that the decision was justified. The court shall reach its conclusion after ordering, if necessary, all the investigative measures it considers necessary*."

48. **The Discrimination Act, No. 2001-1066 of 16 November, 2001 reads:**

> "*Section 9: There shall be a telephone helpline to help prevent and combat discrimination. It shall be responsible for receiving calls from persons who consider that they have been victims of discrimination and responding to requests for information and advice about discrimination and the conditions of referral to the Discrimination and Equality Commission. If necessary, it shall refer callers to other competent bodies or services*."

49. **The Discrimination and Equality Commission Act, No. 2004-1486 of 30 December 2004, reads:**

> "*Section 4: Anyone who considers himself or herself to have been a victim of discrimination may apply to the Commission, under conditions laid down an order of the* Conseil d'Etat."

50. **The Criminal Code reads:**

> "*Article 225-1: The following shall constitute discrimination: any distinction made between natural persons by reason of their extraction, sex, family status, pregnancy, physical appearance, surname, state of health, disability, genetic characteristics, morals, sexual orientation, age, political opinions, trade union activities, or actual or presumed membership or non-membership of a particular ethnic group, nation, race or religion*."
>
> "*Article 225-2: Discrimination as defined in Article 225-1 against a natural or legal person is punishable by three years' imprisonment and a fine of € 45,000 when it involves:*
> *1. Refusal to supply a good or service […]*"

51. **The Reception and Accommodation of Travellers Act, No. 2000-614 of 5 July 2000, reads:**

> "*Section 1*
>
> *I. Municipalities shall provide facilities for so-called travellers whose traditional accommodation is mobile homes.*
>
> *II. Following a preliminary assessment of existing needs and provision, in particular the frequency and duration of travellers' visits and the opportunities for their children to attend school, for access to care and for paid employment, each* département *shall prepare a plan specifying the geographical location of permanent camp sites and the municipalities in which these must be established.*

Municipalities with more than 5,000 inhabitants must be included in the département *plans. They shall specify the location and capacity of permanent sites. They shall also specify the types of social provision arranged for travellers […].*

Section 2

I. Municipalities specified in their département *plan in accordance with paragraphs II and III of Section 1 are required, within two years of the plan's publication, to take part in its implementation. They shall do so by making available one or more properly equipped and maintained sites for travellers. They may also transfer this duty to a joint local authority body responsible for implementing the* département *plan or contribute financially to equipping and maintaining these sites as part of joint municipal agreements. […]*

III. The two-year deadline specified in I shall be extended by two years, from the date of expiry, if the municipality or joint local authority body concerned has, within the initial period, demonstrated its commitment to complying with its obligations by:

- transmitting to the State representative in the département *a formal decision or letter of intent specifying the location of a site to be established or upgraded for the use of travellers;*

- or, acquiring land or starting the procedure for acquiring land on which it is planned to establish a site;

- or, completing a feasibility study.

The deadline for granting subsidies, whether unilaterally or subject to an agreement, concerning municipalities or joint local authority bodies meeting the aforementioned requirements, shall be extended by two years."

THE LAW

52. Articles 31 and E of the Revised European Social Charter read as follows:

Article 31 – The right to housing

Part I: "Everyone has the right to 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".

PRELIMINARY ISSUES

<u>The state of domestic law at the time of adoption of the Committee's decision</u>

53. As to the new law on the enforceable right to housing adopted in France in 2007 ("DALO Act"), the Committee recalls that within the scope of the collective complaints procedure it bases its assessment of conformity with the Charter on the domestic law and practice applicable on the date of the decision on the merits of the complaint (European Council of Police Trade Unions v. Portugal, Complaint No. 11/2001, decision on the merits of 21 May 2001). In the present case, given that the measures foreseen in the new Act will enter into force on 1 December 2008 (for certain categories of persons) and on 1 January 2012 (for other categories of persons), the Committee will only take into account the regulations on housing currently applied and refrain from assessing the measures contained in the new Act.

On the scope of Article 31

54. The Government argued strongly in its written submissions and at the hearing that the Charter's provisions on the right to housing, in particular Article 31, only imposed on states an obligation of means. In other words, so long as suitable measures were taken with a view to securing the right to adequate housing, the situation would be in conformity with the Charter.

55. The Committee agrees that the actual wording of Article 31 of the Charter cannot be interpreted as imposing on states an obligation of "results". However, it notes that the rights recognised in the Social Charter must take a practical and effective, rather than purely theoretical, form (International Commission of Jurists v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32).

56. This means that, for the situation to be compatible with the treaty, 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.

57. In connection with means of ensuring steady progress towards achieving the goals laid down by the Charter, the Committee wishes to emphasise that implementation of the Charter requires state parties not merely to take legal action but also to make available the resources and introduce the operational procedures necessary to give full effect to the rights specified therein (Autisme Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, §53).

58. When one of the rights in question is exceptionally complex and particularly expensive to implement, 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 (Autisme Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, §53).

59. The requirement to maintain statistics is particularly important in the case of the right to housing because of the range of policy responses involved, the interaction between them and the unwanted side-effects that may occur as a result of this complexity. However, statistics are only useful if resources made available and results achieved or progress made can be compared with identified needs.

60. The Committee refers in this context to the Guidelines on Access to Housing for Vulnerable Groups, of which the Committee of Ministers took note at the Deputies' 995th meeting on 16 May 2007. According to paragraph 11 of the Guidelines:

> *"Housing policies should be evidence based, and therefore the knowledge base should be improved through research and regular data collection. Adequate knowledge of housing situation, especially statistical information, is a prerequisite for effective housing policy design and implementation. Regular collection of relevant statistical information on housing issues, including housing needs assessment should be carried out."*

61. The Committee notes that in several areas the Government fails to supply relevant statistical information or does not compare identified needs with the resources made available and results achieved. Regular checks do not appear to be carried out on the effectiveness of the policies applied. In the absence of any commitment to or means of measuring the practical impact of measures taken, the rights specified in the Charter are likely to remain ineffective.

62. In connection with timetabling – with which other regulatory bodies of international instruments are also very concerned – it is essential for reasonable deadlines to be set that take account not only of administrative constraints but also of the needs of groups that fall into the urgent category. At all events, achievement of the goals that the authorities have set themselves cannot be deferred indefinitely.

63. 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 (Autisme Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, §53).

<u>On the interpretation of Article 31 in the light of other international instruments</u>

64. The Committee considers that Article 31 must be considered in the light of relevant international instruments that served as inspiration for its authors or in conjunction with which it needs to be applied.

65. This applies above all to the European Convention on Human Rights. The Committee is particularly concerned that its interpretation of Article 31 is fully in line with the European Court of Human Rights' interpretation of the relevant provisions of the Convention.

66. Further, the United Nations Covenant on Economic, Social and Cultural Rights is a key source of interpretation. Article 11 recognises the right to housing as one element of the right to an adequate standard of living:

> *"Article 11*
> *1. The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.*

67. The Committee also attaches great importance to General Comments 4 and 7 of the UN Committee of Economic, Social and Cultural Rights. The Committee has also paid close attention to and greatly benefited from the work of the United Nations Special Rapporteur on the Right to Adequate Housing, Miloon Kothari.

