



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

**Confidential<sup>1</sup>**

**International Federation for Human Rights (FIDH) v. Ireland**

Complaint No. 110/2014

**REPORT TO THE COMMITTEE OF MINISTERS**

Strasbourg, 22 June 2017

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<sup>1</sup> 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 no later than four months after it has been transmitted to the Committee of Ministers, namely 23 October 2017.

## 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<sup>2</sup> on Complaint No. 110/2014. The report contains the Committee’s decision on the merits of the complaint (adopted on 12 May 2017), the decision on admissibility (adopted on 17 March 2015) is appended.
2. The Protocol came into force on 1 July 1998. It has been ratified by Belgium, Croatia, Cyprus, the Czech Republic, 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’s procedure was based on the provisions of the Rules of 29 March 2004 which it adopted at its 201<sup>st</sup> session and last revised on 6 July 2016 at its 286<sup>th</sup> session.
4. The report has been transmitted to the Committee of Minister on 22 June 2017. 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 no later than four months after it has been transmitted to the Committee of Ministers, namely 23 October 2017.

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<sup>2</sup> This report may be subject to editorial revision.

**DECISION ON THE MERITS**

**Adoption: 12 May 2017**

**Notification: 22 June 2017**

**Publication: 23 October 2017**

**International Federation for Human Rights (FIDH) v. Ireland**

Complaint No. 110/2014

The European Committee of Social Rights, committee of independent experts (“the Committee”) established under Article 25 of the European Social Charter, during its 292nd session in the following composition:

Giuseppe PALMISANO, President  
Monika SCHLACHTER, Vice-President  
Karin LUKAS, Vice-President  
Eliane CHEMLA, General Rapporteur  
Petros STANGOS  
József HAJDU  
Marcin WUJCZYK  
Raul CANOSA USERA  
Marit FROGNER  
François VANDAMME  
Barbara KRESAL  
Kristine DUPATE

Assisted by Henrik KRISTENSEN, Deputy Executive Secretary

Having deliberated on 23 March and 9 and 12 May 2017,

On the basis of the report presented by Giuseppe PALMISANO,

Delivers the following decision adopted on this last date:

## **PROCEDURE**

1. The complaint submitted by the International Federation for Human rights ("FIDH") was registered on 18 July 2014. It was transmitted to the Government of Ireland ("the Government") on 23 July 2014.
2. FIDH alleges violations of Articles 11, 16, 17 and 30 of the Revised European Social Charter ("the Charter") read alone or in conjunction with Article E due to the legal, policy and administrative framework of housing in Ireland, the adequacy, habitability and suitability of some Local Authority housing and due to aspects of the Regeneration Programmes of the State in key Local Authority housing estates.
3. On 17 March 2015 the Committee declared the complaint admissible. On 23 March 2015 the admissibility decision was communicated to the parties and the Government was simultaneously invited to make written submissions on the merits of the complaint by the time limit of 28 May 2015.
4. On 25 March 2015 referring to Article 7§1 of the Protocol providing for a system of collective complaints ("the Protocol"), the Committee invited the States Parties to the Protocol, and the States having made a declaration in accordance with Article D§2 of the Charter, to transmit to it any observations they may wish to make on the merits of the complaint before 28 May 2015.
5. No such observations were received.
6. On 11 May and 22 June 2015 the Government requested an extension of the deadline for the submission of the merits. The President extended this deadline to 29 June 2015 and then to 13 July 2015.
7. The Government's submissions on the merits were registered on 13 July 2015.
8. The deadline set for FIDH's response to the Government's submissions on the merits was 15 October 2015. At the request of the FIDH the President of the Committee granted an extension of the time limit until 20 November 2015. The response was registered on 20 November 2015.
9. The Government was invited to respond to these submissions by 26 February 2016.

10. Further submissions by the Government were transmitted and registered on 26 February 2016.

## **SUBMISSIONS OF THE PARTIES**

### **A – The complainant organisation**

11. FIDH invites the Committee to find that Ireland is in violation of Articles 11, 16, 17, 30 either alone or in conjunction with Article E of the Charter on the grounds that the legal, policy and administrative framework of housing in Ireland is insufficient, that the adequacy, habitability and suitability of some Local Authority housing is inadequate and the Regeneration Programmes of the State in key Local Authority housing estates do not respect the rights set out in the Charter.

### **B – The respondent Government**

12. The Government rejects the complainant organisation's allegations in their entirety and asks the Committee to declare the complaint unfounded in all respects.

## **RELEVANT DOMESTIC LAW**

13. Housing Act 1966 as amended

### **Part III**

#### Provision and Management of Dwellings

Duty of housing authority to make inspection and to assess adequacy of supply and condition of housing.

53. (1) It shall be the duty of a housing authority, within such period after the commencement of this section as may be specified by the Minister and thereafter either at least once in every five years or at such intervals, being less than five years, as the Minister may direct from time to time, to inspect the houses in their functional area and to ascertain—

(a) to what extent there exist in the area houses which are in any respect unfit or unsuitable for human habitation,

(b) any overcrowding existing in the area, and

(c) such other matters as the Minister may specify from time to time,

and having regard to the information obtained by the inspection, and such other information as may be relevant, to assess, as respects the area, the adequacy of the supply of housing and the prospective future demand for housing and to cause a report thereon to be prepared.

(2) For the purposes of the preparation of a report under this section, a housing authority shall make such enquiries and keep such records as may appear to them to be necessary or expedient, or which the Minister may direct.

58. (1) Subject to the following provisions of this section and to such regulations as may be made by the Minister for the purposes of this section, the management and control of any dwelling, building or other land of which a housing authority are the owner and of any works or services, provided by the authority under this Act, shall be vested in and exercised by the authority.

(2) A housing authority may reconstruct, enlarge or improve any dwelling or other building of which they are the owner.

(3) Subject to the said regulations, a housing authority may as respects a dwelling provided under this Act of which they are the owner charge such rent or other payment for the tenancy or occupation thereof as they may determine from time to time and as respects any buildings or other land or works or services provided under this Act the authority may make such charge, whether by way of rent or otherwise, as they shall think fit.

(4) Without prejudice to the generality of subsection (1) of this section, regulations made by the Minister for the purposes of this section may provide for all or any of the following matters:

(a) the maximum number of persons who shall be permitted to occupy dwellings to which the regulations apply on any letting;

(b) the terms and conditions to be included in any agreement under which any person is permitted to occupy or use such dwellings;

(c) matters to which a housing authority shall have regard in determining rents;

(d) such other matters as the Minister may consider necessary or expedient for the purpose of securing the proper and efficient management of such dwellings.

(5) The Land Law (Ireland) Act, 1881, shall not apply as respects the letting by a housing authority of an allotment provided under Section 56 of this Act, and such letting shall, unless a provision to the contrary is contained in a letting agreement, be deemed to be a letting for temporary convenience and determinable at the end of any month.

#### **Part V. Section 66**

66. (1) Where a housing authority are of opinion that a house is unfit for human habitation in any respect, the authority shall, unless they are also of opinion that the house is not capable of being rendered so fit in such respect at a reasonable expense, serve on the owner of the house and, in so far as it is reasonably practicable to ascertain such person, on any other person having an interest in the house whether as mortgagee, tenant or otherwise, a notice in writing (in this Act referred to as a repairs notice) specifying the matters in respect of which it is alleged that the house is unfit for human habitation and requiring the owner to execute, within a period specified in the notice, being not less than twenty-eight days beginning on the date of the notice, such works as may be necessary to make the house, as respects the matters specified in the notice, fit for human habitation, and in particular, a repairs notice may, if the authority think fit, specify the works which are, in the opinion of the authority, necessary to make the house so fit for human habitation or to prevent the structure of the house deteriorating, and such owner, his servants or agents shall carry out the works necessary to comply with the requirements of the notice and may, for that purpose, enter on any land.

#### 14. Housing (Standards for Rented Houses) Regulations 1993 S.I.147/1993

[...]

4. (1) These Regulations shall apply to every house let for rent or other valuable consideration solely as a dwelling unless the house is let:

(a) bona fide for the temporary convenience of or to meet a temporary necessity of the landlord or tenant,

(b) to a person only for the purpose of conferring on that person the right to occupy the house for a holiday,

(c) by a health board or by an approved body, as accommodation with sanitary, cooking, dining or other essential facilities provided for communal use within the building which contains the house, or

(d) by a housing authority pursuant to any of their functions under the Housing Acts, 1966 to 1992, and is a demountable house.

(2) In sub-article (1) (c) "approved body" means:

(a) a body standing approved of under Section 6 of the Housing (Miscellaneous Provisions) Act, 1992;

(b) a voluntary body standing approved of by the Minister for Health or by a health board for the purpose of providing accommodation for elderly persons or persons with a mental handicap or psychiatric disorder.

## **5 Structural Condition.**

5. (1) A house to which these Regulations apply (hereinafter referred to as "the house") shall be maintained in a proper state of structural repair.

(2) For the purpose of sub-article (1) "a proper state of structural repair" means essentially sound, with roof, floors, ceilings, walls and stairs in good repair and not subject to serious dampness or liable to collapse because they are rotted or otherwise defective.

(3) The requirements of this article shall not apply to any outoffice, other than a building, or part of a building, containing a watercloset required to be provided by these Regulations.

## **6 Sinks, waterclosets, fixed baths, showers and water supply.**

6. (1) A sink shall be provided in the habitable area of the house.

(2) A watercloset shall be provided—

(a) where the house is part of a building containing more than one house, either in the habitable area of the house or in a part of the building that is either on the same floor as the house or on the floor next above or below the house, or

(b) where the house is not a house to which paragraph (a) of this sub-article refers, in the habitable area of the house unless—

(i) the house is let under a tenancy commenced before the date on which these Regulations come into operation as respects the house, or

(ii) the house is relet, under a tenancy commenced on or after such date, to the person who was the tenant of the house immediately preceding such letting or to a member of the household of such person, or

(c) where the house is not a house to which paragraph (a) of this sub-article refers, and is a house to which sub-paragraph (i) or (ii) of paragraph (b) of this sub-article refers, in the house (which includes the cartilage thereof).

