

Avenues to advance Housing Rights in Europe

DATE: 30th October 2020

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Human Rights-based Approach

- Homelessness: a situation that deprives individuals of human rights, including the right to housing.
- Housing Rights expert Group → Housing Rights Watch network
- Promoting housing rights in Europe:
 - Disseminate knowledge about Housing Rights
 - Monitor Case-law
 - Support Strategic Litigation
 - Develop links with human rights organizations
 - Raise awareness about and fight criminalisation

The Rights-Based Approach to Housing

CHARITY APPROACH	NEEDS APPROACH	RIGHTS-BASED APPROACH
Individuals are seen as victims	Individuals are objects of development intervention	Individual and groups are empowered to claim their rights
Individuals deserve assistance	Individuals deserve assistance	Individuals are entitled to assistance
Focuses on appearance of problems	Focuses on immediate causes of problems	Focuses on structural causes and their appearances

Advocacy on Housing Rights

- An activity by an individual or group that aims to influence decisions within political, economic, and social systems and institutions.
- It can include many activities from media campaigns, public speaking, commissioning to publishing research.
- Advocacy on Housing rights: means speaking up for homeless people (broad concept), acting on their behalf to defend their right to be housed and other related rights
- Participation of homeless people

Strategic Litigation and Why it Matters

- A type of legal action used to single out cases to bring to court or to quasi-judicial bodies in order to achieve a specific goal
- Positive, broader impact on law and policy development as well as setting a precedent for outcomes in similar cases in the future
- The right to housing may not always be explicitly recognised but rather derived from other rights such as the right to an adequate standard of living
- A corpus of case law that has gradually come to define the minimum standards related to the right to housing in Europe



Institutional Overview: what provisions for the right to housing in European and international law?

International Covenant on Economic, Social and Cultural Rights



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THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS (ICESCR)

- **Article 11(1):** *The States Parties to the present Covenant recognize the right of everyone to **an adequate standard of living** for himself and his family, **including adequate food, clothing and housing**, and to the continuous improvement of living conditions.*

The Committee On Economic, Social And Cultural Rights (CESCR)

- Body of 18 independent experts
- Oversee States Parties' Implementation of the ICESCR
- Issue general comments: authoritative interpretations of ICESCR provisions
- Right to housing addressed in:
 - General Comment No. 4 – the 7 elements of adequate housing
 - General Comments No. 7 – forced evictions

ELEMENTS OF ADEQUATE HOUSING

LEGAL SECURITY OF TENURE
AVAILABILITY OF SERVICES, MATERIALS, FACILITIES AND INFRASTRUCTURE
AFFORDABILITY
HABITABILITY
ACCESSIBILITY
LOCATION
CULTURAL ADEQUACY

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Interprets
(General Comments)



Monitors Compliance
(Concluding Observations)



States Parties
Submit Country Reports

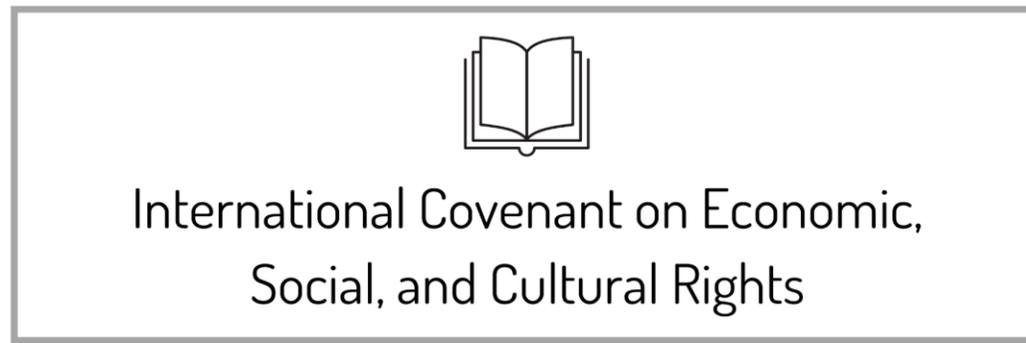


NGOs
Submit Shadow Reports



Individuals or Groups
May present a complaint in case
of violation of rights without
national remedy





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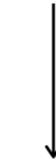
Use of Optional Protocol Spanish NGOs



- **I.D.G v. Spain [17.06.2015]** on mortgage repossession. The mortgage law was changed.
- **M.B.D. and others v. Spain [5.07.2017]** on private rental eviction of a family with children concluding in an individual recommendation and a general recommendation for public policy resulting in a change of law/ policy.
- **López Albán v. Spain [11.10.2019]** was on an illegally occupied house. The CESCR found that Spain had violated the right to housing since the eviction had been carried out without ensuring adequate alternative accommodation and without a prior proportionality assessment.