ON THE ALLEGED VIOLATION OF ARTICLE 31§1 CONCERNING HOUSING OF AN ADEQUATE STANDARD

(i) As to the inadequate housing conditions of a large number of households

A. Arguments of the parties

68. FEANTSA relies on the 2005 annual report on inadequate housing by the Fondation Abbé Pierre and maintains that 1 150 000 persons live in dwellings with no basic amenities, that is, around 1.8% of the population. It acknowledges that the housing conditions of the population at large have improved considerably over the past thirty years but states that at the same time the situation of persons whom are inadequately housed has worsened.

69. In 2002, there were still 2.6% of dwellings without basic amenities and 6.9% without central heating, that is, around 10% of the housing stock (700 000 units). In fact, the poorest households are the ones occupying houses which lack amenities and have inadequate sanitary conditions, or at the very least are obsolete and situated in peripheral areas. Approximately 18% of the poorest households considered their housing conditions as "unsatisfactory" or "most unsatisfactory" in 2002.

70. FEANTSA also claims that around 3 500 000 persons live in conditions of overcrowding, and 1 000 000 in a situation of acute overcrowding. About 900 000 dwellings are overcrowded. The poorest households are the most prone to these overcrowded living conditions: moderate overcrowding affects 16% of poor households, and acute overcrowding 3% of such households.

71. Low-income households living in social housing tend more often than other tenants to be large families and therefore have less space in their homes. 1 low-income household in 4 occupies a dwelling of inadequate size. Thus, the rate of overcrowding for poor households is twice that for other households occupying social housing.

72. FEANTSA finally points out that 6 million persons live in a situation of short or medium term insecurity, that is, one person in ten. The general round improvement in housing quality only benefits the more well-off households, those already best housed

73. The Government does not dispute the figures put forward by FEANTSA for households deprived of amenities, but maintains that, out of a stock of 22 131 000 main residences in 1992 and 24 525 000 in 2001, the number of dwellings without proper amenities was 1 452 000 in 1992 (that is, 6.8 % of the total), and fell to 689 000 in 2001 (that is, 2.8 % of the total). The number of persons housed in these dwellings had itself reportedly decreased from 2 547 000 to 1 150 000.

74. According to the Government, between 1992 and 2001 for the same stock of main residences, the number of acutely overcrowded dwellings decreased from 290 000 to 218 000, that is, 0.9% of the stock. The number of persons housed in these dwellings fell from 1 411 000 to 1 037 000. Pursuant to INSEE standards, the national statistical institute, acute overcrowding is defined by a difference of two units between the size of the household and the number of rooms available. The Government considers that there was thus a very appreciable decrease in overcrowding between 1992 and 2001, although it is aware of the efforts still required.

75. The Government considers that the complaint employs different statistics on overcrowding which, though not incorrect, do not provide an accurate picture of inadequate housing. In the figures reproduced from the 2005 annual report of the Fondation Abbé Pierre, the indicators referring to persons in a state of insecurity are not precise enough and do not always correspond to a real situation of inadequate housing.

B. Assessment of the Committee

76. The Committee recalls that Article 31(1) guarantees adequate housing for everyone, which means a dwelling which is safe from a sanitary and health point of view, that is, possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities and electricity; is structurally secure; not overcrowded; and with secure tenure supported by the law (see Conclusions 2003, Article 31§1, France).

77. The Committee also recalls that the standards of adequate housing should apply to housing available for rent as well as to owner-occupied housing. It notes in this respect that the criteria defining "decent housing" are mainly set out in a Decree of 30 January 2002, which applies to the rental sector. There is no single text setting out standards for owner-occupied dwellings, but basic conditions for the latter can be extracted from other regulations.

78. As regards the measures taken by the Government to eradicate substandard housing, the Committee notes that local action plans to reduce substandard housing have been generally introduced across the country. Around 76 000 dwellings are reportedly benefiting from renovation operations under these local action plans, but this still only represents a small percentage of the surveyed stock (around 10-15%). Moreover, despite the generalisation of such plans, the Committee notes that serious

problems remain, in particular, that health risks due to substandard conditions still affect around 400 000 to 600 000 dwellings (over 1 million persons). The Committee considers there was an absence for a considerable period of time of a systematic scheme to address the problem of substandard housing, and that recent measures to correct this have not as yet been comprehensively implemented. The Committee therefore considers that the measures taken by the authorities to eradicate substandard housing are still insufficient.

79. As regards the responsibility for adequate housing, the Committee has persistently pointed out over the last years that general supervision was absent at national level (see Conclusions 2005, Article 31§1, France). In addition, it finds that the adoption and implementation at the regional and local level of regulations aimed at improving the quality of dwellings is not always ensured in practice and varies between the departments.

80. A final shortcoming identified by the Committee concerns the legal protection of the right to adequate housing (the occupiers' right of appeal). On the basis of information from the High Committee for the housing of disadvantaged persons – consultative body to the Prime Minister – the Committee notes the inefficacy of means of redress, which most often result in a compensatory payment or reduction in rent. Furthermore, it notes that tenants are reluctant to start proceedings against their landlord because they do not know their rights and are afraid of losing their home if they take the landlord to court.

81. The Committee therefore holds that insufficient progress as regards the eradication of substandard housing and the lack of proper amenities of a large number of households constitute a violation of Article 31§1 of the Revised Charter.

ON THE ALLEGED VIOLATION OF ARTICLE 31§2 CONCERNING THE PREVENTION AND REDUCTION OF HOMELESSNESS

(i) <u>As to the unsatisfactory implementation of the legislation on the prevention of evictions</u>

A. Arguments of the parties

82. FEANTSA maintains that the procedure on the prevention of evictions embodied in legislation has no tangible implementation. The Anti-Exclusion Act of 29 July 1998 was to establish a social welfare rationale in place of an economic one, or at best one founded on public policy. Accordingly, the prefect must be informed 2 months before court proceedings are brought by the landlord so as to find a solution on continued tenancy or rehousing, but this procedure has virtually no effect in practice. Rental litigation has been on the increase since 1997, particularly between 2002 and 2003, whereas the Act of 1998 was intended precisely to curb its growth. Furthermore, official statistics do not take account of persons who leave their residence just before actual eviction to avoid seizure of their belongings. In 2004, a memorandum of understanding was signed with a view to preventing evictions from social housing, which foresees the signature of a tripartite agreement between landlord, tenant and prefect to prevent eviction through consultation. However, the prefect's participation

has been discarded, leaving just the landlord and the tenant to find a solution, which is ineffective.

83. The Government disputes all the foregoing claims and maintains that the national authorities have taken the proper legislative measures. The Act of 29 July 1998 laid down a compulsory time limit to be observed by public landlords between mandatory referral to the département's housing allowances office (SDAPL) and the issue of a writ for termination of lease, and a second time limit of 2 months to be observed by both public and private landlords between the issue of the writ and the date of the court hearing (sections 114 and 115 of the Act). The writs are transmitted to the prefect of the département with a view to notifying the bodies responsible for housing allowances (in particular the SDAPL, which decides whether the housing allowance is to be continued or suspended), and the solidarity fund for housing which assists with arrears of rent. Thus there would seem to be a genuine process of prevention up the line. The aforesaid Act of 1998 provided for the signature in each département of a charter for the prevention of evictions, intended to mobilise the partners (landlords, bailiffs, administrations) for joint preventive actions.

84. The Government considers that the development of rental litigation in recent years, characterised by an increase in writs for court proceedings and in terminations of leases, is accounted for especially by the deterioration of living conditions for a number of families. The Government does not explain how this deterioration might relate to the responsibilities which it bears.