(3) A fixed bath or shower shall be provided—

(a) where the house is part of a building containing more than one house, either in the habitable area of the house or in a part of the building that is either on the same floor as the house or on the floor next above or below the house, or

(b) in any other case, in the habitable area of the house.

(4) Each sink, watercloset, fixed bath or shower required to be provided by these Regulations shall have—

(a) an adequate piped supply of water including, in the case of each such sink, a piped supply of cold water taken direct from the service pipe supplying water from the public main or other source to the building containing the house,

(b) a safe and effective means of drainage, and

(c) in the case of each such sink, bath and shower a facility for the piped supply of hot water.

(5) The water supply pipes, the water storage cistern and the distribution pipes from the cistern serving the house shall be protected against damage by frost.

(6) Subject to sub-article (7), the facilities referred to in sub-articles (2) (a) and (3) (a) shall be provided for use by the occupants of not more than two houses.

(7) Sub-article (6) shall not apply to a facility provided for use by not more than four persons.

#### **7 Heating, cooking and food storage.**

7. (1) The house shall contain—

(a) an appliance or appliances capable of providing adequate space heating and facilities for the installation of cooking equipment with provision, where necessary, for the safe and effective removal of fumes and other products of combustion to the external air, and

(b) facilities for the hygienic storage of food.

(2) In sub-article (1) "appliance" includes an open fireplace.

#### **8 Electricity and gas.**

8. Installations in the house for the supply of electricity and gas shall be maintained in good repair and safe working order with provision, where necessary, for the safe and effective removal of fumes to the external air.

#### **9 Ventilation and lighting.**

9. (1) Every room used, or intended for use, by the tenant of the house as a habitable room shall have adequate ventilation and natural lighting and all windows and other means of ventilation shall be maintained in good repair and working order.

(2) Every room used, or intended for use, by the tenant of the house as a bedroom shall have permanent ventilation either by means of the flue of an open fireplace or by means of one or more ventilation openings having a total unobstructed sectional area of not less than 4,000 square millimetres and opening directly to the external air.

(3) Every bathroom, washroom and watercloset used, or intended for use, by the tenant of the house, other than a watercloset entered directly from the external air, shall have an effective means of ventilation directly to the external air, either by means of a window having an

openable area of not less than 1,000 square centimetres or by means of mechanical extract ventilation capable of extracting at a rate of not less than 15 litres per second.

(4) Every room used, or intended for use, by the tenant of the house shall have adequate means of artificial lighting.

(5) Sub-articles (1) and (3) shall not require a landlord to make good any breakages of glass in windows in any part of the house of which the tenant has exclusive use.

**10 Common areas, facilities and stairways.**

10. (1) All means of preparation, cooking and storage of food, lighting and heating which are used, or intended for use, in common by the occupants of more than one house shall be maintained in good repair and safe working order.

(2) Every sink, watercloset, fixed bath, shower, room, stairway, landing, passage, open space and other part of the building containing the house which is used, or intended for use, in common by the occupants of more than one house shall be maintained in good repair and in a clean condition.

(3) Every stairway used, or intended for use, in common by the occupants of more than one house shall have a substantial handrail securely fixed.

**15. Housing (Standards for Rented Houses) Regulations 2008 (as amended)**

**Application**

4. (1) Subject to Article 2, these Regulations shall apply to every house let for rent or other valuable consideration solely as a dwelling unless the house is let—

(a) to a person only for the purpose of conferring on that person the right to occupy the house for a holiday,

(b) by the Health Service Executive or by an approved body, as accommodation with sanitary, cooking or dining facilities provided for communal use within the building which contains the house, or

(c) by a housing authority pursuant to any of their functions under the Housing Acts 1966 to 2004, and is a demountable house.

(2) In sub-article (1)(b) "approved body" means:

(a) a body standing approved of under section 6 of the Housing (Miscellaneous Provisions) Act 1992, or

(b) a voluntary body standing approved of by the Minister for Health and Children or by the Health Service Executive for the purposes of providing accommodation for elderly persons or persons with a mental handicap or psychiatric disorder.

**Structural Condition**

5. (1) A house to which these Regulations apply (hereinafter referred to as "the house") shall be maintained in a proper state of structural repair.

(2) For the purposes of sub-article (1), "a proper state of structural repair" means essentially sound, with roof, floors, ceiling, walls and stairs in good repair and not subject to serious dampness or liable to collapse because they are rotted or otherwise defective.

### **Sanitary Facilities**

6. (1) There shall be provided within the habitable area of the house, for the exclusive use of the house:

(a) A watercloset, with dedicated wash hand basin adjacent thereto with a continuous supply of cold water and a facility for the piped supply of hot water, and

(b) A fixed bath or shower with continuous supply of cold water and a facility for the piped supply of hot water.

(2) The requirements of sub-article (1) shall:

(i) be maintained in good working order,

(ii) have safe and effective means of drainage,

(iii) be properly insulated and secured,

(iv) have minimum capacity requirements for hot and cold water storage facilities, and

(v) be provided in a room separated from other rooms by a wall and a door and containing separate ventilation.

### **Heating Facilities**

7. (1) Every room used, or intended for use, by the tenant of the house as a habitable room shall contain:

(a) a permanently fixed appliance or appliances capable of providing effective heating,

(b) suitable and adequate facilities for the safe and effective removal of fumes and other products of combustion to the external air.

(2) The operation of any appliance referred to in sub-article (1)(a) shall be capable of being independently manageable by the tenant.

### **Food Preparation and Storage and Laundry**

8. (1) Notwithstanding Article 4, this Article shall not apply where the house is let by a housing authority under Section 56 of the Housing Act 1966 (as amended) or by a housing body approved under Section 6 of the Housing (Miscellaneous Provisions) Act 1992 .

(2) Subject to sub-article (1), there shall be provided, within the habitable area of the house, for the exclusive use of the house:

(a) 4 ring hob with oven and grill,

(b) Suitable facilities for the effective and safe removal of fumes to the external air by means of a cooker hood or extractor fan,

(c) Fridge and freezer or fridge-freezer,

(d) Microwave oven,

(e) Sink, with a piped supply of cold water taken direct from the service pipe supplying water from the public main or other source to the building containing the house and a facility for the piped supply of hot water, and an adequate draining area,

(f) Suitable and adequate number of kitchen presses for food storage purposes,

(g) Washing machine, or access to a communal washing machine facility within the curtilage of the building, and

(h) Where the house does not contain a garden or yard for the exclusive use of that house, a dryer (vented or recirculation type).

(3) All facilities under sub-article (2) shall be maintained in good working order and good repair.

(4) Responsibility for maintenance of facilities under sub-article (2) shall rest with the landlord.

### **Ventilation**

9. (1) Every room used, or intended for use, by the tenant of the house as a habitable room shall have adequate ventilation.

(2) All means of ventilation shall be maintained in good repair and working order.

(3) Adequate ventilation shall be provided for the removal of water vapour from kitchens and bathrooms.

### **Lighting**

10. (1) Every room used, or intended for use, by the tenant of the house as a habitable room, shall have adequate natural lighting.

(2) Every hall, stairs, and landing within the house and every room used, or intended for use, by the tenant of the house shall have a suitable and adequate means of artificial lighting.

(3) The windows of every room containing a bath and/or shower and a watercloset shall be suitably and adequately screened to ensure privacy.

### **Fire Safety**

11. (1) Subject to sub-article (2), the house shall contain a fire blanket and either a mains-wired smoke alarm or at least two 10-year self-contained battery-operated smoke alarms.

(2) Each self-contained house in a multi-unit building shall contain a mains-wired smoke alarm, a fire blanket and an emergency evacuation plan.

(3) Emergency lighting, linked to the fire alarm system, shall be provided in all common areas within a multi-unit building.

### **Refuse Facilities**

12. The house shall have access to suitable and adequate pest and vermin-proof refuse storage facilities.

### **Electricity and Gas**

13. Installations in the house for the supply of electricity and gas shall be maintained in good repair and safe working order with provision, where necessary, for the safe and effective removal of fumes to the external air.

### **Revocation**

14. (1) The Housing (Standards for Rented Houses) Regulations 1993 ( S.I. No. 147 of 1993 ) are revoked.

(2) Notwithstanding sub-article (1), Articles 6 and 7 of the Housing (Standards for Rented Houses) Regulations 1993 ( S.I. No. 147 of 1993 ) shall continue to apply and have effect in relation to existing tenancies until the 1st day of February 2013.

(3) Notwithstanding sub-articles (1) and (2), Article 7 of the Housing (Standards for Rented Houses) Regulations ( S.I. No. 147 of 1993 ) shall continue to apply and have effect where the house is let by a housing authority under Section 56 of the Housing Act 1966 (as amended) or by a housing body approved under Section 6 of the Housing (Miscellaneous Provisions) Act 1992.

## **RELEVANT INTERNATIONAL MATERIALS**

### **I. The Council of Europe**

16. The European Convention on Human Rights 1950 (“the Convention”) includes the following provisions

#### **Article 8-Right to respect for private and family life**

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic wellbeing of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

### **II. The United Nations**

17. The International Covenant on Economic, Social and Cultural Rights 16 December 1966; includes the following provision:

#### **Article 11**

“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.”

18. The United Nations Committee on Economic, Social and Cultural Rights made the following comments as to adequate housing:

#### **General Comment No. 4**

8.....

(b) Availability of services, materials, facilities and infrastructure. An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;

(d) Habitability. Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well. The Committee encourages States parties to comprehensively apply the Health Principles of Housing prepared by WHO which view housing as the environmental factor most frequently associated with conditions for disease in epidemiological analyses; i.e. inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates;

(f) Location. Adequate housing must be in a location which allows access to employment options, health care services, schools, childcare centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites or in immediate proximity to pollution sources that threaten the right to health of the inhabitants;

(Doc E/1992/23: "The right to adequate housing").