European Convention
of Human Rights



European Court
of Human Rights



Case Law


European Social
Charter



European Committee
of Social Rights



Reporting System



Conclusions



Additional Protocol
Collective Complaints



Decisions



EU Treaties (TEU)



Treaty of the Functioning of
the European Union (TFEU)

Secondary Legislation



Charter of Fundamental Rights



European
Commission



European
Parliament



European
Council



Court of Justice of the EU



Case Law

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

- **European Convention on Human Rights**
 - **European Social Charter**

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The European Social Charter

- **Article 31**: With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

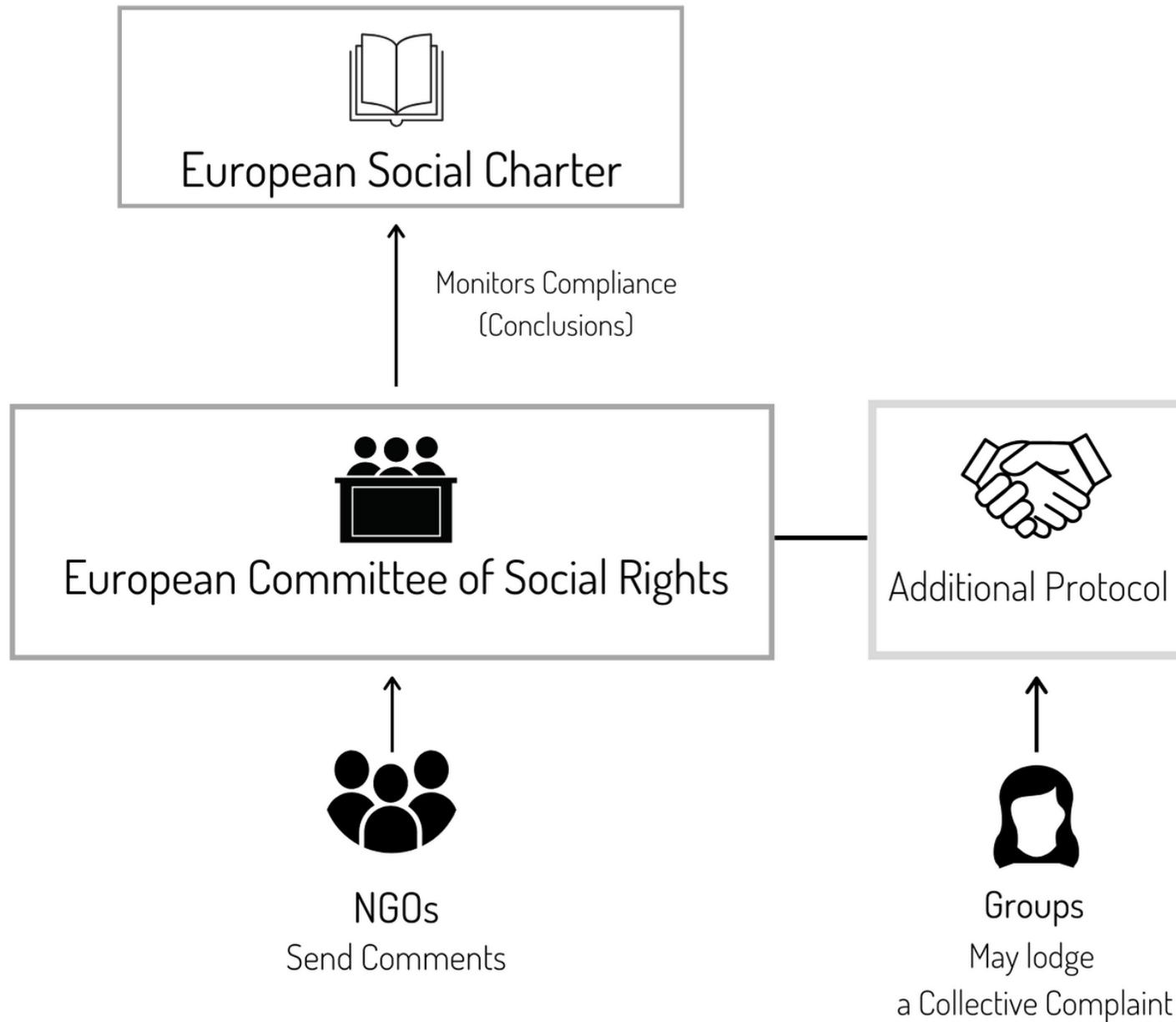
- to **promote access to housing** of an adequate standard;
- to **prevent and reduce homelessness with a view to its gradual elimination**;
- to **make the price of housing accessible** to those without adequate resources.