85. The Government recalls that Act No. 2005-32 of 18 January 2005 on social cohesion programming authorises the signature of an agreement between the landlord and the household, enabling the latter to continue its occupancy and to resume drawing the individual housing allowance, even after termination of lease, subject to its undertaking to pay rent and make up arrears. The signature of these agreements (10 000 signed since the provision took effect) is reported to have allowed families absolutely prevented by their difficulties from paying their rent to remain in their homes. The exact number of families concerned is not available.

86. In addition, Act No. 2006-872 of 13 July 2006 on a national housing commitment reinforces the general arrangements, namely by the setting up within the département of a specialised committee on the prevention of evictions with the task of bringing together the various commissions and agencies responsible for financial and social measures in respect of evictions (housing solidarity fund, over-indebtedness committee, bodies responsible for housing allowances) and co-ordinating the action of these various bodies.

B. Assessment of the Committee

87. The Committee recalls that under Article 31§2 of the Revised Charter, States must put in place procedures to limit the risk of evictions and to ensure that, when these do take place, they are carried out under conditions which respect the dignity of the persons concerned (Conclusions 2003, Sweden, p. 653).

88. Eviction may be defined as the deprivation of housing which a person occupied, on account of insolvency or wrongful occupation (Conclusions 2003, Sweden, p.

653). Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the affected parties in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction. The law must also prohibit evictions carried out at night or during winter and provide legal remedies and offer legal aid to those who are in need so they may seek redress from the courts. Compensation for illegal evictions must also be provided. Procedural guarantees are important. Even when an eviction is justified, authorities must adopt measures to re-house or financially assist the persons concerned.

89. The Committee considers that certain elements of the French system on evictions, for example, the two month period after formal notice has been served before eviction can take place, or the suspension of evictions in winter, comply with the guiding principles laid down by it.

90. However, it also observes that the French system does not, either in law or in practice, offer the required safeguards, particularly as regards rehousing. Indeed, the Anti-Exclusion Act of 29 July 1998 contains no guarantees that a person subject to eviction will be re-housed. The Committee observes the increasing number of eviction cases, including of persons evicted from homes in substandard conditions, who are not re-housed. Therefore, given the high number of eviction judgments which are issued in France every year, and taking into account the risk of eviction leading to situations of precarity, the Committee considers that the lack of guarantees ensuring stable and accessible rehousing options before eviction takes place amounts to a breach of Article 31§2.

91. The Committee has in the past noted failures as regards the financial measures to prevent evictions (see Conclusions 2005, France, Article 31§2). In particular, it noted from a report by the High Committee for the housing of disadvantaged persons that debt clearing plans drawn up by the debt assistance boards (*commissions de surendettement*) were not always compatible with the requirement that unpaid arrears must be repaid within two years, which was the *sine qua non* if the judge was to grant a grace period rather than rule that the lease was terminated. Therefore, again taking into account that the number of tenants subject to eviction judgments is very high the Committee considers that the situation in respect of financial measures designed to prevent evictions is also not in conformity with Article 31§2 of the Revised Charter.

92. The Committee also noted the loose coordination among all actors involved in the prevention procedure: local authorities, the housing solidarity fund (FSL), over-indebtness committee, etc. (see Conclusions 2003, France, Article 31§2). Although the specialised committees on the prevention of evictions, created by Act No. 2006-872 of 13 July 2006 on a national housing commitment, in principle aim at improving co-ordination among these different bodies, the Committee is unable to assess the contribution of such specialised committees in preventing the eviction of tenants, as the law has only been recently passed.

93. The Committee therefore holds that the unsatisfactory implementation of the legislation on the prevention of evictions and the lack of measures to provide rehousing solutions for evicted families constitute a violation of Article 31§2 of the Revised Charter.

(ii) As to the inadequacy of measures for the reduction of homelessness

A Arguments of the parties

94. FEANTSA supplies figure-supported data showing that one person in twenty is not housed or inadequately housed (5% of the population, that is, 3 000 000 persons). Moreover, 86 500 persons are homeless and some 800 000 have no home of their own and live in hotels, in makeshift accommodation, with friends or relations under very difficult conditions, or in hostels of the "shelter" type.

95. The emergency call service is ineffective. Number 115, the emergency telephone number for the homeless, provides no guarantee that the request will be answered or registered. Demand increased by 32% between 1997 and 2002, that is, 32 000 calls in 2002. The emergency services are not in a position to meet the entire demand and many calls are unanswered.

96. There is a shortage of places in emergency accommodation. There are 90 000 places available whereas some 1 000 000 persons are living in extreme hardship. Therefore, the accommodation capabilities are clearly insufficient. Moreover, the volume of places decreases from year to year. Places for the reception of asylum seekers are lacking, with a reported shortfall of at least 40 000 places not counting children.

97. Accommodation in containers and railway carriages is developing, and hotel accommodation is unsuitable due to lack of privacy, cooking facilities, etc. The emergency measures do not afford either decent living conditions or assistance towards a better solution.

98. The winter scheme, consisting in a temporary expansion of the capacity of accommodation centres and in a suspension of community integration work raises many problems: it fails to consider the life plans of the persons accommodated, then abruptly throws them back on the street, disregarding the statistics (more deaths in summer than winter, hospital occupancy rate of 99% in summer), and suspends community integration work although it is indispensable. It takes a certain time for the opening of centres to become known. Friction between the homeless persons and the members of the care associations is commonplace. Furthermore, the aim of the associations providing shelter for them is to offer a socio-educational plan and not to guarantee a right to housing, and therefore the accommodation on offer is poor-quality and the persons accommodated have no means of redress.

99. The sick are not treated. In 30 years, the number of places in psychiatric clinics has decreased from 180 000 to 62 000 and the length of stay from 230 to 35 days. This results in a strong representation of persons with mental disorders among the homeless. Patients are discharged and the proportion of homeless persons with disorders is estimated at 30-40%.

100. The Government argues that over the last few years there have been significant efforts in quantitative and qualitative terms to provide accommodation. Thus, under the social cohesion plan that gave rise to the programming Act, 1800 places in

"accommodation and social rehabilitation centres" (CHRS) have been created over the three years from 2005 to 2007, in addition to the 7000 places in reception centres for asylum seekers (CADA) and 4000 places in halfway houses. These measures were confirmed and improved when the Interministerial Committee for the Prevention of Exclusion met on 10 May 2006 and decided on a series of measures to consolidate and improve the scheme for the years 2007-2009: making 5000 "winter" places available all year to end the seasonal character of part of the scheme, conversion of 3000 emergency places into CHRS places, strengthening of the "social watch" services, measures of humanisation.

101. Reform has speeded up and broadened its scope under the "intensified action plan for the homeless" (PARSA) announced on 8 January 2007: (i) extension of hours and weekend opening of facilities are becoming general, and the conditions of reception in emergency accommodation have markedly improved, following the improvement in safety conditions; (ii) it is planned in 2007 to convert 4500 emergency accommodation places into CHRS places, to create 6000 "stabilisation" places and an additional 9000 additional places in halfway houses; all these formulas constitute alternatives to emergency accommodation and have the dual purpose of increasing availability and ensuring care on a lasting basis and with a view to integration; the budgetary resources needed for these operations have been obtained and the process of creation is well in hand; (iii) a specific housing supply will be made available for the benefit of CHRS inmates to move them out of these establishments at a faster rate.