## **THE LAW**

### **Preliminary issues**

19. The Government makes some preliminary objections which, according to the Government, should have been taken into consideration by the Committee when deciding on the admissibility of the complaint. In this regard, it highlights that the complaint was declared admissible without it having been asked for observations.

20. Firstly, the Government maintains that the complaint in substance concerns matters that fall within Article 31 (which has not been accepted by Ireland) and in this respect it improperly conflates Articles 16 and 31 of the Charter.

21. Secondly, insofar as the complaint should not be rejected due to non-acceptance of Article 31 by Ireland, the Government considers that FIDH fails to set out sufficient reasons in relation to the other provisions of the Charter such as to satisfy the criteria of Article 4 of the Protocol.

22. In particular, it states that the complaint fails to address Articles 17 and E, and inadequately addresses Article 11. In this respect, the Government points out that, although in its paragraphs of introduction and conclusion FIDH purports to allege violations of Articles 17 and E of the Charter, these provisions are not otherwise addressed in the complaint. Instead, according to the Government, the complaint

appears to focus exclusively on the position of local authority tenants in the context of Articles 16 and 30 of the Charter. In addition, the question of health is addressed only cursorily as a subsection of Section B, in a vague and unparticularised way. The Government submits therefore that a specific link to Article 11 of the Charter is not adequately established.

23. Accordingly, insofar as it relates to Articles 11, 17 and E, the Government maintains that the complaint does not comply with Article 4 of the Protocol.

24. In response to the Government's objection that the complaint focuses on matters that in substance fall within Article 31 of the Charter, which has not been accepted by Ireland, the Committee concedes that many of the issues raised in the complaint relate to housing and fall, therefore, within the scope of Article 31. However, some of the issues also fall within the scope of Article 16 of the Charter in so far as they relate to family housing. In this respect, the Committee recalls that, under Article 16, the States Parties are required to promote the protection of the family also by means of provision of family housing.

25. The Committee has already had occasion to clarify that, as other provisions of the Charter, Articles 16 and 31, though different in personal and material scope, partially overlap with respect to several aspects of the right to housing, including with regard to adequate housing. The fact that the right to housing is stipulated under Article 31 of the Charter, does not preclude a consideration of relevant housing issues arising under Article 16 which addresses housing in the context of securing the right of families to social, legal and economic protection (European Roma Rights Center (ERRC) v. Bulgaria, Complaint No. 31/2005, Decision on admissibility 10 December 2005, §9, European Roma and Travellers Forum (ERTF) v. the Czech Republic, Complaint No. 104/2014, decision on the merits of 27 May 2016, §§67-68.)

26. Of course, as the Committee has already pointed out, this does not mean an "automatic" transfer of the rights contained in Article 31 to Article 16. In fact, "since the focus of Article 16 is the maintenance of family's ties, the Committee will deal ... with housing only from the family perspective – where family stands for households of parents with children, including single parents and young couples that will potentially have children" (Conclusions, 2004, France, Article 16).

27. As regards the argument that the complaint in respect of Articles 11,17 and E is not adequately grounded and therefore does not comply with Article 4 of the Protocol, the Committee notes that the complaint relates to provisions of the Charter accepted by Ireland and that FIDH has indicated in what respect it considers that Ireland has not ensured the satisfactory application of such provisions. It therefore satisfies the criteria of Article 4 of the Protocol.

28. The Committee recalls further that consideration of any alleged lack of substance in the complaint is a matter for the examination of the merits of the complaint, not its admissibility. The same applies to allegations that the complaint

falls outside the scope of an article of the Charter, or that the complaint mistakenly relies on one article of the Charter rather than another (European Federation of Employees in Public Services (EUROFEDOP) v. Italy, Complaint No. 4/1999, decision on admissibility of 10 February 2000; Quaker Council for European Affairs, Complaint No. 8/2000, decision on admissibility of 28 June 2000; European Roma Rights Center (ERRC) v. Bulgaria, Complaint No. 31/2005, decision on admissibility of 10 December 2005; Federation of Catholic Family Associations in Europe (FAFCE) v. Ireland, Complaint No. 89/2013, decision on admissibility of 2 July 2013; Federation of Catholic Family Associations in Europe (FAFCE) v. Sweden, Complaint No. 99/2013, decision on admissibility of 10 September 2013).

29. With all this in mind, the Committee considers that the preliminary objections raised by the Government cannot be upheld.

## **I. ALLEGED VIOLATION OF ARTICLE 16 OF THE CHARTER AND OF ARTICLE E IN CONJUNCTION WITH ARTICLE 16**

30. Article 16 reads as follows:

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

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

Part II: “With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the 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.”

31. Article E reads as follows:

### **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.

## **A – Submissions of the parties**

### **1. The complainant organisation**

#### Inadequate administrative framework for housing

32. FIDH states by way of background, that the Irish State Department of Environment, Local Government and Community (“the Department”) is the responsible government department for housing in Ireland. It develops housing policy and law and allocates central government funding for social housing to local authorities and voluntary housing bodies who are then responsible for the direct provision and maintenance of social housing.

33. According to FIDH the Census of 2011 showed that there were some 130,000 rented social housing units in Ireland. Since the 1980s, the Department has provided funding through a number of schemes which local authorities used to refurbish their housing stock. However, the schemes have failed to have a significant effect on the most disadvantaged estates as the policies were restricted to external physical renewal, thus neglecting problems within the housing units and, in particular, the deep social and economic inequalities that emerged in specific geographic urban areas of deprivation in the 1980s and 1990s. The physical conditions also disimproved due to inadequate maintenance and upkeep of the estates, while housing allocation practices added to the instability.

34. The sale of local authority housing stock has meant that while local authority housing comprised 15.5 % of all residences in 1971, it now accounts for only 7% and thus is a minority proportion which increasingly accommodates a population which is socioeconomically disadvantaged.

35. The issues affecting families and children, those living in, or at risk of, poverty and social exclusion and those with disabilities in disadvantaged areas of local authority housing include: substandard housing conditions, overcrowding and dampness, inadequate estate management and insufficient policing responses to persistent antisocial behaviour. The population living in these areas experiences significantly higher than national average levels of unemployment, dependency on social welfare, lone parent poverty, child and elderly poverty, drug addiction, early school leaving and lack of participation at third-level.

36. FIDH alleges that in general, housing law and policy in Ireland does not adopt any timeframe, or indications of measurable progress towards realising the rights set out in the Charter for local authority tenants. Thus, there are no means of ensuring the steady progress towards achieving the goals laid down by the Charter for these particular groups of people.

37. Further according to FIDH there is no timetable in existence for achieving the objectives under each of the relevant Articles the Charter in this Complaint. The State does not maintain meaningful statistics on the housing needs of those living in local authority housing (aside from the regular assessments of waiting lists for social housing and homelessness). There are no published statistics on the standard of local authority housing (although the required standards for rented housing generally are set out in law), or any relevant statistics on targets and resources for fully meeting the obligations of the Charter rights especially the provisions requiring adequate housing for families. The State does not pay close attention to the impact of the policies adopted on each of the categories of persons concerned in the Articles of the Charter, particularly the most vulnerable.

38. FIDH states that the social authority assessment referred to by the Government is simply an assessment of those persons who have an unmet social need for social housing and does not address the problems faced by current local authority tenants. Likewise the Social Housing Strategy 2020 does not improve the situation of current tenants.

39. FIDH points out that the last assessment of the state of local authority housing took place in 2002, there has been no subsequent comprehensive assessment of local authority housing.

#### Adequacy of some Local Authority housing

40. FIDH alleges that some local authority housing is in very poor condition and is substandard. It states that much Local Authority housing does not meet the legal standards for private rented housing.

41. There are minimum standards for all rental accommodation in matters relating to structural condition, sanitary facilities, heating facilities, ventilation, food preparation and laundry, lighting, fire safety, refuse facilities, and electricity and gas. These standards are detailed primarily in the Housing (Standards for Rented Houses) Regulations 2008 and Housing (Standards For Rented Houses) (Amendment) Regulations 2009. Several provisions of the Housing (Standards for Rented Houses) Regulations 1993 remained operational until February 1 2013, and are being substantially phased out, however some provisions of the Regulations 1993 will remain operational with respect to local authority tenants exclusively.

42. Part V of the Housing Act of 1966 addresses overcrowding and unfit houses. The matters to which a Housing Authority are to have regard in considering whether a house is unfit for human habitation are set out in the second schedule of the Housing Act 1966.

43. Local authorities have primary responsibility for the repair and maintenance of the public housing stock. The State has provided guidance to assist local authorities in this respect. In particular, the State sponsored Centre for Housing Research 'Good Practice in Housing Management – Guidelines for Local Authorities' published in October 2000 sets out a best practice prioritisation and response model for local authorities in repair and maintenance of housing

44. FIDH provides evidence/examples of substandard housing conditions in local authority housing.

45. The Dolphin House complex (Dublin) is a local authority housing estate, comprised of 436 units in 4-storey apartments (flats) and was built in the 1950s. Research by the Rialto Rights in Action Group (RRIAG) (a consortium of local

associations) found that 72% of residents reported dampness 63% of residents reported mould 89% of residents reported sewage invasions and smells, 62% of residents concerned about health because of sewerage or damp, 65% of residents given no satisfactory information/explanation as to why problems occur, 65% of residents reporting no information given on how issues of dampness and sewerage are to be addressed and 80% of residents reporting that they are not included in decisions affecting them regarding dampness and sewerage.<sup>3</sup>

46. According to FIDH the problems with sewage invasions and smells included grey and black wastewater repeatedly backing up and overflowing into household fixtures. Dublin City Council (DCC) has denied that the water was dangerous to health but FIDH alleges that scientific analysis found that the water was highly polluted<sup>4</sup>. Further, FIDH maintains that the scientific analysis done of the fungal contamination found the presence of human pathogens which can cause lung diseases.

