

COUNCIL OF EUROPE

COMMITTEE OF MINISTERS

Resolution ResChS(2006)4 **Collective complaint No. 27/2004** **by the European Roma Rights Centre against Italy**

*(Adopted by the Committee of Ministers on 3 May 2006
at the 963rd meeting of the Ministers' Deputies)*

The Committee of Ministers,¹

Having regard to Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints,

Taking into consideration the complaint lodged on 28 June 2004 by the European Roma Rights Centre against Italy,

Having regard to the report transmitted by the European Committee of Social Rights, in which the European Committee of Social Rights concluded:

i) unanimously that the insufficiency and inadequacy of camping sites constitutes a violation of Article 31§1 of the revised Charter taken together with Article E.

Article 31§1 guarantees access to adequate housing, which means a dwelling which is structurally secure; safe from a sanitary and health point, i.e. it possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity; not overcrowded and with secure tenure supported by law. Article E enshrines the prohibition of discrimination and establishes an obligation to ensure that, in absence of objective and reasonable justifications, any group with particular characteristics, including Roma, benefit in practice from the rights in the Charter. Italy failed to give evidence that i) it has taken adequate steps to ensure that Roma are offered housing of a sufficient quantity and quality to meet their particular needs; and that ii) it has ensured or has taken steps to ensure that local authorities are fulfilling their responsibilities in this area. By persisting with the practice of placing Roma in camps, the government has failed to take due and positive account of all relevant differences, or adequate steps to ensure their access to rights and collective benefits that must be open to all.

ii) unanimously that forced evictions and other sanctions constitute a violation of Article 31§2 of the revised Charter taken together with Article E.

Under Article 31§2, states parties must make sure that evictions are justified and are carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation is available. The Committee found that Italy has failed to establish that the relevant evictions it carried out satisfy these conditions, and has not provided credible evidence to refute the claims that Roma have suffered unjustified violence during such evictions.

iii) unanimously that the lack of permanent dwellings constitutes a violation of Article 31§1 and 31§3 of the revised Charter taken together with Article E.

¹ In conformity with Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints, the Contracting Parties to the European Social Charter or to the Revised Social Charter have participated in the vote: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey and United Kingdom.

Under Articles 31§1 and 31§3, it is incumbent on states parties to ensure access to social housing for disadvantaged groups, including equal access for nationals of other Parties to the Charter lawfully resident or regularly working on their territory. On the issue of permanent dwellings, the Committee noted that while Italy was committed to the principle of equal treatment for Roma as regards access to social housing, it failed to provide any information to show that this right of access is effective in practice or that the criteria regulating access to social housing are not discriminatory.

Having regard to the information communicated by the Italian delegation during the 960th meeting of the Ministers' Deputies,

1. Takes note of the measures already taken by the Italian authorities at local (regional legislation and implementing measures) and at national level (National Office against Discrimination);
2. Takes note of the statement made by the respondent government indicating that Italy undertakes to bring the situation into conformity with the Revised Charter by increasing such measures, including the adoption of a legislative framework (see Appendix to this resolution);
3. Looks forward to Italy reporting, on the occasion of the submission of the next report concerning the relevant provisions of the Revised European Social Charter, that the situation has improved, and keeping the Committee of Ministers regularly informed of all progress made.

Appendix to Resolution ResChS(2006)4

Information provided by the Permanent Representative of Italy during consideration by the Committee of Ministers of the report transmitted by the European Committee of Social Rights concerning Collective complaint No. 27/2004

The Italian delegation would like to make a general comment, recalling the great importance Italy attaches to the Social Charter, which was opened for signature in an Italian city, Turin, in 1961.

It is for this reason that Italy has been one of the few member states that have so far ratified the Revised Social Charter and one of the even fewer, only eleven, states for which the Additional Protocol providing for a system of collective complaints has entered into force.

We share entirely the philosophy of the Social Charter and the mechanism of collective complaints and accept its consequences. At the same time, like other delegations have done in the past, the Italian delegation would like to stress, as a general consideration, the importance of an always rigorous and balanced implementation of such instrument, also in order not to discourage other member states from joining it.