102. Moreover, section 4 of the Act of 5 March 2007 confirms and formalises the principle that people are not to be returned to the street, already laid down on 8 January 2007 and should enable, besides continuity of care of the persons concerned, a marked reduction in the number of calls on 115 and thus relieve the congestion of this line. The procedures for applying this principle were the subject of a ministerial circular of 19 March 2007. Its application should serve as a reply to a criticism made by FEANTSA concerning "forcible evictions from accommodation facilities", since dismissals from emergency accommodation centres will no longer be permissible except to direct a person towards a suitable form of fixed accommodation or housing with his/her consent. Finally, it has the effect of ending the seasonal character of part of the accommodation facilities.

B. Assessment of the Committee

103. The Committee recalls that Article 31§2 obliges Parties to gradually reduce homelessness with a view to its elimination. Reducing homelessness implies the introduction of emergency and longer-term measures, such as the provision of immediate shelter and care for the homeless as well as measures to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness (see Conclusions 2003, Italy).

104. It also recalls that in order to reduce homelessness gradually as prescribed by Article 31§2 of the Revised Charter, States must obtain the necessary factual information to deal with the problem. The regular collection of data is a first step towards achieving this objective (Conclusions 2005, France).

105. The Committee notes, from information of the Fondation Abbé Pierre, that data on the accommodation/emergency shelter needs of persons are not collected in a harmonised and effective manner at national level. The data coming from the 115 emergency telephone remains sketchy and does not cover all the real needs since much of the demand for accommodation does not go through this channel. Even less do such data reflect the actual availability of places or information on the persons' stay within the scheme or when leaving the system. The Committee therefore considers that the deficiencies in the French system for collecting data on accommodation/sheltering needs, and more generally on the homelessness phenomenon, is a fundamental shortcoming which prevents the authorities from determining the adequacy of the measures taken to reduce homelessness.

106. As to the actual figures, the Committee notes from the national statistics bureau that the estimated number of people in France living without a fixed address totalled around 86,000 persons in 2004. This figure, which in itself is already quite high, might not show the real dimension of the problem given the above-mentioned shortcomings in the collection of reliable data, and should therefore be interpreted with care.

107. Another deficiency in the French system is the shortage of places in emergency shelters. The Committee observes that many of the requests for this type of assistance remain unfulfilled. Most of the calls processed by the 115 emergency telephone concern a request for emergency shelter or for housing, but these services are only partly able to meet the requests. The Committee therefore considers that the shortage of places in shelters for the homeless, as well as the insufficiency of arrangements at municipal level for day reception and overnight accommodation capable of suiting different situations, illustrate the underlying failure of State policy in this field, and that the situation does not comply with the conditions required by the Revised Charter.

108. As regards living conditions in sheltering facilities, the Committee believes these should be such as to enable living in keeping with human dignity, and that support should be routinely offered to help the persons within the facilities to attain the greatest possible degree of independence. It also recalls that the temporary provision of accomodation, even decent accomodation, cannot be considered a satisfactory solution, and people living under such conditions must be offered housing of an adequate standard within a reasonable time.

109. In this regard, the Committee finds that in general lines the reception facilities for persons in very insecure circumstances could be improved in France. There is too much of a fallback on makeshift or transitional forms of accommodation which are inadequate both in quantitative and qualitative terms, and which offer no definite prospect of access to normal housing. The Committee considers it would be positive if the converison of homeless shelters into around-the-clock structures became a general practice. It also considers that any offer of accommodation in them should lead in the short or medium term to an independent housing solution.

110. The Committee therefore holds that the measures currently in place to reduce the number of homeless are insufficient, both in quantitative and qualitative terms, and constitute a violation of Article 31§2 of the Revised Charter.

ON THE ALLEGED VIOLATION OF ARTICLE 31§3 ARISING FROM A LACK OF HOUSING SUPPLY AT AN AFFORDABLE COST

(i) As to the insufficient construction of social housing

A. Arguments of the parties

111. FEANTSA considers that there is a shortage of accessible housing, and an inadequate supply of rented housing within the reach of low-income groups. In 1984, 679 000 persons were seeking a social housing unit, in 2002 1 043 000 persons lodged an application, so demand rose by 65% between 1984 and 2002. The problem is that in 2002 only 452 000 social housing units were available, representing a shortfall of 591 000 units. The availability of social housing on an annual basis has been decreasing since 1999. Between 1996 and 2002 the supply of dwellings available from the social housing stock decreased by 27 400 allocations per year while over the same period the number of applicant households rose by 188 000.

112. Low-cost rented housing stock is disappearing steadily: the 107 600 dwellings subsidised by the ANAH (national agency for improvement of housing amenities in private housing) in 1997 were down to 87 291 in 2003. Likewise, the number of "approved" dwellings (officially subsidised with commitments to be met in return) fell from 9 100 in 1997 to 7 705 in 2003. Lastly, the Thematic Social Programmes (PST), agreements generating a level of rent linked to the cheapest rates for social housing units (the PLA-I), decreased from 3 200 in 1997 to 1 777 in 2003.

113. Poor households increasingly resort to social housing instead of becoming home owners because this is too expensive. There are more requests for social housing and it cannot meet all demands. The proportion of low-income households is increasing on the moderate-rent housing (HLM) market but access to social housing for poor families is more and more difficult while at the same time access to private rented housing is becoming very expensive, nearly impossible for them. The State is not encouraging social housing construction. Annual output of social housing units decreased by 30% between 1994 and 2003, that is, from 80 000 dwellings built to 56 500. The progression of the level of construction is outstripped by the annual level of needs, so housing shortage is worsening. Annual growth of the stock has not exceeded 37 400 dwellings since 1999, whereas the Economic and Social Council places the number of social housing units that would need to be built per year at 120 000.

114. The annual level of needs was 325 000-340 000 new dwellings per year between 1999 and 2003 but the annual level of construction was 319 000 units over that same period. The figures should be approached with caution, moreover, because a high proportion of these new constructions are actually second homes. In 2003, the INSEE estimated that 320 000 dwellings needed to be built per year given the backlog in production experienced over several years. The accumulated deficit in housing construction represents around 1.5-2 years of construction.

115. The Urban Solidarity and Renewal Act (*loi SRU*) of 2000 lays down the obligation for municipalities to reach a minimum threshold of 20% of social housing units, but in 2005 45% of the municipalities concerned, which had less than 5% of social housing, had not planned the construction of any new dwellings. The means of coercion against the municipalities are negligible: a small fine which is deemed less important than the social cost of having poor residents. The freezing of all State funds in the event of failure to fulfil these statutory obligations might be envisaged.

116. The Social Cohesion Plan envisages the construction of 90 000 social housing units for 2005, 100 000 in 2006 and 2007, and 105 000 in 2008 and 2009, but in view of the present market conditions it is obvious that these objectives will not be achieved.