47. As regards the dampness, DCC responded to concerns of the tenants by claiming that there was no serious mould or damp but just condensation, caused by tenants drying clothes on radiators and not opening windows, and that it was the tenant's responsibility to rectify as per the Tenants Handbook (DCC, 2010, 20). However, as a result of the RRIAG research, DCC undertook, for the first time, a survey of the conditions of the local authority housing flats complex. Between July and December 2011, DCC Architects Division undertook a survey of 376 flats in the Dolphin House complex. This found that: 212 flats (56%) had dampness, 114 flats (30%) had high levels of damp, 95 units (25%) had mould present, 252 flats (67%) of flats reported drainage odours in kitchen and bathrooms<sup>5</sup>. According to FIDH, it identified the principal causes of dampness as structural problems. DCC made a commitment to remedy the problems, but two years later nothing had been done.

48. St. Theresa's Gardens is an estate similar to Dolphin House, located in Dublin's South Inner city, which has 346 apartments in 4 storey 'blocks'. A survey of tenants undertaken by the Regeneration Board in 2010 found that 79.9% of respondents (from a 74.4% response rate) were not satisfied with the maintenance of their flat and the flat buildings in St. Theresa's. A total of 475 internal maintenance problems were identified in the 134 households, 66.9% of which had already been reported to DCC. Some 40% had problems with dampness in their bedroom. Problems with rats were reported in 9 of the 14 'blocks'. Other problems reported included broken glass, anti-social behaviour, sewage and drainage problems.

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<sup>3</sup> The Rialto Rights in Action Group 2012, Report on Third Monitoring of Housing Conditions in Dolphin House estate Rialto, Dublin 8, community Action Network.

<sup>4</sup> Tobin Consulting Engineers, 2011

<sup>5</sup> Investigative Survey, Dolphin House Complex, Dublin City Council, City Architects Division, March 2012.

49. A Report entitled *Improve Our Homes*, published in 2012 by the North Dublin Inner City Community Organisation Network (ICON) highlights that 85% of tenants in eight local authority flat complexes in Dublin's North Inner city had issues of substandard conditions. The estates varied in size from 70 to 350 units.

50. The main findings included hazardous levels of mould/condensation/damp and/or moisture in homes, constant problems with the drains including a lack of proper drainage both within the homes and on balconies, roofs and ground floor areas, dirty and badly maintained environment, poor estate lighting, fire safety, draughty and poorly fitting windows and doors, poor workmanship at times, serious problems with roofs.

51. FIDH also provides evidence of similar problems in other local authority housing developments in Dublin-Balgaddy development, Tyrone Place and Limerick - where many housing units have been earmarked for demolition and replacement.

52. FIDH alleges that heating facilities and standards are lower in local authority housing, than in other types of housing. It cites the 2011 census which found that 1.8% of all local authority tenants have no central heating compared to 0.149% of owner occupier households.

53. It refers to studies carried out by architects of a number of surveys of local authority buildings and which have inter alia concluded that a number of the buildings are unable to provide adequate thermal and ventilation performance in their current condition, resulting in mould and damp.

#### Inspections and legal remedies

54. While Local Authorities carry out a range of limited inspections of private rented properties, there are no such inspections of local authority housing. This, according to FIDH, amounts to a failure to respect the rights of local authority tenants. The result is that in practice the general standards for rented housing are not applied to local authority tenancies (unlike private sector tenants). There is a lack of effective remedies open to local authority tenants to ensure compliance with the standards and redress for violations (compared with private tenants).

55. In Ireland, regulations for housing standards are set out in primary and secondary legislation in the Housing Act 1966, and Regulations in 1993, 2008 and 2009, supplemented by the Residential Tenancies Act 2004 (as amended in the Housing (Miscellaneous Provisions) Act 2009). There is therefore a clear legal standard relating to the quality and adequacy of all rented housing in existence, and while these standards are enforced in private rented housing in a discretionary and variable way, there is no enforcement system in place for local authority housing. There is a difference in treatment between local authority and other tenants in relation to the enforcement of housing standards.

56. The Residential Tenancies Act 2004 (RTA 2004) has created a range of implied terms in every private rented lease, whether oral or in writing, and with special dispute resolution machinery outside the courts. However, the RTA 2004 is applicable only to private renters and local authority housing tenants have no such dispute resolution procedure.

57. The only opportunities to seek redress for violations in respect of housing are the courts and the Ombudsman. FIDH states that taking legal action before the courts is costly and there are restricted possibilities for legal aid.

#### Regeneration programmes

58. FIDH states that successive governments and the Department have in recent years, sought to deal with substandard housing conditions, social exclusion and poverty in some estates through regeneration projects. However, many of these have failed to address the situation and indeed have made it worse in many instances. From 2001 onwards, Public Private Partnerships (PPPs) were promoted as the principal mechanism to create regeneration in these areas. This involved land transfer arrangements between local authorities and private developers, alongside private investment.

59. A National Regeneration Programme was developed in this period to include projects ranging from large-scale urban regeneration projects such as Ballymun and Limerick City, to smaller estate-wide regeneration projects in parts of Dublin City and regional towns including Sligo, Dundalk and Tralee.

60. The Programme was underpinned by the analysis outlined in the Department's June 2011 Housing Policy Statement: "the problems afflicting parts of Dublin and Limerick cities and other large urban centres have been significantly driven by a too narrow conception of housing support in the past". This holistic programme of physical, social and economic regeneration would address the various causes of spatial deprivation in the country's most disadvantaged estates "to build sustainable communities through a combination of social, educational and economic initiatives and also by rejuvenating the built environment.

61. Substantial sums of money from differing sources were allocated for regeneration projects. However, the property crash from 2008 onwards revealed the extent of overreliance of the regeneration projects on private sector funding and a booming housing market. As property prices plunged, the private residential and commercial aspects were no longer deemed economically viable by private finance and all of the PPP projects collapsed, except for one. The planned investment in regeneration was radically reduced as private finance evaporated and state investment was reduced as part of a series of austerity budgets. As a result, the regeneration Master plans for the areas in the National Regeneration Programme have been reduced, redeveloped and rescaled and are now predominantly based on Exchequer funding only.

62. The result has often been the disintegration and dislocation of these estates as significant parts of the communities and tenants have been permanently removed from their communities and those remaining left in substandard housing conditions.

63. The Department's emphasis has been on relocation of residents and demolition instead of focusing on sustaining the living conditions for the existing communities. Once de-tenancing commences on an estate, management and maintenance tended to be reduced, and this, combined with high vacancy rates, has resulted in estates becoming more difficult to live on.

64. FIDH provides statistics on occupancy rates on estates planned for regeneration in Dublin City, which show many units of social housing are now vacant with tenants having been displaced (pending regeneration). FIDH cites testimony from tenants (and others) on the impact of the uncompleted regeneration on their living conditions, on specific estates in Limerick and Dublin.

65. FIDH also provides information on cuts to community and social services in regeneration areas.

66. FIDH maintains that there is no detailed national regeneration policy which addresses housing rights, and there is no legally established and measurable set of standards or guidelines for regeneration which in relation to adequacy of housing, set deadlines or timetables for ensuring that all local authority housing meets the required standards. A series of ad hoc arrangements exist. In this regard, it cites the UN Expert on Poverty and Social Exclusion, Magdalena Sepulveda, who in a detailed recommendation to Ireland in 2011, following a country inspection, stated: "The State should consider adopting a legislative framework for a National Public Housing Estates Regeneration Programme to ensure that international human rights standards and community participation are ensured in all regeneration projects in the country."

67. In addition, FIDH alleges that there is little participation by tenants in the regeneration process.

## **2. The respondent Government**

### Legislative and administrative framework

68. The Government firstly sets out the legislative framework governing social housing in Ireland. Local authorities (or “housing authorities”) are the largest single providers of socially rented housing in Ireland, controlling 137,000 dwellings. Of this, in late 2014, 4,800 was stock leased and approximately 20,200 properties were provided via the Rental Accommodation Scheme, leaving some 112,000 dwellings owned by local authorities.

69. Section 53 of the Housing Act 1966, as amended by Section 2 of the Housing Act 1984 imposed a duty on the housing authority to make inspection and to assess adequacy of supply and condition of housing. Section 58 of the Housing Act 1966 as amended by Section 14 of the Housing (Miscellaneous Provisions) Act 2002 provides for housing authorities to manage and control dwellings, buildings and land that they own, as well as other works and services provided by them under the Housing Act 1966 to 2014. Such management and control functions must be carried out subject to the provisions of Section 58 and any Regulations made by the Minister.

70. Section 9 of the Housing (Miscellaneous Provisions) Act 1992 requires housing authorities to adopt a written statement of their policy for the effective performance of their management and control functions under Section 58 of the Housing Act 1966 and also empowers them to review and to amend their policies from time to time.

71. Section 66 of and the Second Schedule to the Housing Act 1966, establishes a duty of housing authorities with respect to overcrowding and unfit houses, The Housing (Standards for Rented Houses) Regulations 2008 (as amended) specify requirements in relation to a range of matters, such as structural repair, sanitary facilities, heating, ventilation, natural light and safety of gas and electrical supply. With very limited exemptions, these regulations apply to local authority and voluntary housing units as well as private rented residential accommodation.

72. The Housing (Standards for Rented Houses) Regulations 1993 were largely revoked by the Housing (Standards for Rented Houses) Regulations 2008; however, Regulation 7, relating to heating facilities, continues to apply where the house is let by a housing authority under Section 56 of the Housing Act 1966 (as amended) or by a housing body approved under Section 6 of the Housing (Miscellaneous Provisions) Act 1992.

