**The right to housing under the European Social Charter[[1]](#footnote-1)**

The European Committee of Social Rights[[2]](#footnote-2) (ECSR) examines the right to housing under two main articles:

**Article 16 - the right of the family to social, legal and economic protection**

* Contracting Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and other appropriate means.

**Article 31 - the right to housing**

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

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

The Charter is unique in being the only legally binding European instrument that contains a provision specifically and exclusively addressing the right to housing, namely Article 31. While Article 31 cannot be interpreted as imposing on states an obligation of “results”, it notably obliges them to adopt the necessary legal, financial and operational means of ensuring steady progress, measurable and within reasonable time, in the realisation of this right. Nonetheless, by bringing the right to housing into a human rights treaty such as the European Social Charter (aka the “Social Constitution of Europe”), a large number of the international community confirmed its undeniable human rights nature and, as such, proclaimed its universality, indivisibility and interdependence alongside other human rights whether civil and political or social and economic.

Despite its fundamental importance, Article 31 is unfortunately the least accepted of the Charter's provisions: only 10 states Parties to the Charter have accepted Article 31 in its entirety and a further 4 states have accepted it partially[[3]](#footnote-3). While the failure to accept these provisions limits the scope of monitoring of member states compliance with these provisions, it does not lessen states’ responsibility for promoting and upholding this fundamental right. The limits to monitoring posed by the non-acceptance of the provision is to a certain degree compensated by the fact that the European Committee of Social Rights examines aspects of the right to housing also under Article 16 on the rights of the family, which in its turn is accepted by most states Parties. But the scope of Article 16 with respect to housing is limited and, in addition, the ECSR's ambitious interpretation is not uncontroversial and has on occasion been contested by states that consider that they did not sign up to wide-ranging housing obligations when accepting Article 16. Therefore, encouraging broader acceptance of Article 31 by states is an important challenge for the Council of Europe and it is an objective that is actively pursued by the European Committee of Social Rights in the framework of the softer monitoring procedure on non-accepted provisions.

Moreover, it should be underlined that, regardless of acceptance or not of specific provisions (under Part II of the Charter), all signatories to the revised European Social Charter accepted (under Part I) *“as the aim of their policy, to be pursued by all appropriate means both national and international in character, the attainment of conditions in which [all of] the following rights and principles may be effectively realised: […] Everyone has the right to housing.”*

The European Committee of Social Rights last examined, under the reporting system of the Charter, the right to housing under Articles 16 and 31 in 2019 and published its conclusions in March 2020.

The Committee’s conclusions reflect a relatively low degree of compliance with the provisions of Article 31.

Under **Article 31§1** (adequacy of housing), Andorra and Finland are in conformity with this provision and eight others in non-conformity.

Most of the conclusions of non-conformity are related to the substandard housing conditions of Roma and Travellers (France, Greece, Italy, Latvia, Portugal, Turkey, and Ukraine). Others are related to more general problems such as substandard housing for a large number of dwellings (France), supervision of housing standards (Lithuania) and the lack of rules imposing obligations on landlords to ensure that dwellings are of an adequate standard (Turkey).

As regards **Article 31§2** (reduction of homelessness), only Finland is in conformity with this provision as the Committee considers that Finland continues to be committed to tackling homelessness in compliance with the Charter with measures aimed at eliminating homelessness. The eight other countries are not in conformity with this provision of the Charter on the following grounds:

* insufficient legal protection for persons threatened by eviction (forced eviction), including on specific issues under this topic such as the prohibition of evictions during wintertime (Andorra, France, Greece, Lithuania, Portugal, Turkey and Ukraine);
* the rights of Roma and Travellers are not respected during the eviction procedures (France, Greece, Italy);
* the measures to reduce and prevent homelessness in general are insufficient (France, Italy, and Turkey);
* the protection of the right to shelter is insufficient.

Finally, under **Article 31§3** on affordable housing, one country is in conformity (Finland), three in non-conformity (France, Italy and Portugal) and in two cases the Committee couldn’t assess the situation due to lack of sufficient information (Greece and Turkey).

The conclusions of non-conformity with Article 31§3 basically concern the shortage of social housing (France and Portugal) and the lack of equal treatment of foreign nationals lawfully residing with regard to social housing and housing benefits (length of residence requirements in Italy, in connection with Article 19§4). Two conclusions of non-conformity concern access of Roma, Travellers and Sinti to social housing or housing assistance (France and Italy).

Some of the issues raised in the questions formulated to states for the next reporting cycle are related to the overall availability of social housing (number of applications introduced, percentage of those granted, and average of waiting times) and to housing support and benefits for foreign nationals lawfully residing in the country.

For more information on the latest conclusions of the European Committee of Social Rights on Article 31, please consult the country evaluation on [HUDOC Social Charter](https://hudoc.esc.coe.int/fre/#{"ESCArticle":["31-01-163","31-02-163","31-03-163"],"ESCDcLanguage":["ENG"],"ESCDcType":["Conclusion","Ob"],"ESCPublicationDate":["2019-12-17T00:00:00.0Z","2020-06-17T00:00:00.0Z"]}) data base.