117. Production of housing is not only decreasing in volume but consistently moving towards more costly products not accessible for the less adequately housed families. Several types of social housing are distinguished, from the least to the most expensive: PLA-I intended to accommodate a public with “cumulative economic and social problems”, followed by PLA-PLUS, PLU-CD and PLS targeting intermediate classes. It may be observed from the figures released by the Ministry of Infrastructure that the number of PLA-I built each year has fallen since 1999, from 13 921 in 1999 to 5 034 in 2003. Similarly, production of PLA-PLUS was down from 68 575 in 1994 to 34 588 in 2003, a 50% decrease. On the other hand, construction of dwellings classed PLUS-CD and PLS intended for people with more substantial incomes rose from 570 PLUS-CD and 4 966 PLS in 1999, to 4 144 PLUS-CD and 12 659 PLS. The percentage of PLS built has been constantly increasing since 1999, reaching 22% of the aggregate social housing stock, while the proportion of PLA-I has been steadily decreasing, down to 9% of the social housing stock. The number of demolished social housing units is on the increase, which aggravates the shortage of this type of housing, since not all dwellings are replaced, and if they are, it is with costly constructions.

118. The “Besson” measures introduced on 1 January 1999 sought to encourage investment in housing while developing a rental market for medium incomes, midway between the free market and the controlled HLM sector. The tax privileges granted carried commitments in return, relating to the term and rate of rent. This system was modified in 2003 by the “de Robien” measures applicable to the purchase of dwellings that are newly built or undergoing construction, and extends tax relief to old dwellings where work is being carried out. However, the conditions to be met in return are abolished, with the result that the richest consolidate their real estate holdings, rents increase and become unaffordable for the poorest. The budget allocated to this system (about 21 000 euros) is almost equivalent to the value of the budget for an average PLUS class dwelling (22 000 euros) without any commitment in return. Thus, it is more interesting to build under the “de Robien” system which does not impose any commitments, than to build a PLUS dwelling which does. This system does not control the cost of dwellings and tends to an increase of rents. Aids to investment and tax exemptions have been constant since 2000 but do nothing to make housing more readily accessible for those of most limited means.

119. The State evidently devotes an increasing proportion of public spending to the private sector (23% in 1990 as against 33% in 2000). The social housing sector, accounting for 30% of expenditure, is no longer the principal recipient of state aid.

120. The Government acknowledges that the housing crisis largely results from insufficient construction, particularly of social housing, at the end of the 1990s and from 2000 onwards. The Social Cohesion (programming) Act of 18 January 2005, providing for the implementation of the social cohesion plan adopted in the Council of Ministers on 30 June 2004, aims in particular, through purposive planning for a high social housing construction, to catch up with the deficit.

121. The objectives of the 2004 social cohesion plan relate to the building of 500 000 social housing units for rent between 2005 and 2009, and 200 000 controlled-rent housing units supported by financial assistance from the national agency for improvement of housing amenities. For three years, new construction has recorded a strong annual growth, over 10 % in 2004 and 2005. 410 000 housing units were commenced in 2005 and 430 000 in 2006. Social housing output (PLUS, PLAI, PLS excluding ANRU class dwellings) recorded a significant progression with 80 000 dwellings in 2005 and 96 200 in 2006, broken down into 7 900 PLA I dwellings, 51 200 PLUS dwellings and 37 100 PLS dwellings. In addition, 6 600 social housing units were financed in 2006 by the national agency for urban renewal, bringing the total number of social housing units for rent which were financed in 2006 to 102 800.

122. This effort has been sustained in 2007, with a set objective of 136 000 dwellings. Regarding the fulfilment of the needs of individuals and families in the lowest income bracket, to which the government attaches great importance, the supply of housing “of a highly social nature” consists of PLA I dwellings, 30 % PLUS dwellings constructed for mandatory allocation to tenants meeting the conditions of eligibility for social housing in the PLA I class, and of housing units “of a highly social nature” built in 2006 with the assistance of the national agency for improvement of housing amenities, that is, a total of 25 300 housing units “of a highly social nature” representing 18.7 % of the 134 800 social housing units built in 2006 for the public and private rental market. Thus the proportion of housing “of a highly social nature” is very high.

123. Where tax relief is concerned, the Government submits that the “de Robien” system allowed the construction of over 65 000 dwellings in 2006. Its success has contributed to achieving 430 000 dwellings being under construction in 2006, as well as the granting of 525 000 building permits that same year, two historical records over 25 years. While it has not led to a visible and immediate decrease in real estate prices in the areas concerned, for which a more general economic context is responsible, it has allowed a marked increase in housing supply. These new dwellings help to deflate supply. This phenomenon should eventually deflate the prices of real estate available for rent.

B. Assessment of the Committee

124. The Committee notes that there must be an adequate supply of affordable housing. Housing is deemed to be affordable when the household can pay the initial costs (deposit, advance rent), the current rent and/or other costs (utility, maintenance

and management charges) on a long-term basis and still be able to maintain a minimum standard of living, as defined by the society in which the household is located (Conclusions 2003, Sweden, p.655).

125. Governments must adopt appropriate measures to encourage the construction of housing, in particular social housing (Conclusions 2003, Sweden, p. 656).

126. In Conclusions 2005, the Committee found that the stock of social housing in France was manifestly inadequate. According to the report there were 1 300 000 applications in the period from 1 July 2002 to 30 June 2003. The National Plan of Action on Social Inclusion (PNAI) estimated that there were 1 640 000 applications for social housing outstanding on 1 June 2002, whereas 80 000 dwellings were scheduled for construction in 2004.

127. Since then, the Government has taken a number of steps to improve the situation. The Committee has considered all the information presented and notes in particular:
- a significant increase in new starts in 2005,
- various measures in the 2006 legislation that have not yet had their intended effect,
- the provisions of the Act of 5 March 2007.

128. However, the Committee notes that even if all these objectives were achieved, that is 591 000 new social housing units were built by 2009, there would still apparently be a considerable shortfall compared with needs, insofar as needs can be measured by the amount of applications made for access to social housing. There would also appear to be no clear policy mechanism in place to ensure that due priority is given to the provision of housing for the most deprived members of the community, and that the assessment of the needs of the most deprived is built into the programme of providing social housing.

129. Moreover in answer to questions raised at the public hearing the Government, which has not directly responded in its written submissions to FEANTSA's arguments concerning the provision of housing for low-income groups, stated that the apparent trend towards the construction of more expensive social housing could be explained by the fact that they were responding to a broad range of demand. The provision of such housing was concerned not only with the most disadvantaged but also with a wide spectrum of the population in need of decent housing on account of short-term financial difficulties or local housing crises".

130. The Committee considers that the implementation of this policy does not by itself constitute a sufficient step or a sufficient justification for the ongoing manifest inadequacy of the existing policy mechanisms for ensuring due priority for the provision of of social housing for the most socially deprived. The situation therefore constitutes a violation of Article 31§3.

(ii) As to the malfunctioning of the system for allocating social housing and the associated remedies

A. Arguments of the parties

131. FEANTSA maintains that social housing is not reserved for the poorest people, owing to the concept of social mix. This concept emerged in the 1980s to counter the pauperisation and ethnic concentration then being experienced; it was introduced into the 1998 Act and became a means of screening out undesirable categories from access to housing. Social mix "simply suggests that everyone is entitled to live but not just anywhere"; it is an expectation of social harmony but this concept has never been further specified so any meaning can be given to it. Social mix serves as a shield for local authorities, so as not to house the persons in greatest difficulties, but is not conducive to social diversity in neighbourhoods. It is hoped that the poorest people will be accepted elsewhere. Thus, the social mix criterion clashes with that of giving priority to the poorest households. The most privileged households are often preferred by social housing landlords and generally do not pay surcharges on rent although it is a legal obligation. FEANTSA asserts that a choice must be made: either rented social housing is in effect reserved for people lacking the means to enter the market, in which case those who have the means are excluded, or access is widened, but in the latter case, there should be a compensatory surcharge. The State Audit Board has adverted to this inconsistency in the allocation of social housing.