73. Chapter 2 of Part 2 (Sections 14 to 18) of the Housing (Miscellaneous Provisions) Act 2009 will place an obligation on each housing authority to make a "housing service plan". However, these provisions of the Act have not yet been brought into effect. The housing service plan is designed to give a strategic focus for the planning of housing services by the housing authorities, including delivery and ongoing management.

74. The Housing Agency (a government agency set up in 2010) has been put on a statutory footing with effect from 1 August 2012. The Agency is, inter alia, to assist and facilitate local authorities with their housing functions.

75. The National Oversight and Audit Commission (NOAC) is an independent oversight body for the local government sector established in July 2014. NOAC was to commence a thematic review during 2015 of the performance of the function of maintaining and managing local authority housing stock generally. The scope of NOAC's review was to include the effectiveness of local authority processes for dealing with repair requests, planned maintenance, the preparation of vacated units for re-letting, minimizing voids and estate management of their housing stock.

76. As regards the first allegation by FIDH, inadequate administrative framework for housing the Government, notwithstanding its objections as to the admissibility of the complaint (see above - matters relate to Article 31 of the Charter which Ireland has not accepted) seeks to demonstrate how housing law and policy respond to the criteria of a reasonable time frame, measurable progress and maximum use of available resources having regard to the impact of decisions on vulnerable groups.

77. According to the Government clear statutory timelines are set out for the provision of social housing by local authorities. For instance, each local authority is required under planning legislation to draw up a Development Plan every six years. Legislation then requires each housing authority to produce an estimate of the amount of housing for persons referred to in Section 9(2) of the Housing Act 1988, which is required in the area of the development plan.

78. The Social Housing Strategy 2020 sets out a time frame for the provision of new social housing.

79. Regarding the monitoring of progress the Government refers to Section 9 of the Housing (Miscellaneous Provisions) Act 1992 which requires housing authorities to adopt a written statement of their policy (see above §70) as well as the role of the NOAC (see above).

80. In allocating resources for social housing, the Government refers to the recent economic crisis and its instance in ensuring that the most vulnerable members of society are protected. The Government provides details (some) of the resources made available for the increased provision of social housing and the refurbishment of the existing stock. It further provides information on housing schemes for particular groups, such as persons with disabilities.

81. In summary the Government submits that in so far as Article 16 requires it to do so, a framework exists to fulfill the Charter's objectives within reasonable time, with measurable progress, to an extent consistent with the maximum use of available resources, while being mindful of the impact that choices will have for groups with heightened vulnerabilities. It also asserts that Article 16 of the Charter, in so far as the allegations fall within the ambit of this article, imposes obligations of means and not of results.

#### Adequacy of some local authority housing

82. As regards the issue of adequacy of local authority housing, the Government, refers to the statutory provisions in force which require local authorities to provide social housing of an adequate standard: Section 66 of the Housing Act 1966, along with the Housing (Standards for Rented Houses) Regulations 2008 and the Housing (Standards for Rented Houses) Regulations 1993, set down specific conditions for the standard of housing. In addition, local authority housing is constructed in accordance with relevant building regulations at the time of construction.

83. Guidance addressing issues such as design and best practice guidelines, improvement of housing stock, energy efficiency measures and the return of vacant properties to productive use is issued regularly from the Department to all local authorities.

84. The Department's "*Remedial Works Programme*", introduced in 1985, has provided support for local authorities to significantly improve run-down estates by improving the layout, addressing issues of anti-social behaviour, improving the housing fabric, and, where possible, addressing issues of social exclusion. The purpose of the Remedial Works Scheme is to assist housing authorities to carry out major essential works to certain groups of their rented dwellings which they could not fund from their own resources. These dwellings fall into three categories:

- (a) dwellings with serious design or construction defects;
- (b) dwellings constructed prior to 1 January 1960;
- (c) run-down urban estates, in particular, inner city flat complexes.

85. Some 45 remedial works projects are being supported around the country.

86. Since 1994 central heating has been installed in all newly constructed local authority housing, and between 2004 and 2009 measures were taken to provide central heating facilities in those dwellings without them. Measures have also been taken to improve the energy efficiency of local authority housing.

87. As regards the allegation made by the FIDH about particular local authority housing estates, the Government denies that in general there are delays in responding to sewage blockages and invasions. The Government further addresses some of the allegations about particular situations/estates including stating that problems relating to mould resulting from condensation alluded to by FIDH are the responsibility of the tenant. It states that some of the defects/problems have been remedied. The Government also disputes some of the independent evidence relied upon by FIDH.

#### Inspections, remedies and discrimination

88. The Government argues that neither Article 16 (nor Article 30) of the Charter require identical legal regimes to be established for the monitoring and management of standards in local authority housing and privately rented properties.

89. The Residential Tenancies Act 2004 regulates the landlord-tenant relationship in the sector and sets out the rights and obligations of landlords and tenants including in relation to rent, security of tenure and the termination of tenancies. The Private Residential Tenancies Board (PRTB) was established as an independent statutory body under the Act to operate a national tenancy registration system and to resolve disputes between landlords and tenants.

90. Local authorities monitor the standard of their housing stock, inspect the stock and repair properties through a range of approaches. The approach taken by each authority may vary depending on the condition and age of their housing stock. In addition, some authorities, in the context of significant capital investment programmes, deploy bespoke approaches to stock inspection and repairs/refurbishment, and to engagement with tenants, in particular in areas undergoing regeneration, where a consultative approach is used, with the tenants of the areas in question at the centre of the planning and implementation of the programmes, including a system of regeneration boards comprising local residents, NGOs and political representatives. Independent community development workers and regeneration support workers are also funded in some cases to liaise with tenants.

91. The Housing (Standards for Rented Houses) Regulations 2008 (as amended) apply to both Local Authority and Approved Housing Bodies housing stock, with a small number of exemptions. In addition, Guidelines for Housing Authorities in the implementation of Minimum Standards in Rented Accommodation were issued by the Department to Local Authorities in February 2011.

92. The Government refutes the argument that local authority tenants are at a disadvantage to those in private accommodation. The benefits of providing permanent social housing, as distinct from reliance on the private rented sector, include: stability and security of tenure, differential rent (rent set based upon ability to pay), tenant purchase schemes, succession of tenancies, maintenance of communities, and minimum floor areas.

93. As regards remedies the Government describes the remedies available to local authority tenants. Local authorities have put in place a multiple stage procedure for dealing with customer complaints, the first of which is discussing the complaint at the point of service, as this is usually the quickest and most efficient way to address the matter. If a complainant is unhappy with the outcome of the first stage a formal complaint can then be made. A formal complaint will be dealt with by the Manager of the service involved. If the Manager of the service cannot remedy the situation, a formal complaint can be made to the Authority's Customer Services Officer, who will either take on the complaint or re-assign it to a senior staff member in an area other than that of the complaint.

94. If matters have not been resolved following engagement with the local authority, it is open to a complainant to bring the matter to the attention of the Office of the Ombudsman.

95. Over the 5 year period 2009-2013/64, the Ombudsman dealt with 203 complaints relating to Local Authority housing repairs. Naturally, local authority tenants are also entitled in the normal course to take legal action in the domestic Courts in order to vindicate their legal rights.

96. In 2003, the State carried out an evaluation of the national housing stock in *National Survey of Housing Quality 2001-2002* (NSHQ) - ESRI65, which was commissioned by the Department. Detailed information was collected from a representative sample of over 40,000 householders on characteristics and problems of the dwelling, and on the household members. The sample covered all housing stock (not just local authority dwellings).

97. A module in the Survey of Income and Living Conditions dealt with housing conditions in 2007. In those statistics, 71% of households who rented below market rate/local authority/rent free were satisfied with their accommodation.

98. The Government also refers to a NOAC study in 2015, the purpose of which was to gather data on the experience of local authority tenants and to measure their satisfaction with their housing, it found, inter alia, that 4 out of 5 tenants were satisfied with their home.

99. As regards the allegation of a breach of Article E, the Government states that FIDH has not set out what specific group has suffered discrimination. It further notes that FIDH states that it is not attempting to pursue a claim that the Charter is violated by reason of discrimination between private sector and local authority tenants.

#### Regeneration programmes

100. The Government argues that this part of the complaint is particularly vague and that FIDH has failed to raise a stateable case in this respect.

101. Notwithstanding this objection the Government states that the Regeneration Programmes target Ireland's most disadvantaged communities; those defined by the most extreme social exclusion, unemployment and anti-social behaviour. in Dublin City, Ballymun (in Dublin), Limerick, Dundalk (Co. Louth), Cork City, Sligo and Tralee (Co. Kerry). The programme seeks to address the causes of disadvantage in these areas through a holistic programme of physical, social and economic regeneration.

102. The Government provides details of some of the measures taken to improve housing conditions under the regeneration programmes; for example the adopted Limerick Regeneration Framework Implementation Plan (LRFIP) targets 1,504 housing units to improve their energy efficiency. The time frame for the completion of this Thermal Upgrade Programme is 2017/2018. In Sligo housing Refurbishment works to date have focused on addressing dereliction and returning empty housing units for re-letting, as well as improving energy efficiency and comfort levels in existing housing stock. It also provides details of the timetable for work.

103. The Government maintains that Regeneration is implemented as a consultative process, with the tenants of the areas in question at the centre of the planning and implementation of the programmes. It provides examples of how residents and other such as NGOs are consulted and participate in the different regeneration programmes.

104. The Social Inclusion and Community Activation Programme (SICAP) is a recent initiative, to tackle poverty, social exclusion and long-term unemployment through local engagement and partnership between disadvantaged individuals, community organisations and public sector agencies. SICAP will run until December 2017.

## **B – Assessment of the Committee**

105. The Committee recalls that Article 16 of the Charter imposes obligations on States in respect of family housing. It has already had occasion to state its interpretation of the notion of the right to housing under Article 16 (European Roma Rights Center (ERRC) v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, 24; European Roma Rights Center v. Bulgaria, Complaint No. 31/2005, decision on admissibility of 10 October 2005, § 9, decision on the merits of 18 October 2006, §§ 16-17).