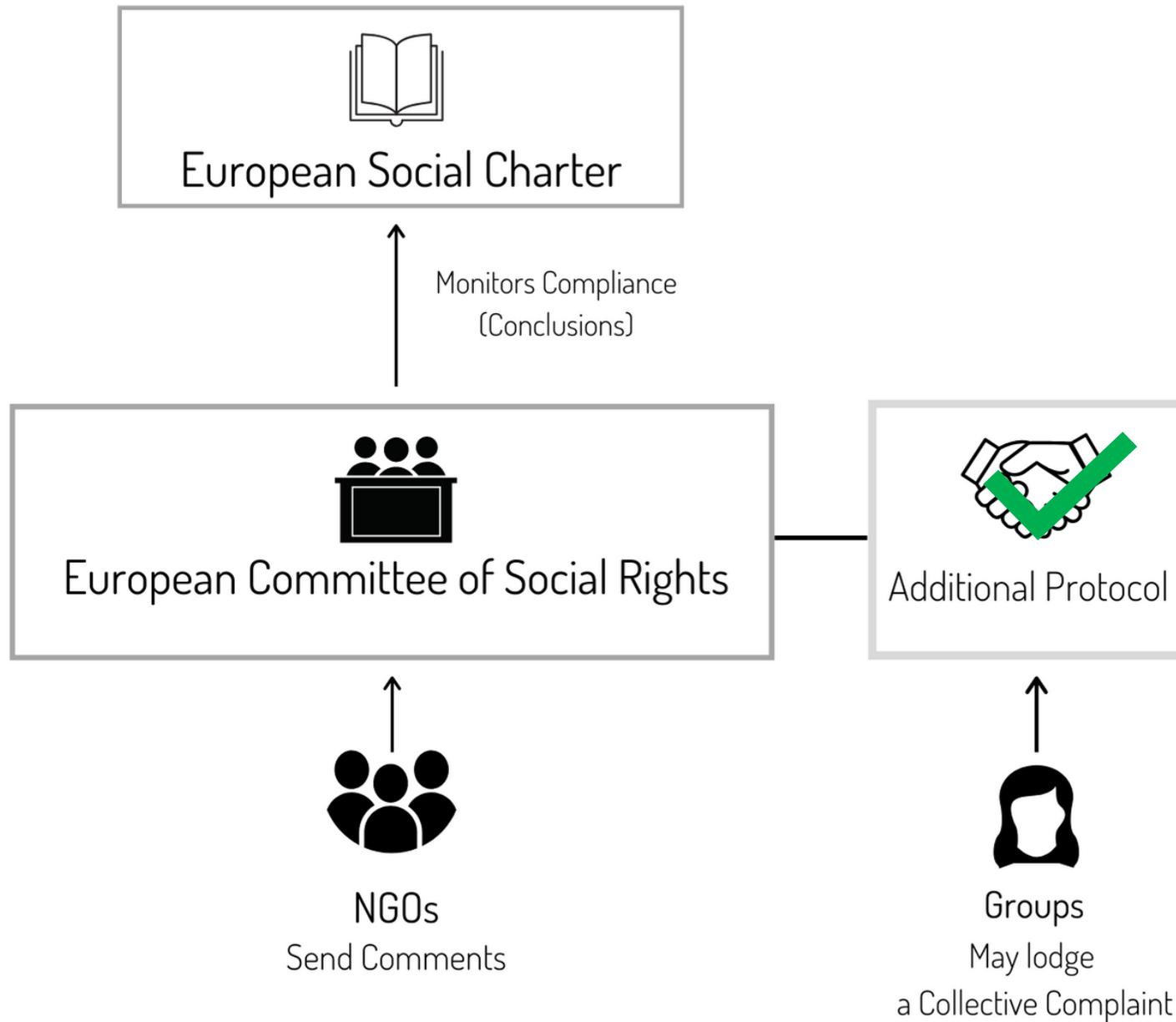
The European Committee of Social Rights

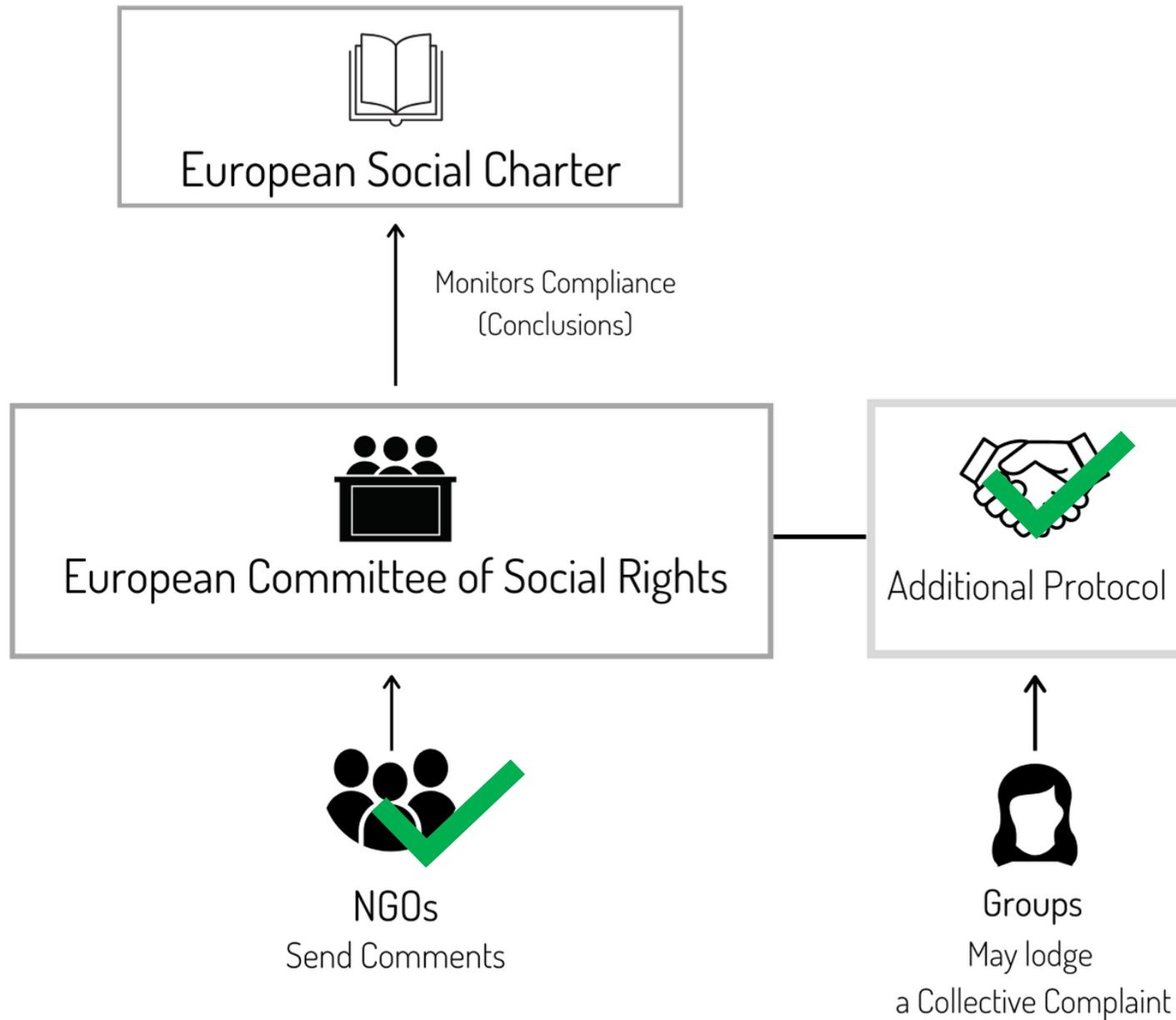
- Body of independent experts
- Oversee States Parties' Implementation of the Social Charter
- Issue statement of interpretation : authoritative interpretations of Social Charter provisions (similar to general comments)
- Conclusions/ Decisions on Collective complaints

