

Resolution CM/ResChS(2010)1
Collective complaint No. 46/2007
by the European Roma Rights Centre (ERRC) against Bulgaria

*(Adopted by the Committee of Ministers on 31 March 2010
at the 1081st 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 23 October 2007 by the European Roma Rights Centre against Bulgaria;

Having regard to the report transmitted by the European Committee of Social Rights, in which the situation in Bulgaria as regards access to health care by Roma, as well as medical assistance in general for poor or socially vulnerable persons, is found to constitute a violation of Article 11§§1-3 and Article 13§1 of the Revised Charter for the following reasons:

“With respect to Article 11 of the Revised Charter, the Committee recalls that it imposes a range of positive obligations to ensure an effective exercise of the right to health. Assessment of compliance with this provision is carried out paying particular attention to the situation of disadvantaged and vulnerable groups. There is sufficient evidence showing that Roma communities are faced with disproportionate health risks and that they do not live in healthy environments. This situation can in part be attributed to the failure of prevention policies by the state – for instance the lack of protective measures to guarantee clean water in Romani neighbourhoods – as well as the inadequacy of measures to ensure public health standards in housing in such neighbourhoods. As regards health education, despite recent initiatives such as the establishment of health mediators, there has been a lack of systematic, long-term government measures to promote health awareness among the Roma population. The health status of Roma being inferior to that of the general population, the authorities have also failed to take reasonable steps to address the specific problems faced by Roma communities stemming from their often unhealthy living conditions and difficult access to health services. In sum, the failure of the authorities to take appropriate measures to address the exclusion, marginalisation and environmental hazards which Romani communities are exposed to in Bulgaria, as well as the problems encountered by many Roma in accessing health care services, constitute a breach of Article 11 in conjunction with Article E (Non-discrimination).

Pursuant to Article 13§1 of the Revised Charter, persons without adequate resources, in the event of sickness, should be granted financial assistance for the purpose of obtaining medical care or provided with such care free of charge. The situation in Bulgaria partly complies with this requirement because the Health Insurance Act establishes that persons receiving social assistance are entitled to free of charge health insurance. However, persons who do not qualify for social assistance or who have temporarily lost the right to social assistance are left without health coverage during the period that their social assistance is interrupted. The medical services available for persons in such circumstances are mainly limited to emergency medical care (under the Health Act) or the reimbursement of the costs of hospital treatment (under Decree No. 17 of 31 January 2007). They will be unable to obtain treatment for a sickness not considered an emergency or primary or specialised outpatient medical care. Therefore, the insufficient medical services available for poor or socially vulnerable persons amounts to a breach of the aforementioned provision.”

¹ In accordance with Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints, the following Contracting Parties to the European Social Charter or the revised European Social Charter have participated in the vote: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, 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, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

1. Welcomes the measures already taken by the Bulgarian authorities (see appendix to this resolution);
2. Looks forward to Bulgaria reporting that, at the time of the submission of the next report concerning the relevant provisions of the European Social Charter, the situation has been brought into full conformity.

Appendix to Resolution CM/ResChS(2010)1

Information provided by the Permanent Representative of Bulgaria during consideration by the Committee of Ministers of the report transmitted by the European Committee of Social Rights concerning Collective complaint No. 46/2007

“In its decision on the merits of Collective complaint No. 46/2007, the European Committee of Social Right stated that the State Health Insurance system in Bulgaria ‘meets the requirements of the Revised Charter’. The Committee further noted that the system ensures also that some of the most disadvantaged segments of the community have access to health care.

The Committee, however, considered that those relatively few persons who had lost social insurance were left partly without health coverage, because they fully qualified for emergency care, but would not, according to the Committee, be able to obtain the necessary care in case of sickness which did not necessarily require emergency care.

In respect of this, I would like to inform you that by Decree No. 27 of 9 February 2009 on the implementation of the state budget, the mechanism established for the payment of costs of hospital treatment for persons without resources was made permanent, thereby effectively providing the required long-term solution to the issue.

With regard to the other conclusion of the Committee – namely that the state has failed to take reasonable steps to address the specific problems faced by the Roma communities stemming from their often unhealthy living conditions – reference is made to the Framework Programme for Equal Integration of Roma in Bulgarian Society adopted in 1999 and the National Action Plan for Roma Integration 2005-2015 adopted in April 2005 by the Committee of Ministers. There are four main priorities in the Framework Programme and the National Action Plan, namely, education, healthcare, employment and improving housing conditions.

More concretely, in implementation of the Health Strategy concerning persons in disadvantaged position belonging to ethnic minorities, 80 000 medical examinations were carried out in the period 2006-2009. Also, 750 000 leva were allocated from the state budget in 2009 specifically for this purpose.

These facts indicate that the Bulgarian authorities have been taking appropriate measures to bring the situation into conformity with the standards of the Charter regarding the provision of healthcare to all persons who may need it, irrespective of their origin or social condition.”