

DECISION ON ADMISSIBILITY

5 February 2008

European Roma Rights Centre (ERCC)
v. Bulgaria

Complaint No. 46/2007

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 227th session attended by:

Mrs Polonca KONČAR, President
Mssrs Andrzej SWIATKOWSKI, First Vice-President
Tekin AKILLIOGLU, Second Vice-President
Jean-Michel BELORGEY, General Rapporteur
Nikitas ALIPRANTIS
Stein EVJU
Mrs Csilla KOLLONAY LEHOCZKY
Lucien FRANCOIS
Lauri LEPPIK
Colm O' CINNEIDE
Mrs Monika SCHLACHTER
Birgitta NYSTRÖM
Lyudmilla HARUTYUNYAN
Annalisa CIAMPI

Assisted by Mr Régis BRILLAT, Executive Secretary

Having regard to the complaint dated 22 October 2007, registered on 23 October 2007 as number 46/2007, lodged by the European Roma Rights Centre (“ERRC”) and signed by its Executive Director, Ms Vera Egenberger, requesting the Committee to find that Bulgaria is not in conformity with Article 11 (paragraphs 1, 2 and 3) and Article 13 (paragraphs 1, 2 and 3) of the Revised European Social Charter (“the Revised Charter”), taken alone or in conjunction with Article E;

Having regard to the documents appended to the complaint;

Having regard to the Revised Charter and, in particular, to Article 11 §§ 1, 2, 3, Article 13 §§ 1, 2, 3, and Article E, 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 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.”

Article 13 – The right to social and medical assistance

Part I: “Anyone without adequate resources has the right to social and medical assistance.”

Part II: “With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

1. to ensure that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition;
2. to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
3. to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want; (...)

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 by the Committee on 29 March 2004 at its 201st session and revised on 12 May 2005 at its 207th session ("the Rules");

Having deliberated on 5 February 2008;

Delivers the following decision, adopted on the above date:

1. The ERRC alleges that Bulgaria discriminates against Roma in the field of health care because:

- legislation does not guarantee health insurance coverage for the most vulnerable individuals, especially long-term unemployed, of whom a disproportionate number are Romani, resulting in the exclusion of a large number of Roma persons from access to health care services;

- government policies do not adequately address the specific health risks affecting Romani communities arising from their lack of resources, poor housing conditions, and low educational levels;

- the government has not taken any measures to put an end to the widespread discriminatory practices on the part of health care practitioners against Roma in the provision of health services (denial of medical assistance and/or provision of inadequate health services, and segregation of Romani women in maternity wards).

THE LAW

2. The Committee observes that Bulgaria accepted the collective complaint procedure by a declaration made at the time of ratification of the Revised Charter on 7 June 2000 and that this procedure entered into force in respect of Bulgaria on 1st August 2000. In accordance with Article 4 of the Protocol, the complaint has been submitted in writing and concerns Article 11 §§ 1, 2 and 3, and Article 13 §§ 1, 2, and 3, provisions accepted by Bulgaria when it ratified this treaty on 7 June 2000 and to which it is bound since the entry into force of this treaty in its respect on 1st August 2000.

3. Moreover, the grounds for the complaint are indicated.

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

5. The Committee considers that the ERRC submitted a complaint in a field in which it has particular competence within the meaning of Article 3 of the Protocol. It is a non-governmental organisation which monitors the human rights situation of Roma in Europe and provides legal defence in cases of abuse.

6. The complaint is signed by Ms Vera Egenberger, the Executive Director of the ERRC. According to an extract of the ERRC's registration at the Metropolitan Court of Budapest, dated 12 september 2007, Ms Vera Egenberger appears as one of the current representatives of the organisation. The Committee considers that Ms Egenberger is duly authorised to represent the ERRC in the collective complaint procedure. Therefore the conditions stipulated in Rule 23 of the Rules are fulfilled.

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§3), on the basis of the report presented by Ms Birgitta Nyström 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 Revised Charter, and to make it public.

Invites the Government to make written submissions on the merits of the complaint by 31 March 2008.

Invites the ERRC 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 Revised Charter to make comments by 31 March 2008 should they so wish.

In application of Article 7§2 of the Protocol, requests the Executive Secretary to inform the international organisations of employers or workers mentioned in Article 27§2 of the Charter and to invite them to make observations by 31 March 2008.


Birgitta NYSTRÖM
Rapporteur


Polonca KONČAR
President


Régis BRILLAT
Executive Secretary