132. According to FEANTSA, knowledge of needs is highly inadequate since the PDALP (département action plans for the housing of the underprivileged) do not function properly; they have been deprived of their substance, and their effectiveness depends on the willingness of the local players and on the State's ability to release human and other resources for the conduct of the actions prescribed in the plans.

133. The Anti-Exclusion Act of 1998 foresees the setting of a deadline/delay at département level (deemed inordinately long) beyond which all applications must be preferentially examined by a mediation commission. These "inordinately long" delays in allocation are set according to the average time it takes to obtain a social housing unit in each département. Thus, the time depends on the supply of housing, not on the demand for it. Moreover, these times vary between départements from less than a year in Loire-Atlantique, for example, to 10 years in the Paris area, and are often very long. With these deadlines and the mediation commissions, the deficit in access cannot be rectified, but equality in the processing of applications can possibly be ensured.

134. Where the deadline is exceeded, the applicant may turn to an *ad hoc* mediation commission which concludes on the reasons for the delay and invites the local players to provide an answer. In reality, in 2003 half of the départements had still not set up a mediation commission, and where they existed they had no authority or responsibility for working out an answer and giving help to victims of discrimination.

135. Municipal protectionism works against the right to housing. Towns are under no obligation to meet all the requests made to them and there is pressure from the settled population, anxious to preserve its peace and quiet and its surroundings, so that applications from poor families alien to the municipality are rejected.

136. FEANTSA further deplores the inaction of the prefects. The procedure for requisitioning vacant housing is not applied. Prefects do not avail themselves of their right to reserve housing, wishing to avoid disputes with their partners, and condone the discriminatory practices of landlords. Moreover, the local councillors claim control

over the allocation of social housing in their district and in practice have a right of scrutiny in respect of allocations, of which they avail themselves to keep away the poorest and sincerest applicants.

137. The average times for gaining access to social housing are increasing and in 2002 it took 2 years, 3 months and 21 days on average to obtain a dwelling. FEANTSA submits that the measures put in place to remedy these inordinately long allocation times are ineffective.

138. The département councils wield powers in respect of the social dimension of housing policy, and their public corporations contribute to the construction of social housing. Statutory texts have also increased the powers of local authorities, which are influential in the housing allocation commissions. The devolution of the prefect's quota to the municipalities in addition enables the latter to exercise direct governance.

139. Nobody is really responsible for access to social housing; the individual decisions on admission are taken by internal boards of each social housing authority which bring together various players (local government, housing bodies, social partners). The prefects' reservation quotas serve to propose candidates for allocation of housing but entail no obligation for the landlords. This accumulation of functions causes a dilution of responsibilities, aggravated by the decentralisation which took place in 2004. There is no clear responsibility, nor any procedure whereby responsibility can be assigned, so there is no right to housing. The State should facilitate the implementation of the right to housing and guarantee geographical equity, however, decentralisation amounts to a withdrawal of the State.

140. The Government does not dispute these arguments. It refers to Act No. 2007-290 of 5 March 2007 instituting an enforceable right to housing ("DALO" Act), which enables certain categories of persons in difficulty to turn to a political authority responsible for enforcing the right to housing, by way of a non-judicial application to a mediation commission. If this step is unsuccessful the applicant is entitled to lodge an appeal before an administrative court. The entry into force of this appeal procedure has been postponed, and it will be put into practice in two stages - as from 1 December 2008 for those persons able to apply to the mediation commission irrespective of the delay in their request for housing, and as from 1 January 2012 for housing applicants whose request has exceeded the "inordinately long" delay and have been given priority by the commission. The Act also provides for a non-judicial remedy aimed at admission to an accommodation facility, open to anyone, irrespective of the delay, who has requested admission to such a facility, a transitional institution or dwelling, a hostel or a welfare-oriented hotel type residence, and has not received an adequate offer.

141. The Committee also bears in mind the observations made by the Government regarding this point in the collective complaint submitted by ATD Fourth World (No. 33/2006).

B. Assessment of the Committee

142. In general terms, none of the observations submitted by the Government – which basically consist in a description of the regulatory and organisational efforts undertaken – are of such a nature as to counter the central arguments presented by FEANTSA that refer to those issues.

143. The Committee notes that the Anti-Exclusion Act of 1998 constituted an effort to improve the system of allocating social rental housing. However, there is clear evidence that the system is still not functioning well, which is illustrated by the fact that a large part of the demand for social housing remains unsatisfied (only 5-10% of the poorest households obtain social housing), and that average waiting-times for allocation are still too long (around 2 years and 4 months).

144. The Committee considers that the allocation procedure does not ensure sufficient fairness and transparency, since social housing is not reserved for the poorest households. The application of the concept of "social mix" in the 1998 Act, which is often used as the basis for refusing social housing, often leads to discretionary results excluding the poor from access to social housing. The major problem stems from the unclear definition of this concept in the law, and in particular, from the lack of any guidelines on how to implement it in practice. Therefore, the Committee considers that the inadequate availability of social housing for the most disadvantaged persons amounts to a breach of the Revised Charter (see also Conclusions 2005, Article 31§3, France).

145. In addition, the system of legal redress for people who are denied social housing, is also subject to serious shortcomings, namely: the mediation commissions foreseen by the Act to examine applications which are pending after an inordinately long waiting time have only been created in a minority of municipalities. The Committee considers that this remedy is not sufficiently efficient, and therefore that the situation on this point is not in conformity with Article 31§3 of the Revised Charter.

146. The Committee notes another particularly important problem in the allocation system: according to relevant legislation prefects are entitled to allocate a certain contingent of social housing to persons considered by the law as being in a priority situation of need (Article L 441-1 of the Building and Housing Code, see §38 above), but this procedure does not appear to be used to a significant extent in practice.

147. Therefore, the Committee holds that the malfunctioning of the social housing allocation system, and the related remedies, constitute a violation of Article 31§3 of the Revised Charter

ON THE ALLEGED VIOLATION OF ARTICLE 31§3 IN CONJUNCTION WITH ARTICLE E ON GROUNDS OF DISCRIMINATION AGAINST MIGRANTS AND TRAVELLERS

<u>As to discrimination in access to housing</u>

A. Arguments of the parties

148. According to FEANTSA, migrants make up 8.4% of households in France but represent 15% of HLM (moderate rent housing) tenants. 54% of households own their main residence, compared to 37% of migrant households, 18% are tenants in the social housing sector compared to 30% of migrant households, and 20% in the private sector compared to 24% of migrant households. Migrant households have difficulties in finding homes, and the absence of clear housing allocation procedures enables discrimination to persist. These groups cannot complain because the allocations procedure is unclear and dispersed, and does not permit identifying the person responsible or establishing the latter's real motives.

149. Migrant households come under the rules of common law and are not subject to a specific policy, although they have special needs: different lifestyles, large families, low incomes.

150. The waiting periods for migrant households are longer than average. There are indirect forms of discrimination based on criteria of length of residence in the municipality, often preventing migrants from fulfilling this condition. A remedy in the event of discrimination does indeed exist: Article L-225.1 of the Penal Code outlaws any distinction between natural persons on the ground of their origin, gender, etc. Moreover, the Act of 29 July 1998 required social landlords to inform applicants of the reasons for being refused an allocation, but as this Act also introduced the goal of social mix without specifying the conditions of how to achieve it, applicants can be turned down without it being possible to discern any discrimination. In practice, discrimination is at all events hard to prove.