106. The right to housing is of central importance to the family, and it permits the exercise of many other rights – both civil and political as well as economic, social and cultural. In order to satisfy Article 16, States Parties must promote the provision of an adequate supply of housing for families, take the needs of families into account in housing policies and ensure that existing housing be of an adequate standard and include essential services (such as heating and electricity). Adequate housing refers not only to a dwelling, which must not be substandard and must have essential amenities, but also to a dwelling of suitable size considering the composition of the family in residence. Furthermore, the obligation to promote and provide housing extends to security from unlawful eviction.

107. To the extent that it requires States to ensure housing for families of an adequate standard and protection from eviction, Article 16 partially overlaps with Article 31 of the Charter, in the sense that the notion of adequate housing and forced eviction are identical under Articles 16 and 31 (see Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, §158).

108. The Committee also recalls that the rights recognised in the Charter must take a concrete 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).

109. This means that, for ensuring the satisfactory application of the right to family housing under Article 16 of the Charter – *mutatis mutandis*, the same as for the right to adequate housing under Article 31 – States Parties should:

- 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 (European Federation of

National Organisations Working with the Homeless (FEANTSA) v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, § 54).

110. However, in this respect the Committee clarifies that under Article 16 of the Charter, failure to comply with each and all of the above requirements does not per se necessarily amount to a violation of the right to family housing. Nor does the fulfilment of more or all requirement necessarily exclude that in a given situation the State obligation to ensure the right to family housing is not properly satisfied. The Committee will rather consider each situation on its merits and specificity, on a case by case analysis, taking into account all the factors relevant to the circumstances of the case.

111. The Committee considers that, insofar as the right to family housing under Article 16 of the Charter is concerned, the issue at the heart of the present case is the adequacy of certain local authority housing. In fact, no allegations are made as regards a sufficient supply of affordable housing or adequate protection from evictions. FIDH alleges, in substance, that a significant stock of local authority housing is of substandard quality in breach of Article 16 of the Charter.

112. The Committee notes that there is a legal framework regulating local authority housing in Ireland. Local authority housing is the responsibility of local authorities, who are obliged to inter alia assess the adequacy of supply and conditions of housing. It also notes that legislation lays down the standards that social housing must adhere to, and it is almost identical to that for private rented accommodation.

113. The Committee further notes that the provisions of the Housing (Miscellaneous Provisions) Act 2009 will place an obligation on each housing authority to make a housing service plan, and that the Housing Agency has been put on a statutory footing to assist and facilitate local authorities with their housing functions. The Committee notes however that these provisions of the Housing Act 2009 are not yet in force.

114. The National Oversight and Audit Commission, an independent oversight body for the local government sector established in July 2014, was to commence a thematic review during 2015 of the performance of the function of maintaining and managing local authority housing stock generally.

115. The Committee notes nevertheless that statistics on the conditions of local authority housing stock are carried out at considerable intervals, the last one being in 2002, and that no national timetable for the refurbishment of local authority housing stock exists.

116. Taking into account the legal and administrative backdrop concerning local authority housing in Ireland, the Committee notes that FIDH has provided a range of evidence which demonstrates that a number of local authority tenants reside in poor housing conditions amounting to housing that is inadequate in nature: direct evidence of tenants but also evidence from architects and engineers indicate problems with mould, dampness, sewage invasions etc. (The Rialto Rights in Action Group 2012, Report on Third Monitoring of Housing Conditions in Dolphin House estate Rialto, Dublin 8, community Action Network. Tobin Consulting Engineers, 2011, Investigative Survey, Dolphin House Complex, Dublin City Council, City Architects Division, March 2012).

117. It further notes that many of the local authority estates were some time back ear-marked for regeneration, amounting to Government recognition that they were, inter alia, in poor condition. However, as a result of the economic crisis, the original regeneration programmes were delayed or halted, with a deterioration of conditions in some cases. The Committee notes that new regeneration programmes have subsequently been developed, however not all of these to date have been completed, with the result that certain local authority tenants remain living in substandard housing conditions.

118. The Committee has repeatedly held that the right to housing for families encompasses housing of an adequate standard and access to essential services (see §106 above). In this respect the Committee takes into account General Comment No. 4 of the UN Committee of Economic, Social, and Cultural Rights Committee which provides that "Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well" and that "An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services."

119. The Committee considers that some of the conditions described above regarding sewage invasions, contaminated water, dampness, persistent mould etc., go to the core of adequate housing, raising serious concerns from the perspective of both habitability and access to services. It notes in particular the high number of residents in certain estates in Dublin complaining of sewage invasions (for example, the Dolphin House complex) years after the problems were first identified.

120. In this respect the Committee further notes that no complete statistics on the condition of local authority housing have been collected since 2002 by the Irish authorities and that in Ireland no national timetable exists for the refurbishment of local authority housing stock. It also takes into consideration the fact that a significant number of regeneration programmes adopted by the Government for local authority

estates in the last decade have not been completed with the effect that a number of local authority tenants remain living in substandard housing conditions.

121. In the light of the above the Committee finds that the Government has failed to take sufficient and timely measures to ensure the right to housing of an adequate standard for not an insignificant number of families living in local authority housing and therefore holds that there is a violation of Article 16 of the Charter in this respect.

### **Article E in conjunction with Article 16**

122. As regards the alleged violation of Article E in conjunction with Article 16 the Committee recalls that Article E prohibits all forms of discrimination and draws its inspiration from Article 14 of the European Convention on Human Rights. Therefore the Committee considers that Article E not only prohibits direct discrimination but also all forms of indirect discrimination. (*Association internationale Autisme-Europe (AIAE) v. France*, Complaint No. 13/2000, decision on the merits of 4 November 2003, §52; *European Roma Rights Center (ERRC) v. Italy*, Complaint No. 27/2004, decision on the merits of 7 December 2005, §36).

123. Furthermore, the Committee recalls that Article E, similarly to Article 14 of the ECHR, does not provide for an exhaustive list of prohibited grounds for discrimination (*Association internationale Autisme-Europe (AIAE) v. France*, Complaint No. 13/2000, decision on the merits of 4 November 2003, §51). As the European Court of Human Rights has recently stressed in interpreting Article 14, “the list is illustrative and not exhaustive, as is shown by the words ‘any ground such as’ [...] and the inclusion in the list of the phrase ‘any other status’. The words ‘other status’ have generally been given a wide meaning [...] and their interpretation has not been limited to characteristics which are personal in the sense that they are innate or inherent [...]” European Court of Human Rights (ECtHR), *Biao v. Denmark*, 24 May 2016 (Grand Chamber), application No. 3850/10, paragraph 89).

124. With respect to the general allegation by FIDH concerning discrimination “on the grounds of social origin, health or other status”, the Committee cannot in principle exclude that certain individuals or groups are, in the present case, specially hampered or prevented from enjoying the right to family housing of an adequate standard on the grounds of their socio-economic or health status, or other personal conditions. This could concern, for example, families living in, or at risk of, poverty, who cannot avoid being allocated local authority housing, or persons with disabilities.

125. However, the Committee notes that the allegations concerning such grounds of discrimination have not been substantiated by FIDH; no arguments have been advanced and no data, nor evidence have been produced neither as regards the specific ground of discrimination, nor as regards the alleged discriminated group or groups, and the comparator group or groups. For such reasons, the Committee finds that these allegations of discrimination cannot be upheld.

126. As regards the potential discrimination against local authority tenants, alluded to by FIDH, as compared to private rented sector tenants, the Committee, recalling that the list of prohibited grounds of discrimination in Article E is not exhaustive and that the words 'other status' have a wide meaning and their interpretation is not to be limited to characteristics which are personal in the sense that they are innate or inherent, considers that Article E can in principle be applicable to groups of persons or families who suffer from disadvantage, because of their social position as local authority tenants in comparison to private sector tenants, with regard to adequate housing standards.

127. According to the submissions of both FIDH and the Government, in Ireland the legal standards relating to the quality and adequacy of all rented housing in existence are provided for by Standards for Rented Houses Regulations 2008 and 2009. According to the Government such Regulations apply to both local authority and approved housing bodies with very limited exceptions. It follows that the almost identical or similar legal regulation is applicable to both groups of tenants. Similar legal regime applicable to both groups indicate, therefore, that they are considered as being in a similar and comparable situation according to the law.

128. However, as indicated by FIDH, there is a difference in treatment in terms of enforcement and remedies: while legal standards relating to adequate housing are enforced in private rented housing on a discretionary and variable way, there is no enforcement system actually in place for local authority housing. In addition, the range of implied terms, with special dispute resolution machinery outside the courts, which has been established by the Residential Tenancies Act 2004 (RTA 2004), is applicable only to private renters, while local authority housing tenants have no such dispute resolution mechanism.

129. The Government refutes the argument that local authority tenants are at a disadvantage to those in private accommodation, because there are the benefits providing permanent housing as distinct from reliance on the private rented sector, including stability and security of tenure, differential rent (rent set based upon ability to pay), tenant purchase schemes, succession of tenancies, maintenance of communities, and minimum floor areas. It also points out that Article 16 of the Charter does not require identical legal regimes and dispute resolution mechanisms to be established for the monitoring and management of adequate housing standards in local authority housing and privately rented properties.

130. The Committee needs to assess if the arguments put forward by the Government demonstrate that the different treatment between local authority and private sector tenants does not amount to discrimination in the enjoyment of the right to family housing.

