

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

**DECISION
ON ADMISSIBILITY**

30 June 2014

European Roma and Travellers Forum (ERTF) v. Czech Republic

Complaint No. 104/2014

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter (“the Committee”), during its 272nd session attended by:

Luis JIMENA QUESADA, President
Monika SCHLACHTER, Vice-President
Petros STANGOS, Vice-President
Lauri LEPPIK
Birgitta NYSTRÖM
Rüçhan IŞIK
Jarna PETMAN
Elena MACHULSKAYA
Giuseppe PALMISANO
Eliane CHEMLA
Jozsef HAJDU
Marcin WUJCZYK

Assisted by Régis BRILLAT, Executive Secretary,

Having regard to the complaint dated 3 March 2014, registered on the same date as number 104/2014, lodged by the European Roma and Travellers Forum (“ERTF”) and signed by its President, Mr Rudko Kawczynski, requesting the Committee to find that the situation in the Czech Republic is not in conformity with Articles 11 and 16 of the European Social Charter (“the 1961 Charter”);

Having regard to the notification addressed to the Government of the Czech Republic (“the Government”) on 4 March 2014;

Having regard to the documents appended to the complaint;

Having regard to the 1961 Charter and, in particular, to Articles 11 and 16, which read 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 Contracting 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”.

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.

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 (“the Rules”);

Having regard to the observations of the Government on the admissibility of the complaint registered on 14 May 2014;

Having deliberated on 30 June 2014;

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

1. ERTF alleges that the housing situation of the Roma in the Czech Republic gives rise to a violation of Article 16 of the 1961 Charter either alone or in conjunction with the non-discrimination principle as set out in the Preamble of the 1961 Charter, as the Roma suffer residential segregation, forced evictions and sub-standard housing conditions. Further the poor housing conditions, general segregation of and discrimination in access to housing directly affects Roma's access to health care and increases their health risks in breach of Article 11.
2. ERTF also allege that access to health care is also affected by discrimination against Roma by health care practitioners, and health insurance providers in violation of Article 11.
3. The Government does not contest that the complaint meets the conditions for admissibility laid down in Articles 1(b), Article 3 and 4 of the Protocol but raises the following objections against the admissibility of the complaint:
 - a. The Government argues that when the Committee last examined Article 11 (Conclusions XX-2 (2013)) the Committee found the situation to be in conformity with the 1961 Charter and the complaint has brought no new facts. Further when the Committee last examined Article 16 of the 1961 Charter (Conclusions XIX-4 (2011)) it found the situation not to be in conformity with the 1961 Charter but for reasons other than those raised in the complaint.
 - b. The Government also argues that it is Article 31 of the Revised Charter which enshrines the right to housing and points out that this provision has not been ratified by the Czech Republic.
 - c. Lastly, the Government rejects as untrue the allegation that the Czech Republic is not applying a National Strategy to combat the social exclusion of Roma.

THE LAW

As to the admissibility conditions set out in the Protocol and the Committee's Rules

4. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by the Czech Republic on 4 April 2012 and entered into force for this State on 1 June 2012, the complaint has been submitted in writing and concerns Articles 11 and 16, provisions accepted by the Czech Republic when it ratified the Charter on 3 November 1999 and by which it is bound since its entry into force for this State on 3 December 1999.
5. Moreover, the grounds for the complaint are indicated.

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

7. The Committee has already considered that ERTF has particular competence for the purposes of the collective complaints procedure within the meaning of Article 3 of the Protocol (ERTF v. France, Complaint No. 64/2011, decision on admissibility of 10 May 2011 § 6). It confirms this decision since no significant change has taken place.

8. The complaint is signed by Mr Rudko Kawczynski, President of the Organisation. The Committee has already considered that Mr Kawczynski is entitled to represent ERTF for the purposes of the collective complaints procedure. (ERTF v. France, Complaint No. 64/2011, decision on admissibility of 10 May 2011, §7). The Committee, therefore, considers that the condition provided for in Rule 23 of the Rules is fulfilled.

As to the Government's objections concerning the admissibility

9. As concerns the Government's first objection (a) on the admissibility the Committee recalls that the object of the complaints procedure, which is different in nature from the procedure of examining national reports, is to allow the Committee to make a legal assessment of the situation of a state in the light of the information supplied by the complaint and the adversarial procedure to which it gives rise. Neither the fact that the Committee has already examined this situation in the framework of the reporting system, nor the fact that it will examine it again during subsequent supervision cycles do not in themselves imply the inadmissibility of a complaint (International Commission of Jurists v. Portugal, Complaint No. 1/1998 decision on admissibility of 10 March 1999).

10. With regard to the Government's second objection (b), the Committee recalls that the Charter was conceived as a whole and all its provisions complement each other and overlap in part (Mental Disability Advocacy Center (MDAC) v. Bulgaria, Complaint No. 41/2007, decision on admissibility of 26 June 2007). Article 31 of the Charter partly overlaps with Article 16 of the 1961 Charter. In particular Article 16 covers the right of families to housing, this includes Roma families who must enjoy the right in practice (Conclusions XVIII-1, 2006, Statement of Interpretation, European Roma Rights Center v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004).

11. Finally the Committee considers that the third objection (c) raised by the Government is an issue which is linked to the substance of the complaint and therefore should be dealt with at the merits stage.

12. It follows that the Government's objections on these points cannot be sustained.

13. For these reasons, the Committee, on the basis of the report presented by Marcin WUJCZYK 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§2 of the Charter, and to make it public.

Requests the Executive Secretary to publish the decision on the Internet site of the Council of Europe;

Invites the Government to make written submissions on the merits of the complaint by 30 September 2014;

Invites the European Roma and Travellers Forum (ERTF) 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§2 of the Charter to make comments by 30 September 2014, 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 1961 Charter to make observations by 30 September 2014.

Marcin WUJCZYK
Rapporteur

Luis JIMENA QUESADA
President

Régis BRILLAT
Executive Secretary