



Council of Europe
Conseil de l'Europe

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**Workshop : Using international legal instruments
to drive changes at local level**

**USING INTERNATIONAL JURISPRUDENCE
TO ADVOCATE FOR BETTER
RIGHTS-BASED POLICIES**

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RIGHTS OF THE EUROPEAN SOCIAL CHARTER

- Housing
- Health
- Education
- Employment
- Legal, social and economic Protection
- Movement of persons
- Non discrimination



THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS

- *The **European Committee of Social Rights** rules on the conformity of the situation in States with the European Social Charter, the 1988 Additional Protocol and the Revised European Social Charter.*



The European Committee of Social Rights





... FIGURES

- Council of Europe : 47 Member States
- Social Charter 43 States Parties
- Revised Charter 33 (1961 Charter:10)
- Collective complaints : 15 States



COLLECTIVE COMPLAINTS

- National employers and trade unions
- European employers and trade unions
employers and trade unions
- Certain NGOs with participatory status
- Optional : national NGOs



EXAMPLES OF COMPLAINTS

- Portuguese children under 15, at work
- French children with autism
- Irish Police Officers
- Finnish Elderly persons living in institutions
- Belgian workers on strike
- Greek Pensioners
- French middle managers
- IDPs from Ex Yugoslavia
- Romas from Czech Republic, Ireland, Belgium, Portugal, Greece, Italia, Bulgaria, France
- Touristic guides working at Versailles
- Italian *Giudici di pace*



“Adequate housing”

1. a dwelling which is safe from a sanitary and health point of view, i.e. that possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity, etc and where specific dangers such as the presence of lead or asbestos are under control;
2. a dwelling which is not over-crowded, that the size of the dwelling must be suitable in light of the number of persons and the composition of the household in residence;
3. a dwelling with secure tenure supported by the law. This issue is covered by Article 31 § 2.



POSITIVE OBLIGATIONS (1)

- Public authorities must ensure that housing is adequate through different measures such as, in particular, an inventory of the housing stock, injunctions against owners who disregard obligations, urban development rules and maintenance obligations for landlords. Public authorities must also limit against the interruption of essential services such as water, electricity and telephone.
- *Legal protection*
The effectiveness of the right to adequate housing requires its legal protection through adequate procedural safeguards. Occupiers must have access to affordable and impartial judicial or other remedies. Any appeal procedure must be effective.



POSITIVE OBLIGATIONS (2)

- *Preventing homelessness*

States must take action to prevent categories of vulnerable people from becoming homeless. In addition to a housing policy for all disadvantaged groups of people to ensure access to social housing (cf. Article 31 § 3),

Though State authorities enjoy a wide margin of discretion in measures to be taken concerning town planning, they must strike a balance between the general interest and the fundamental rights of the individuals, in particular the right to housing and its corollary of ensuring individuals do not become homeless.

Forced eviction can be defined as the deprivation of housing which a person occupied due to insolvency or wrongful occupation. States must set up procedures to limit the risk of eviction.

Illegal occupation of a site or dwelling may justify the eviction of the illegal occupants. However, the criteria of illegal occupation must not be unduly wide.



POSITIVE OBLIGATIONS (3)

The eviction should be governed by rules of procedure sufficiently protective of the rights of the persons concerned and should be carried out according to these rules.

Legal protection for persons threatened by eviction must include, in particular, an obligation to consult the parties affected in order to find alternative solutions to eviction and the obligation to fix a reasonable notice period before eviction.

When evictions do take place, they must be carried out under conditions which respect the dignity of the persons concerned. The law must prohibit evictions carried out at night or during the winter period. When an eviction is justified by the public interest, authorities must adopt measures to re-house or financially assist the persons concerned.

Domestic law must provide legal remedies and offer legal aid to those who are in need of seeking redress from the courts. Compensation for illegal evictions must also be provided.



Right to shelter (1)

- According to Article 31 § 2, homeless persons must be offered shelter as an emergency solution. Moreover, to ensure that the dignity of the persons sheltered is respected, shelters must meet health, safety and hygiene standards and, in particular, be equipped with basic amenities such as access to water and heating and sufficient lighting. Another basic requirement is the security of the immediate surroundings.
- States should foresee sufficient places in emergency shelters and the conditions in the shelters should be such as to enable living in keeping with human dignity.
- The temporary supply of shelter, however adequate, cannot be considered satisfactory; Individuals who are homeless should be provided with adequate housing within a reasonable period. In addition, measures should be taken to help such people overcome their difficulties and to prevent them from returning to a situation of homelessness.



Right to shelter (2)

Since the right to shelter is closely connected to the right to life and is crucial for the respect of every person's human dignity, under Article 31 § 2 of the Charter, States Parties are required to provide adequate shelter also to children and adults unlawfully present in their territory for as long as they are in their jurisdiction.

Eviction from shelter of persons present within the territory of a State Party in an irregular manner should be prohibited as it would place the persons concerned, particularly children, in a situation of extreme helplessness, which is contrary to the respect for their human dignity. States are not obliged to provide alternative accommodation in the form of permanent housing within the meaning of Article 31 § 1 for migrants in an irregular situation.



WHAT CAN YOU DO ?

- Lobby for the acceptance of the complaints procedure in your country
- Lobby for the acceptance of additional provisions
- Submit comments on national reports especially on the follow up to the complaints



POSSIBLE ACTION (1)

- The Charter should be taken into consideration when drafting and adopting new legislation
- The Charter should be implemented by national and local authorities and institutions
- Universities should train lawyers and other professionals on the Charter



POSSIBLE ACTION (2)

- Ombudsmen
- Local administration
- First instance judges
- Special procedures



THE HIGH LEVEL CONFERENCE ON THE EUROPEAN SOCIAL CHARTER

Turin, 17-18 October 2014

Main issues :

- EU Law and the ESC
- The Complaints procedure
- Austerity and Human Rights



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MORE INFORMATION :

www.coe.int/socialcharter