131. The Committee considers that a requirement of having identical regimes applicable as between private sector tenants and local authority tenants for the enforcements of standards and remedies is not implied by Article 16 and that in the present case the existence of different regimes does not however result in less favourable treatment in the enjoyment of the right to family housing. In particular the Committee considers that there are complaints procedures for local authority tenants; when problems arise, complaints are initially dealt with by the Manager of the service involved. If the Manager of the service cannot remedy the situation, a formal complaint can be made to the Authority's Customer Services Officer. If matters have not been resolved following engagement with the local authority, it is open to a complainant to bring the matter to the attention of the Office of the Ombudsman or before the courts.

132. It follows that the different situation of families who are local authority tenants in comparison to private sector tenants with respect to the enforcement of the legal standards for adequate housing and the existence of a specific dispute resolution mechanism, does not amount to a less favourable treatment in so far as the right to family housing is concerned. For these reasons, the Committee finds that there is no violation of Article E in conjunction with Article 16 of the Charter.

## **II. ALLEGED VIOLATION OF ARTICLE 11 OF THE CHARTER AND OF ARTICLE E IN CONJUNCTION WITH ARTICLE 11**

133. Article 11 of the Charter reads as follows:

### **Article 11 – The right to protection of health**

Part I "Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable."

Part II: "With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed *inter alia*:

1 to remove as far as possible the causes of ill-health;

2 to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;

3 to prevent as far as possible epidemic, endemic and other diseases, as well as accidents."

134. Article E reads as follows:

### **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."

## **A – Submissions of the parties**

### **1. The complainant organisation**

135. FIDH maintains that the states of much of the social housing as detailed above has significant implications as regards the right to health.

136. As regards the Dolphin Housing estate, FIDH maintain that the RRIAG Research revealed how the conditions were having significant health implications for tenants, particularly children and families. Supporting medical evidence detailed how young children repeatedly suffered from chest infections, pneumonia, bronchitis and e-coli infections related to the housing conditions. Tenants explained in the survey how children were infected on their face and hands from sewerage overflows in the play area. Adults reported suffering headaches from the smells and their mental health was affected, emphasising the stress and embarrassment caused by living in such conditions.

### **2. The respondent Government**

137. The Government maintains that housing law sets down clear requirements of fitness for habitation of local authority housing and standards for rented accommodation, including local authority housing. These provisions, along with specific actions of both central and local government to improve local authority housing, satisfy the requirement under Article 11 of the Charter to take appropriate measures to remove, in the context of local authority housing, causes of ill-health.

138. The Government provides details of measures taken or underway to improve the housing in the local authority estates mentioned by FIDH; Dolphin House, St Teresa's Gardens, Liberty House, St Mary's Mansions, Ballybough House, Matt Talbot Court, Balgaddy development, and certain estates in Limerick.

## **B – Assessment of the Committee**

139. The Committee notes that poor housing conditions may affect the health of those residing in them.

140. It recalls that Article 11 of the Charter imposes a range of positive obligations to ensure an effective exercise of the right to health, and the Committee assesses compliance with this provision paying particular attention to the situation of disadvantaged and vulnerable groups (Conclusions XVII-2 (2001), General Introduction). It considers the most relevant provisions for the purposes of this complaint are Article 11§§1 and 3, under which States commit themselves to take appropriate measures designed to remove as far as possible the causes of ill-health, and to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

141. The Committee notes that in the current complaint FIDH refers to certain health implications for tenants of local authority housing. The Committee notes that such implications seem in large part to be of an occasional and temporary nature, and that in some cases the description of ill-health caused by the housing conditions among residents of certain housing estates (such as respiratory conditions and stress related conditions) is largely subjective and not supported by outside evidence. Furthermore, the Committee considers that the allegations and supporting evidence provided by FIDH do not sufficiently demonstrate that the health issues in question have been directly caused by housing conditions in which some local authorities tenants live. Nor has FIDH clearly indicated what kind of specific measures Ireland has failed to take to remove the causes of ill health or prevent such diseases.

142. In the light of the above, the Committee considers that the available data and information do not reveal either a situation of special or high health risks for families and children living in local authority housing estates, nor any specific lack of measures by the Irish authorities to respond appropriately to the health risks that people living in such estates may incur.

143. Therefore, the Committee finds that the allegations concerning the right to protection of health cannot be upheld, and holds that there is no violation of Article 11 of the Charter and of Article E in conjunction with Article 11 of the Charter.

### **III. ALLEGED VIOLATION OF ARTICLE 17 OF THE CHARTER AND OF ARTICLE E IN CONJUNCTION WITH ARTICLE 17**

144. Article 17 reads as follows:

#### **Article 17 – The right of children and young persons to social, legal and economic protection**

Part I: “Children and young persons have the right to appropriate social, legal and economic protection.”

Part II: “With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

1 c) to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family’s support; (...)  
....”

145. Article E reads as follows:

#### **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.”

## **A – Submissions of the parties**

### **1. The complainant organisation**

146. FIDH states that it has identified a range of specific instances where children's rights to appropriate legal and economic protection are undermined by the State's failure to ensure adequate housing and that this amounts to a violation of Article 17 of the Charter.

### **2. The respondent Government**

147. The Government submits that it is not sufficient to simply state an allegation of violation of a provision; it is necessary to set out the specific case to answer. The complaint does not expressly set out any grounds of an allegation of a violation of Article 17 of the Charter.

148. In relation to the allegation of violation of Article E, the Government maintains that FIDH has not set out the specific ground of discrimination, if any, which it alleges against the Respondent and therefore cannot discern the basis of the allegation.

## **B – Assessment of the Committee**

149. The Committee observes that FIDH invokes Article 17 generally, without making any specific allegations.

150. For this reason having regard to the lack of specificity of the allegations made by FIDH under Article 17 and to the fact that the issues raised by such general allegations overlap in a significant manner with those examined under Article 16 of the Charter, the Committee considers that the complaint does not disclose any specific violation of Article 17 of the Charter.

151. Therefore the Committee holds that there is no violation of Article 17 of the Charter and of Article E in conjunction with Article 17 of the Charter.

#### **IV. ALLEGED VIOLATION OF ARTICLE 30 OF THE CHARTER AND OF ARTICLE E IN CONJUNCTION WITH ARTICLE 30**

152. Article 30 reads as follows:

##### **Article 30: The right to protection against poverty and social exclusion**

“Part I: Everyone has the right to protection against poverty and social exclusion.”

“Part II: With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake

a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;

b. to review these measures with a view to their adaptation if necessary.”

153. Article E – reads as follows:

##### **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.”

#### **A – Submissions of the parties**

##### **1. The complainant organisation**

154. FIDH maintains that the situation of families living in a local authority housing, as a result of the Government’s failure to ensure decent housing and thereby failing to provide them with adequate social, legal and economic protection also means that they are deprived of an effective right to protection against poverty and social exclusion in breach of Article 30 of the Charter.

155. FIDH more specifically maintains that the failure to ensure the proper implementation of the regeneration programmes, due to lack of funding, and cuts to community and social services in social housing estates has the effect of worsening poverty levels and compounding social exclusion.

156. It also refers to the lack of participation of tenants (see above).

## 2. The respondent Government

157. The Government argues that the complaint does not explain how living in local authority housing in Ireland results in a highly vulnerable lifestyle being forced on families. Nor does living in such housing have such a result. There are a number of factors which might be regarded as contributing to poverty and social exclusion. Many families living in local authority housing may be at a social disadvantage which is unrelated to their housing.

158. The Government refers to the National Action Plan for Social Inclusion 2007-2016. The Plan set out the commitment by the Department and local authorities to deliver high-quality social housing in mixed community settings with the aim of supporting and building communities in which people can take pride. As a result of the economic crisis, in the years that followed the launch of the plan period of the economic depression and fiscal constraints impeded achieving the Plan's objectives. However, since the recent launch of the Social Housing Strategy 2020, the Government is re-focussing and investing in on-going provision of local authority housing. The Government in this respect refers to the regeneration programmes.

159. The *National Reform Programme for Ireland* (updated in 2012) has identified targets in relation to poverty reduction, revising those set originally in 2007. In 2012, Government set subtargets for reducing poverty in jobless households, as part of the national social target for poverty reduction (National Social Target for Poverty Reduction, October 2012). The *National Social Target for Poverty Reduction in Ireland* seeks to reduce consistent poverty to 4% by 2016 (interim target) and to 2% or less by 2020.

160. The Government states that in terms of policy responses to meet these targets relevant to the Area Regeneration Plans, the employment priority and targets are addressed in the Government's *Action Plan for Jobs 2012/2013*<sup>96</sup> and *Supporting Economic Recovery and Jobs Locally* and the Department of Social Protection's *Pathways to Work 2012* initiative. In relation to early drop-out from education, the key measures are contained in the Department of Education's DEIS (Delivery of Equality of Opportunity in Schools) and other recent initiatives including the *National Strategy to Improve Literacy and Numeracy amongst Children and Young People* (2011). In terms of poverty and social exclusion, policy responses to the crisis of unemployment are particularly relevant (e.g. the priority given to long-term unemployed persons).

161. According to the Government the challenge therefore is in translating the broad aims outlined above into the local Regeneration planning process. It provides examples as to how the different Regeneration programmes seeks to do this.

## **B – Assessment of the Committee**

162. The Committee recalls that Article 30 of the Charter requires States Parties to give effect to the right to protection against poverty and social exclusion by adopting measures, within the framework of a co-ordinated approach, aimed at preventing and removing obstacles to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance (Statement of interpretation on Article 30, Conclusions 2003).

163. The Committee reiterates that such a co-ordinated approach should consist of an analytical framework, as well as of a set of priorities and measures to prevent and remove obstacles to access to fundamental social rights. Monitoring mechanisms should be put in place, involving all relevant actors, including the civil society and persons affected by exclusion and poverty. Policies should moreover be linked and integrated in a consistent way, that is in a manner reaching beyond a sectorial or a targeted group approach (International Movement ATD Fourth World v. France, op.cit., §134).