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As mentioned above, the right to housing is also examined under **Article 16** (the right of the family to social, legal and economic protection) of the European Social Charter.

Article 16 guarantees the right of the family to social, legal and economic protection. Under this provision, the Committee examines housing for families, childcare, family counselling services, participation of associations representing families, rights and obligations of spouses, mediation services, domestic violence against women and family benefits.

18 states Parties (out of 29 having accepted this article) were found not to be in conformity on the issue of housing for families: Azerbaijan, Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Estonia, France, Greece, Hungary, Ireland, Italy, Malta, Republic of Moldova, North Macedonia, Portugal, Romania, Russian Federation and Slovak Republic.

The specific grounds for non-conformity were:

* equal treatment of foreign nationals (length of residence requirement) – two states: Austria, Malta;
* adequate housing (general) – one state: Azerbaijan (conformity not established);
* sufficient supply of adequate housing for (vulnerable) families – two states: Ireland (conformity not established) and the Russian Federation;
* legal protection for persons threatened by eviction – four states: Bosnia and Herzegovina, Estonia, Hungary, Romania;
* vulnerable families (Roma and Travellers’ families) – 12 states: Belgium, Bulgaria, France, Greece, Hungary, Ireland, Italy, Republic of Moldova, Portugal, Romania, Russian Federation and Slovak Republic.

For more information on the latest conclusions of the European Committee of Social Rights on Article 16, please consult the [HUDOC Social Charter](https://hudoc.esc.coe.int/fre/#{"ESCArticle":["16-00-000"],"ESCDcLanguage":["ENG"],"ESCDcType":["Conclusion","Ob"],"ESCPublicationDate":["2019-12-17T00:00:00.0Z","2020-06-17T00:00:00.0Z"]}) data base.

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The European Committee of Social Rights also examines the right to housing within the framework of the [collective complaints procedure](https://www.coe.int/en/web/european-social-charter/collective-complaints-procedure)[[4]](#footnote-4).

Article 31 is in fact one of most invoked substantive provisions in collective complaints, invoked either alone or in conjunction with Article E, the non-discrimination provision. Together with the complaints that have invoked the right to family housing under Article 16, the right to housing appears to be a high-profile topic within this procedure.

The ECSR initially examined this right in complaints concerning the situation of Roma in several countries. First in [ERRC v. Greece](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-15-2003-european-roma-rights-centre-errc-v-greece?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fprocessed-complaints%3Fp_p_id%3D101_INSTANCE_5GEFkJmH2bYG%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1), a decision from 2004 and in [ERRC v. Italy](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-27-2004-european-roma-rights-center-errc-v-italy?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fprocessed-complaints%3Fp_p_id%3D101_INSTANCE_5GEFkJmH2bYG%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1%26p_r_p_564233524_categoryId%3D28547790%26p_r_p_564233524_resetCur%3Dtrue) from 2005. These have then been followed by more than a dozen of Roma-related complaints in respect of several countries, one of the most recent decisions being [ERTF v. the Czech Republic](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-104-2014-european-roma-and-travellers-forum-ertf-v-czech-republic?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fprocessed-complaints%3Fp_p_id%3D101_INSTANCE_5GEFkJmH2bYG%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1%26p_r_p_564233524_categoryId%3D28547785%26p_r_p_564233524_resetCur%3Dtrue) from 2016. In many of these complaints, the ECSR found violations on grounds such as the poor living conditions of Roma in camps or stopping places, the failure to create a sufficient number of stopping places and the carrying out of evictions without respecting the dignity of the persons concerned and without alternative accommodation being made available.

More general requirements flowing from Article 31 were laid out by the ECSR in the two first major complaints dealing with Article 31 in all its aspects: [ATD Quart Monde v. France](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-33-2006-international-movement-atd-fourth-world-v-france?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fprocessed-complaints%3Fp_p_id%3D101_INSTANCE_5GEFkJmH2bYG%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1%26p_r_p_564233524_categoryId%3D28547787%26p_r_p_564233524_resetCur%3Dtrue) and [FEANTSA v. France](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-39-2006-european-federation-of-national-organisations-working-with-the-homeless-feantsa-v-france?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fprocessed-complaints%3Fp_p_id%3D101_INSTANCE_5GEFkJmH2bYG%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1%26p_r_p_564233524_categoryId%3D28547787%26p_r_p_564233524_resetCur%3Dtrue), two decisions from 2007. The ECSR concluded that France was in violation of Article 31 on several grounds such as:

* Insufficient progress as regards the eradication of substandard housing and lack of proper amenities of a large number of households; (Article 31§1);
* Unsatisfactory implementation of the legislation on the prevention of evictions and the lack of measures to provide rehousing solutions for evicted families (Article 31§2);
* Insufficient measures to reduce the number of homeless, both in quantitative and qualitative terms (Article 31§2);
* Insufficient supply of social housing accessible to low-income groups (Article 31§3); and
* Malfunctioning of the social housing allocation system and the related remedies (Article 31§3);