151. The selection procedures themselves permit discrimination to take place. Landlords make a selection between good and bad classes of tenants. Discrimination is not necessarily intentional but is generated by a local system in which there are very many institutions working in their routines and not always aware of the effects which a culture of implicit norms has. No official is really answerable for the situation of migrants, so all invoke their own internal constraints (social mix, profitability, running community life, planning of public space) and claim that a third person is responsible.

152. As regards access to housing for travellers, an Act of 1990 updated in 2000 requires each municipality with over 5 000 residents to create a stopping place for travellers living in caravans, as well as implementing a scheme at département level for the reception of travellers which provides housing solutions of a quality and quantity to match the needs. However, it takes a long time to establish these schemes and if the project is not technically feasible no alternative solution will be sought. Besides, fewer than 20% of municipalities have created the required stopping places and so 80% of travellers use sites illegally.

153. Since the Act of 18 March 2003 on internal security came into force, occupying a site in order to take up residence on it without permission is punishable by 6 months' imprisonment and a fine of 3 750 euros, besides the risk of a 3 year disqualification from driving and confiscation of vehicles other than those lived in. Accordingly, the police no longer need a judge's decision and the prefect's approval to carry out eviction, but may do so immediately after the offence is discovered. Thus, the failure of municipalities to meet their obligations forces travellers into a situation

of illegality which is criminalised without the persons concerned enjoying procedural guarantees.

154. FEANTSA points out that the State Audit Board in 2004 made a severe assessment of the recent policies on the integration of migrants with regard to housing and especially concerning the migrant workers' hostels which have not benefited from an adequate financial investment on the part of the local and regional authorities.

155. The Government considers that FEANTSA's observations on the discrimination in access to social housing allegedly suffered by migrants should be considered in the context of the findings of the national housing survey. While it is correct that unfulfilled applications for housing dating back more than three years represent 18% of all applications in the case of migrant households, as against 10% in the case of French households, this phenomenon is largely due to applications for spacious dwellings, the production of which remains insufficient. Migrant households nevertheless occupy a significant proportion of social houses which comply with adequate standards of amenities. Indeed, these households, 2 328 000 in 2002 (906 000 born abroad and holding French citizenship by naturalisation, marriage or option on reaching adulthood, and 1 422 000 foreigners born abroad) represent 5.9 % of all households. They are over-represented on the social housing rent market in that they occupy about 12% of the stock. Their share is therefore double that of the population at large. Large migrant families are also over-represented in the social housing rent sector. Thus, over half of migrant households of 5 or more persons are tenants in this sector, as against 33% of all households this size. In addition, migrant households mainly live in large towns and central districts of municipalities, which relativizes FEANTSA's allegations that they are relegated.

156. The Government also challenges FEANTSA's allegation that the Act of 18 March 2003 on internal security seriously interferes with the possibility of safe, decent housing for travellers, and asserts that the policy which it pursues takes account of their needs and lifestyle. Act No. 2000-614 of 5 July 2000 requires a scheme for their reception to be prepared at département level, specifying the number of stopping places to be created, their capacity and the municipalities where they are to be located. All these schemes have been approved and are currently being implemented. Needs in terms of provision for travellers amount to 41 800 places for a travelling population estimated at 300 000-500 000 persons. The deadlines for creating the schemes were extended 2 years by the Act of 5 July 2000; not all needs are yet covered but projects have been progressing steadily since 2003, and especially in 2005 and 2006.

157. The Government states that the Act of 18 March 2003 on internal security created a new criminal offence (Article 322-4-1 of the Penal Code) which sanctions travellers for staying on land belonging to someone else without permission. The offence is aggravated where the land belongs to a private owner or to a local authority that is not included in the département's scheme for the reception of travellers. On the other hand, if the site belongs to municipalities with obligations under this scheme, the criminal law provision cannot be applied unless these municipalities are fulfilling their obligations. Measures of forcible eviction, or charging with a criminal offence, can therefore not be applied by municipalities which have not

created the stopping places specified in the départemental scheme. In that respect, the Act on internal security aims at encouraging municipalities to create the stopping places prescribed in the départemental schemes so that they may avail themselves of these coercive measures.

158. The Government also challenges FEANTSA's allegation concerning migrant workers' hostels. From 1997-1998 onwards, a plan to upgrade hostels was launched by the State, relying on specific loans from "1 % Logement" (housing subsidisation fund). Once upgraded the hostel becomes a "résidence sociale" (RS), a common law instrument for aiding access to housing and residential solutions. Upgrading involves structural transformation, often radical, integration of the new RS into the town, and solutions under common law to meet residents' needs. From 1997 to late 2006, the upgrading of 170 hostels was approved and allowed 190 RS to be created. This programme represented 620 million €, of which the State provided, on average, 28 % in grants.

B. Assessment of the Committee

159. The Committee recalls that all the rights set out in the Charter, including the right to adequate housing, must be ensured without discrimination on any ground. In respect of social housing, States must guarantee that migrants have access to it on conditions 'not less favorable' than that of nationals.

160. The Committee already noted in Conclusions 2004 that immigrant families had to wait longer than other families to be allocated social housing (see Conclusions 2004, Article 19§4, France). This allegation is also raised in the complaint by FEANTSA. The Government does not dispute this fact, and in its written submissions acknowledges that unfulfilled social housing applications for migrants represent 18%, compared to 10% for French households. On the basis of these statistics, the Committee considers it could be presumed that there is a problem of indirect discrimination against migrants in respect of access to social housing.

161. Migrants that do not obtain social housing for an inordinately long time can make use of the remedies available in legislation, namely bring their case before a mediation commission (see paragraph 145 above). However, these commissions created by the Anti-Exclusion Act of 1998, and subsequently reinforced by legislation in 2006, as well as the new "DALO Act", are still not established in a significant number of municipalities (according to FEANTSA in 2003 half of the départements had still not set up a mediation commission), which the Committee considers renders this means of appeal deficient. Moreover, the Committee considers that the competent authorities rely too frequently on the criteria of "social mix" to refuse allocation of social housing, which can lead to arbitrary decisions given the unclear manner in which this concept is defined in law, and the lack of any guidelines on how to implement it in practice.

162. As regards housing for Travellers, the Committee refers to Committee of Ministers Recommendation No. (2005) 4 on improving the housing conditions of Roma and Travellers in Europe, which states, *inter alia*, that Member States should ensure that, within the general framework of their housing policies, integrated and appropriate housing policies targetting Roma and Travellers are developed.

163. The Committee also recalls that as regards evictions these must be justified and carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation should be made available (see Conclusions 2003, Article 31§2, France). When confronted with Roma or Traveller settlements of undefined legal status, public authorities should make every effort to seek solutions acceptable for all parties, in order to avoid situations in which Roma and Travellers are in danger of being excluded from access to services and amenities to which they are entitled as citizens of the state where they live.