164. To this extent the Committee reiterates the very close link between the effectiveness of the right recognised by Article 30 and the enjoyment of the rights recognised by other provisions of the Charter which relate to a number of different social needs (such as Articles 1, 9, 10, 12, 13, 14 and 31 Statement of interpretation on Article 30, Conclusions 2013), including the right to family housing under Article 16.

165. For this reason, when assessing Article 30, the Committee takes into consideration the national measures or practices which fall within the scope of other substantive provisions of the Charter in the framework of both monitoring systems (the reporting procedure and the collective complaint procedure). The Committee recalls that this approach does not mean that a conclusion of non-conformity or a decision of violation of one or several of these provisions automatically or necessarily lead to a violation of Article 30 (EUROCEF v. France, Complaint No. 82/2012, decision on the merits of 19 March 2013, § 59); but such a conclusion or decision may, depending on the circumstances, be relevant in assessing conformity with Article 30.

166. Consequently, where a specific sectoral policy alone is the subject of a complaint, the Committee is only in a position to assess the alleged infringement of Article 30 if it is also provided with elements relating to access to other fundamental rights which demonstrate that there is no coordinated approach for those excluded or at risk of social exclusion to protect them from poverty and prevent or combat their exclusion.

167. Regarding the allegations in the complaint under consideration, the Committee acknowledges that the situation of certain persons living in local authority housing cited in the complaint could expose them to poverty and social exclusion. It also notes from other sources that poverty rates are higher amongst those who live in local authority housing, i.e. those who live in dwellings rented at below the market rate or rent free data from Central Statistics Office 2014). In addition, FIDH asserts that the regeneration programmes have failed to address the substandard housing conditions faced by families living in local authority housing; it also cites the UN Expert on Poverty and Social Exclusion, Magdalena Sepulveda, who in a recommendation to Ireland in 2011, following a country inspection, stated: "The State should consider adopting a legislative framework for a National Public Housing Estates Regeneration Programme to ensure that international human rights standards and community participation are ensured in all regeneration projects in the country."

168. The Committee notes however that the Government has adopted several measures to improve the situation of those living in social housing in the most deprived areas, including the National Action Plan for Social Inclusion 2007-2016, National Social Target for Poverty Reduction, National Reform programme for Ireland, Social Housing Strategy 2020 Pathway to jobs, and not least through specific local regeneration projects. The Committee considers therefore that there are elements indicating efforts by Ireland towards a coordinated approach to protect persons from poverty and combat social exclusion in general, as it also found in its examination of Article 30 under the reporting procedure in 2013 (Conclusions 2013 Ireland).

169. In addition the Committee notes that the complaint does not provide information on the possible obstacles for people living in local authority housing to access fundamental social rights other than adequate family housing (such as employment, training, education, culture and social and medical assistance), or on lack of measures or coordinated approach on the part of the Government to overcome such obstacles.

170. Therefore, the elements solely on the inadequacy of family housing for local authority tenants in violation of Article 16 are, in the current case, insufficient to enable the Committee to determine that in Ireland there is an unsatisfactory protection against poverty and social exclusion of persons living in local authority housing estates.

171. For the above reasons, the Committee holds that there is no violation of Article 30 of the Charter and of Article E in conjunction with Article 30 of the Charter.

## CONCLUSION

For these reasons, the Committee concludes:

- by 11 votes to 1, that there is a violation of Article 16 of the Charter;
- by 11 votes to 1, that there is no violation of Article E in conjunction with Article 16 of the Charter;
- unanimously that there is no violation of Article 11 of the Charter and of Article E in conjunction with Article 11 of the Charter;
- unanimously that there is no violation of Article 17 of the Charter and of Article E in conjunction with Article 17 of the Charter;
- by 11 votes to 1, that there is no violation of Article 30 of the Charter and of Article E in conjunction with Article 30 of the Charter.



Giuseppe PALMISANO  
President and Rapporteur



Henrik KRISTENSEN  
Deputy Executive Secretary

## **APPENDIX**

### **Decision on admissibility**

**DECISION ON ADMISSIBILITY**

**17 March 2015**

**International Federation for Human Rights (FIDH) v. Ireland**

Complaint No.110/2014

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 277<sup>th</sup> session attended by:

Giuseppe PALMISANO, President  
Monika SCHLACHTER, Vice-President  
Petros STANGOS, Vice-President  
Lauri LEPPIK, General Rapporteur  
Birgitta NYSTRÖM  
Karin LUKAS  
Eliane CHEMLA  
Jozsef HAJDU  
Marcin WUJCZYK  
Krassimira SREDKOVA  
Raul CANOSA USERA  
Marit FROGNER

Assisted by Régis BRILLAT, Executive Secretary

Having regard to the complaint dated 18 July 2014, registered on the same day as number 110/2014, lodged by the International Federation for Human Rights (“the FIDH”) and signed by its President, Karim Lahidji, requesting the Committee to find that Ireland is not in conformity with Articles 11, 16, 17, 30 either alone or in conjunction with Article E of the Revised European Social Charter (“the Charter”);

Having regard to the notification addressed to the Irish Government (“the Government”) on 23 July 2014;

Having regard to the documents appended to the complaint;

Having regard to the Charter, and in particular to Articles 11, 16, 17, 30 and E which read as follows:

**Article 11 – 1 The right to protection of health**

Part I: “Everyone has the right to benefit from any measures enabling him to enjoy the highest possible standard of health attainable.”

Part II: “With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in co-operation with public or private organisations, to take appropriate measures designed *inter alia*:

- 1 to remove as far as possible the causes of ill-health;
- 2 to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
- 3 to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.”

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

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

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

**Article 17 – The right of children and young persons to social, legal and economic protection**

Part I: “Children and young persons have the right to appropriate social, legal and economic protection.”

Part II: “With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public and private organisations, to take all appropriate and necessary measures designed:

- 1 a to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular

by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;

- b to protect children and young persons against negligence, violence or exploitation;
- c to provide protection and special aid from the state for children and young persons temporarily or definitively deprived of their family's support;

**Article 30 – The right to protection against poverty and social exclusion**

Part I: "Everyone has the right to protection against poverty and social exclusion."

Part II: "With a view to ensuring the effective exercise of the right to protection against poverty and social exclusion, the Parties undertake:

- a. to take measures within the framework of an overall and co-ordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance;
- b. to review these measures with a view to their adaptation if necessary."

**Article E – Non-discrimination**

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

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

Having regard to the Rules of the Committee adopted on 29 March 2004 at its 201<sup>st</sup> session and last revised on 9 September 2014 at its 273<sup>rd</sup> session, ("the Rules");

Having deliberated on 17 March 2015;

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

1. The FIDH alleges that the situation in Ireland is in violation of Articles 11, 16, 17, 30 either alone or in conjunction with Article E of the Charter on the grounds that:
  - Ireland has failed to adopt Charter rights within the legal, policy and administrative framework of housing in Ireland.
  - The adequacy, habitability and suitability of some Local Authority housing violates the Charter.
  - The Regeneration Programmes of the State in key Local Authority housing estates do not respect the housing provisions and other rights set out in the Charter.

## **THE LAW**

2. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by Ireland on 4 November 2000 and entered into force for this State on 1 January 2001, the complaint has been submitted in writing and concerns Articles 11, 16, 17, 30 and E of the Charter, provisions accepted by Ireland when it ratified this treaty on 4 November 2000 and to which it is bound since the entry into force of this treaty in its respect on 1 January 2001.

3. Moreover, the grounds for the complaint are indicated. The Committee recalls, that Ireland has not accepted Article 31 of the Charter, as the FIDH recognizes, therefore should any part of the complaint relate to this provision, it will fall outside the scope of the examination of the merits of the complaint.

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

5. The Committee has already considered that the FIDH has particular competence for the purposes of the collective complaints procedure within the meaning of Article 3 of the Protocol in respect of several issues covered by registered complaints (FIDH v. Greece, complaint No. 7/2000, decision on admissibility of 28 June 2000, §8; FIDH v. France, complaint No. 14/2003, decision on admissibility of 16 May 2003, §5; FIDH v. Belgium, complaint No. 62/2010, decision on admissibility of 1 December 2010, §6; FIDH v. Greece, complaint n°72/2011, decision on admissibility of 7 December 2011, §6; FIDH v. Belgium, complaint No. 75/2011, decision on admissibility of 22 March 2012, §5 ). In view of the broad scope of activities of the FIDH, it considers that the condition is also fulfilled for the purpose of the instant complaint.

6. The complaint, submitted on behalf of the FIDH, is signed by Mr Karim Lahidji President of the organisation, who according to Article 14 of its statute, represents the organisation in all civil matters and is vested with all powers necessary for that purpose. The Committee considers therefore that the complaint complies with Rule 23 of its Rules.

7. For these reasons, the Committee, without finding it necessary to invite the Government to submit observations on admissibility (Article 6 of the Protocol and Rule 29§4), on the basis of the report presented by Giuseppe PALMISANO, and without prejudice to its decision on the merits of the complaint,

**DECLARES THE COMPLAINT ADMISSIBLE**

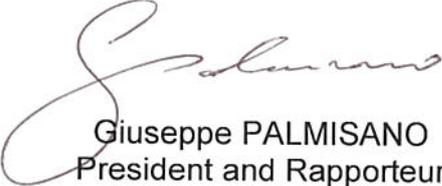
In application of Article 7§1 of the Protocol, requests the Executive Secretary to notify the complainant organisation and the respondent State of the present decision, to transmit it to the parties to the Protocol and the states having submitted a declaration pursuant to Article D paragraph 2 of the Revised Charter, and to publish on the Internet site of the Council of Europe.

Invites the Government to make written submissions on the merits of the complaint by 28 May 2015.

Invites the FIDH 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 28 May 2015, should they so wish.

In application of Article 7§2 of the Protocol, invites the international organisations of employers or workers mentioned in Article 27§2 of the Charter to make observations by 28 May 2015.



Giuseppe PALMISANO  
President and Rapporteur



Régis BRILLAT  
Executive Secretary