With reference to the specific case on the agenda, the problem of housing for Roma, Sinti and Travellers is of course an issue of great relevance for the Italian authorities, as it is for most European countries, as duly described in the report that of the former Commissioner for Human Rights, Mr Gil-Robles, specifically devoted to the human rights situation of Roma, Sinti and Travellers in Europe.

In Italy, interventions aimed at improving housing conditions of traveller communities, including Roma people, fall within the responsibility of local authorities. For this reason, many regions have adopted laws specifically aimed at regulating the presence of Roma in their territory.

This notwithstanding, Italy is of course aware that the state – and therefore central authorities – is ultimately responsible for the respect for social rights of all individuals within its territory, including the right to housing and the right to an adequate standard of living.

For this reason, a draft law for a comprehensive strategy at national level on all issues concerning Roma, Sinti and Travellers is being prepared by the competent Ministries and will hopefully be approved within a reasonable delay, consistent with the time needed for the new parliament, which as you know will be elected in 5 days, to become operational.

Subsequently, the Roma, Sinti and Traveller Community will also be included, taking due account of necessary distinctions, among the historical minorities, whose status is ruled by Law 482/99.

In the present situation, conditions of housing for Roma can vary greatly according to regions and towns.

It can be noted however that a general progress has been achieved in the last two years. Several local institutions have taken measures to improve the living conditions of Roma, Sinti and Travellers.

Such progress has also been underlined in the report of the former Commissioner, Mr Gil-Robles, on his visit to Italy in March 2005 and by the third report of ECRI, which visited Italy in June 2005.

In this report, ECRI underlined that in some regions local authorities, in collaboration with the communities concerned, have started to partially eliminate camps.

In his report, former Commissioner Mr Gil-Robles underlined that in Italy “the Roma community is varied in its origins, practices and financial resources. Some live in ordinary housing – social or private – but many live in “districts”. There are two types of Roma district, official and non-official. Residents in official districts in Rome live in prefabricated dwellings; in other cities and towns, they sometimes live in caravans or tents. In unofficial districts, Roma also live in prefabs, caravans or makeshift shacks”.

Even when describing what has been depicted on several occasions as the worst case in Italy, the Campo Nomadi Casilino 900 in Rome, Mr Gil-Robles, underlined that “even though such a camp is considered as unofficial, there has been an active intervention by the municipal authorities. For the last two years, for example, a self-managed surveillance and security programme has been operating. This involves the Roma community more fully and improves relations with the police.” The City of Rome has also improved the sanitary situation in the settlement through the provision of chemical toilets and waste disposal while a mobile medical centre visits the settlement regularly. In any case, such example does not reflect all the integration initiatives promoted by local authorities with the civil society.

As regards violation of the principle of non-discrimination, Italian legislation does not provide for any distinction among citizens on the grounds of their own ethnic, linguistic or religious origin. For this reason, Roma people who have Italian nationality, around 70 000, are considered like all other Italian citizens, whereas the remaining 80 000 fall under the laws on immigration.

Since 2003 a National Office for the promotion of equality of treatment and the elimination of all discriminations based on racial and ethnic reasons is operational and is also actively working on the issue of Roma, Sinti and Travellers. His Director will participate in the conference on the implementation and harmonisation of national policies for Roma, Sinti and Travellers which will be organised in May in Bucharest.

As regards allegations that evictions from non authorised camps have been carried out violating the Charter, it is to be recalled that, according to the very principle of non-discrimination, unlawful acts have to be punished, regardless of the race or ethnic origin of the author. In the events mentioned in the complaint, authorities have acted on the basis of a formal mandate and there is no evidence of violations or abuses of such acts.

At the same time, in other cases where there has been evidence of violation or abuse by police according to law, the competent authorities have intervened to stop it, providing if necessary for compensation of victims.

It is also worth mentioning that since 2004 an ad hoc group has been created in Rome to deal with non authorised camps, which includes both representatives of police forces and of the social services of the municipality.

For all the above-mentioned reasons, the Italian delegation asks the Committee of Ministers to adopt a resolution which takes into account the progress achieved at local level as also recognised by the competent institutions of the Council of Europe, which also takes note of the work in progress on the drafting of a comprehensive strategy at national level and of the creation of a National Office against Discrimination.

The Committee of Ministers will be kept regularly informed about further steps taken by Italian authorities to improve the present situation.