Some years later, the right to shelter under Article 31§2, including for children and/or adults with irregular immigration status, was considered extensively by the ECSR in three complaints against the Netherlands: [DCI v. the Netherlands](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-47-2008-defence-for-children-international-v-the-netherlands?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fprocessed-complaints%3Fp_p_id%3D101_INSTANCE_5GEFkJmH2bYG%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1%26p_r_p_564233524_categoryId%3D28547791%26p_r_p_564233524_resetCur%3Dtrue) from 2009, [FEANTSA v. the Netherlands](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-86-2012-european-federation-of-national-organisations-working-with-the-homeless-feantsa-v-the-netherlands?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fprocessed-complaints%3Fp_p_id%3D101_INSTANCE_5GEFkJmH2bYG%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1%26p_r_p_564233524_categoryId%3D28547791%26p_r_p_564233524_resetCur%3Dtrue) and [CEC v. the Netherlands](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-90-2013-conference-of-european-churches-cec-v-the-netherlands?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fprocessed-complaints%3Fp_p_id%3D101_INSTANCE_5GEFkJmH2bYG%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1%26p_r_p_564233524_categoryId%3D28547791%26p_r_p_564233524_resetCur%3Dtrue), both from 2014.

In these decisions, the ECSR emphasised that shelters must meet health, safety and hygiene standards and must, in particular, be equipped with basic amenities such as access to water, heating and sufficient lighting. The immediate surroundings of shelters should be safe and secure. Eviction from shelters without the provision of alternative accommodation must be prohibited.

The most recent decision dealing with housing in a major way is complaint [FIDH v. Ireland](https://www.coe.int/en/web/european-social-charter/processed-complaints/-/asset_publisher/5GEFkJmH2bYG/content/no-110-2014-international-federation-for-human-rights-fidh-v-irela-1?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fprocessed-complaints%3Fp_p_id%3D101_INSTANCE_5GEFkJmH2bYG%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1%26p_r_p_564233524_categoryId%3D28547789%26p_r_p_564233524_resetCur%3Dtrue), which was handed down in May 2017. The ECSR found that Ireland had failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for many families living in local authority housing across the country in violation of Article 16[[5]](#footnote-5).

At the moment, there are still some pending complaints that refer to Article 31 or Article 16, namely [European Disability Forum and Inclusion Europe v. France](https://www.coe.int/en/web/european-social-charter/pending-complaints/-/asset_publisher/lf8ufoBY2Thr/content/no-168-2018-european-disability-forum-and-inclusion-europe-v-france?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fpending-complaints%3Fp_p_id%3D101_INSTANCE_lf8ufoBY2Thr%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1%26p_r_p_564233524_categoryId%3D28547787%26p_r_p_564233524_resetCur%3Dtrue), registered in 2018, which alleges a violation of Article 31§1 and 3 on grounds of a lack of adapted  and affordable housing for persons with disabilities, or [FEANTSA v. Czech Republic](https://www.coe.int/en/web/european-social-charter/pending-complaints/-/asset_publisher/lf8ufoBY2Thr/content/no-191-2020-european-federation-of-national-organisations-working-with-the-homeless-feantsa-v-czech-republic?inheritRedirect=false&redirect=https%3A%2F%2Fwww.coe.int%2Fen%2Fweb%2Feuropean-social-charter%2Fpending-complaints%3Fp_p_id%3D101_INSTANCE_lf8ufoBY2Thr%26p_p_lifecycle%3D0%26p_p_state%3Dnormal%26p_p_mode%3Dview%26p_p_col_id%3Dcolumn-4%26p_p_col_count%3D1) from 2020, alleging that, following the implementation of new housing legislation and policy in the Czech Republic, the situation of many vulnerable households, in particular from the Roma minority, has worsened as a result of drastic cut in housing subsidies, threats and risks of eviction, social and racial discrimination against these households (Article 16 of the 1961 Charter).

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1. A human rights treaty protecting social and economic rights which places emphasis on vulnerable persons (elderly, children, persons with disabilities and migrants). For more information: <https://www.coe.int/en/web/european-social-charter/overview> [↑](#footnote-ref-1)
2. The [European Committee of Social Rights](https://www.coe.int/en/web/european-social-charter/european-committee-of-social-rights) rules on the conformity of the situation in States with the European Social Charter. The Committee adopts “conclusions” in respect of [national reports](https://www.coe.int/en/web/european-social-charter/national-reports) submitted annually by the States Parties, and it adopts “decisions” in respect of [collective complaints](https://www.coe.int/en/web/european-social-charter/collective-complaints-procedure) lodges by the organisations. The Committee is composed of 15 independent, impartial members who are elected by the Committee of Ministers of the Council of Europe for a term of office of six years, renewable once. [↑](#footnote-ref-2)
3. Table of accepted provisions of the European Social Charter: <https://rm.coe.int/1680630742> [↑](#footnote-ref-3)
4. The Collective Complaints procedure was introduced by [the Additional Protocol providing for a system of collective complaints](https://www.coe.int/en/web/conventions/full-list/-/conventions/treaty/158), adopted in 1995. The aim pursued with the introduction of the procedure was to increase the effectiveness, speed and impact of the implementation of the Charter. [↑](#footnote-ref-4)
5. Ireland has not accepted Article 31. [↑](#footnote-ref-5)