164. The Committee notes that legislation on settlements/stopping places for Travellers was adopted in 2000 (the Reception and Accommodation of Travellers Act, No. 2000-614 of 5 July 2000). The legislation requires municipalities with over 5,000 residents to prepare a plan for the setting up of permanent camp sites for Travellers. However, the Committee also notes that the Act has only been implemented in a minority of the municipalities concerned. The Government in its written submissions acknowledges that there is a delay in the implementation of the departmental schemes for the reception of Travellers and estimates that there is a deficit of around 41 800 places. The Committee finds that the delay in implementing the above-mentioned Act is regrettable, since it compels Travellers to make use of illegal sites and therefore exposes them to the risk of forcible eviction under the 2003 Act on internal security.

165. In this respect, the Committee notes from a recent joint statement by Council of Europe Commissioner for Human Rights Thomas Hammarberg and UN Special Rapporteur on the Right to Adequate Housing Miloon Kothari, that there has been an increasing number of complaints on the abuse of housing rights of Roma in several European countries, including in France. Most of the complaints are related to evictions of Roma communities and families which have been carried out in violation of human rights standards especially as regards the right to adequate housing and privacy, procedural guarantees and remedies.

166. The Committee notes that a 2005 report by the *Conseil National de l'Habitat* (CNH) (National Council for Housing) on the "Fight against discrimination in access to housing" confirms that the great majority, if not all, discriminatory practices on access to housing are based on nationality or origin of applicants (the name, or racial/ethnic features of the applicant being decisive factors for a refusal). The Committee furthermore notes from another source that there have been a number of cases of eviction of Roma in which the response of the French authorities has been alleged to be not in conformity with human rights standards, namely the clearing of around 600 Roma gypsies from a shantytown where they had been living for more than a year in the north Paris suburb of Saint-Denis in September 2007. The source indicates that the families were moved in a "very brutal way", at least 400 of them had disappeared and would probably resurface in other shanties north of Paris with no electricity or water.

167. In general, the Committee observes that the Government has not provided any substantial counter arguments to the complainant organisation's analysis and that its own submissions often contain a certain number of arguments which point to the inability or persisting failure of the local authorities to redress the problems that

exist in respect of the housing of Traveller groups. Despite the efforts of central and local authorities in this area and the positive results that have been achieved at times, there appears to have been a long period during which local authorities and the State have failed to take into account to a sufficient degree the specific needs of the Roma/Traveller community.

168. The Committee therefore holds that the deficient implementation of legislation on stopping places for Travellers constitutes a violation of Article 31§3 of the Revised Charter in conjunction with Article E.

CONCLUSION

For these reasons, the Committee unanimously concludes

- that there is a violation of Article 31§1 of the Revised Charter on the grounds of insufficient progress as regards the eradication of substandard housing and lack of proper amenities of a large number of households;

- that there is a violation of Article 31§2 of the Revised Charter on the grounds of unsatisfactory implementation of the legislation on the prevention of evictions and the lack of measures to provide rehousing solutions for evicted families;

- that there is a violation of Article 31§2 of the Revised Charter on the grounds that measures currently in place to reduce the number of homeless are insufficient, both in quantitative and qualitative terms;

- that there is a violation of Article 31§3 of the Revised Charter on the grounds of insufficient supply of social housing accessible to low-income groups;

- that there is a violation of Article 31§3 of the Revised Charter on the grounds of the malfunctioning of the social housing allocation system, and the related remedies;

- that there is a violation of Article 31§3 of the Revised Charter, taken in conjunction with Article E on the grounds of the deficient implementation of legislation on stopping places for Travellers.

Tekin AKILLIOĞLU	Polonca KONČAR	Regis BRILLAT
Rapporteur	President	Executive Secretary

EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

DECISION ON ADMISSIBILITY
19 March 2007

European Federation of National Organisations working with the Homeless (FEANTSA)
v. France

Complaint No. 39/2006

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 221 session attended by:

Mssrs Andrzej SWIATKOWSKI, First Vice-President
Tekin AKILLIOĞLU, Second Vice-President
Jean-Michel BELORGEY, General Rapporteur
Alfredo BRUTO DA COSTA
Nikitas ALIPRANTIS
Stein EVJU
Ms Csilla KOLLONAY LEHOCZKY
Mssrs Lucien FRANCOIS
Lauri LEPPIK
Ms Ersiliagrazia SPATAFORA
Mr Colm O'CINNEIDE
Ms Monika SCHLACHTER
Birgitta NYSTROM

Assisted by Mr Régis BRILLAT, Executive Secretary of the European Social Charter,

Having regard to the complaint dated 2 November 2006, registered on the same date as number 39/2006 and lodged by the European Federation of National Organisations working with the Homeless (“FEANTSA”) and signed by its President, Mr Robert ALDRIDGE, requesting the Committee to find that France is not in conformity with Article 31 of the Revised European Social Charter (“the Revised Charter”);

Having regard to the documents appended to the complaint;

Having regard to the observations from the French Government (“the Government”) dated 14 February 2007;

Having regard to the Revised Charter and, in particular, to Article 31 which reads as follows:

Article 31 – The right to housing

Part I: "Everyone has the right to 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 “

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 ("the Rules");

Having deliberated on 19 March 2007;

Delivers the following decision, adopted on the above date:

1. FEANTSA alleges that the manner in which legislation related to housing is implemented in France results in a situation of non conformity with Article 31 of the revised European Charter.

2. The Government, whilst reserving its position as to the merits of the complaint, leaves it to the discretion of the Committee to assess the admissibility of the complaint.

THE LAW

3. 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 Article 31 of the Revised Charter, a provision accepted by France when it ratified this treaty and to which it is bound since the entry into force of this treaty in its respect on 1 July 1999.

4. Moreover, the grounds for the complaint are indicated: the Committee notes that the complaint contains sufficient indications in the meaning of Article 4 of the Protocol.

5. The Committee also observes that, in accordance with Articles 1 b) and 3 of the Protocol, FEANTSA is an international non-governmental organisation with participatory status with the Council of Europe. It is included on the list, established by the Governmental Committee, of international non-governmental organisations that are entitled to lodge complaints.

6. As regards the particular competence of FEANTSA in the matters of the complaint, which is not contested by the Government, the Committee has examined the statute of the organisation and noticed that its goals and activities are aimed at participating or contributing to the reduction of homelessness in Europe. The Committee therefore considers that the organisation has particular competence within the meaning of Article 3 of the Protocol.

7. The complaint is signed by Mr Robert ALDRIDGE, who is President of FEANTSA and is entitled to represent the complainant organisation before any authority or court under Article 18 of its statute. The Committee therefore considers that the complaint complies with Rule 23 of the Rules.

8. For these reasons, the Committee, on the basis of the report presented by Mr Tekin AKILLIOĞLU and without prejudice to its decision on the merits of the complaint,

DECLARES THE COMPLAINT ADMISSIBLE

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 paragraph 2 of the Revised Charter, and to make it public.

Invites the Government to make written submissions on the merits of the complaint by 18 May 2007.

Invites FEANTSA to submit a response to the Government's submissions by a deadline which it shall determine.

Invites parties to the Protocol and the states having submitted a declaration pursuant to Article D paragraph 2 of the Revised Charter to make comments by 18 May 2007.

In application of Article 7§2 of the Protocol, requests the Executive Secretary to inform the international organisations of employers or workers mentioned in Article 27§2 of the Charter and to invite them to make observations by 18 May 2007

Tekin AKILLIOĞLU	Andrzej SWIATKOWSKI	Régis BRILLAT
Rapporteur	First Vice-President	Secrétaire exécutif