Collective Complaints

- **Additional protocol 95 established the Collective Complaint mechanism.** Enter into force in 1998
- European Committee of Social Rights (ECSR) judge conformity in law and in practice with the provisions of the European Social Charter (ESC)
- Social partners and NGOs who enjoy participatory status with the Council of Europe may lodge collective complaints against a State

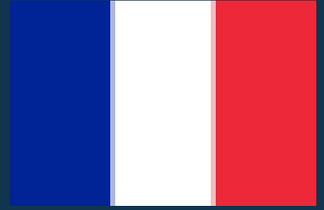






Groups
May lodge
a Collective Complaint

Collective Complaint FEANTSA v France(2008)



- The ECSR found **six violations** of Article 31 by France:
 - Insufficient progress as regards the eradication of substandard housing and lack of proper amenities for a large number of households;
 - Unsatisfactory implementation of the legislation on the prevention of evictions;
 - Measures in place to reduce the number of homeless people were insufficient;
 - Insufficient supply of social housing accessible to low-income groups;
 - Malfunctioning of the social housing allocation system, and the related remedies;
 - Deficient implementation of legislation on stopping places for Travellers;

Collective Complaints Italy



- Centre on Housing Rights & Evictions (COHRE) v Italy a key step in the evolution of the collective complaints' jurisprudence of the ECSR.
 - Jurisprudence on housing rights and Roma rights
 - *The notions of adequate housing and forced eviction are identical under Articles 16 and 31.*
- European Roma Rights Centre (ERRC) v. Italy
 - Violation of Article 31§1 Roma camping sites were insufficient and inadequate.
 - Violation of Art. 31§2 :eviction procedures of Roma were not adequate, and Roma were victims of unjustified violence during such evictions.



- **European Union**
- **EU Charter of Fundamental Rights**

Right to Housing in Europe: EU Charter of Fundamental rights

Charter of Fundamental Rights:

- Applies to the EU Institutions and its Member States **in the implementation of EU Law**
- Article 34 recognises and respects the **right to social and housing assistance**

FEANTSA's work in this area:

- Pillar of Social Rights, principle 19. (Non-binding / policy tool)
- Monitor progress on the right to housing
- Social Scoreboard-European Semester

Housing-related Binding Obligations

- Rulings of Court of Justice of the EU (CJEU)
- Rulings of European Court of Human rights (ECHR)
- Collective Complaints Decisions
 - European Committee of Social Rights (ECSR)
- Reporting System Conclusions
 - European Committee of Social Rights (ECSR)
- Decisions from UN Committees- expert bodies-
- Concluding Observations (recommendations)

Homelessness

DEFINITION	Homelessness is defined as not having access to adequate housing,	European Committee of Social Rights	ECSR Conclusions on Italy, 2003
PREVENTION	No eviction must take place if the public authority has not looked for alternative housing (...)	European Court of Human Rights	Yordanova and Others v. Bulgaria, no. 25446/06
PRINCIPLE OF PROPORTIONALITY	Particular attention must be paid to the consequences of an eviction; notably whether an eviction could cause the persons affected to become homeless.	European Court of Human Rights	Winterstein and Others v. France, no. 27013/07
SPECIFIC MEASURES FOR VULNERABLE GROUPS	States must act to make sure vulnerable people are not deprived of shelter (in addition to policies to promote access to social housing for low-income groups)	European Committee of Social Rights	ECSR Conclusions on Lithuania, 2005