

European Committee of Social Rights  
Council of Europe

By email only: [social.charter@coe.int](mailto:social.charter@coe.int)

12 July 2019

**Re: Introduction of a New Collective Complaint and URGENT Request for the Indication of Immediate Measures**

**EUROPEAN ROMA RIGHTS CENTRE v BELGIUM**

Dear Sir/Madam

1. We are writing to introduce a collective complaint against Belgium in accordance with Rule 23 of the Rules of the European Committee of Social Rights. Unusually, we are submitting this complaint in summary form, with a reference to a more detailed report prepared by Belgium's statutory equality body (Unia). We appreciate that the Committee would normally expect a more detailed complaint. However, given the flagrant nature of the breaches of the European Social Charter (Revised), and the irreparable harm that is taking place, we are submitting this summary complaint with a request for an interim measure now. If the Committee so requests, we are prepared to submit a more detailed complaint.
2. This complaint includes the following sections:
  - a. Admissibility
  - b. Summary of the Facts
  - c. Violations of the European Social Charter (Revised)
  - d. Request for Indication of Interim Measures

**a. Admissibility**

3. The European Roma Rights Centre (“the ERRC”) is on the list of international non-government organisations entitled to bring collective complaints. See GC(2019)1. The complaint has been signed by Dorde Jovanovic and Adam Weiss who, according to the attached statutes of the organisation (Annex 1), are entitled to sign on its behalf. Please note that the version being sent today (12 July 2019) is unsigned. This is so as not to lose time; a signed version will be sent on Monday (15 July 2019).
4. The ERRC has extensive experience investigating and exposing institutional antigypsyism among police as well as police misconduct against Roma and Travellers. For example, the ERRC represented the applicants in various successful cases before the European Court of Human Rights concerning police misconduct: see, e.g., *Nachova and others v Bulgaria* (Grand Chamber, 2005); *Moldova and others (no2) v Romania* (Grand Chamber, 2005); *Borbála Kiss v Hungary* (2012). The ERRC has also submitted numerous third-party interventions in such cases to the European Court of Human Rights, providing an extensive overview of antigypsyism in policing in various jurisdictions. For example, we recently made such submissions in cases concerning Slovakia<sup>1</sup> and North Macedonia.<sup>2</sup> The ERRC regularly compiles reports, fact-sheets, and other documents on issues arising under the European Social Charter (Revised). In relation to the issue dealt with here, the ERRC recently published a fact-sheet on collective punishment of Roma across Europe.<sup>3</sup> The issue dealt with here is a subject we know well and have reported on frequently in many countries.
5. The ERRC currently has a small, Brussels-based team which has been following this particular matter since the police operation described below, which began on 7 May 2019. These three people, including the organisation’s Managing Director, speak French and are directly in touch with activists who are Roma and Travellers, with NGOs providing direct support, with lawyers representing Travellers affected by the operation, and with the Belgian equality body (Unia). This Brussels-based team is well-placed to provide the Committee with direct information about what

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<sup>1</sup> Our third-party intervention in *M.B. v Slovakia* (pending, application number 45322/17) can be found at [http://www.errc.org/uploads/upload\\_en/file/5133\\_file1\\_echr-mb-v-slovakia-final-intervention-15-february-2019.pdf](http://www.errc.org/uploads/upload_en/file/5133_file1_echr-mb-v-slovakia-final-intervention-15-february-2019.pdf).

<sup>2</sup> Our third-party intervention in *Dzeladin v North Macedonia* and two other cases (pending, application number 43440/15) can be found at [http://www.errc.org/uploads/upload\\_en/file/dzeladin-v-macedonia-and-two-other-cases-third-party-intervention-5-february-2018.pdf](http://www.errc.org/uploads/upload_en/file/dzeladin-v-macedonia-and-two-other-cases-third-party-intervention-5-february-2018.pdf).

<sup>3</sup> The fact-sheet, published in March 2019, is available at <https://issuu.com/romarightsjournal/docs/mob-justice-collective-punishment-a>.

has been happening and how it violates the European Social Charter (Revised).

6. Belgium has accepted the Additional Protocol.
7. This complaint concerns various provisions of the Charter, set out below (see § 14). In particular, the conduct of the Belgian authorities in relation to Traveller communities across Belgium on and since 7 May 2019 has deprived people of their right to work, to protection of their health, to social security, to social and medical assistance, to benefit from social welfare services, to social, legal, and economic protection for their families, to social, legal, and economic protection for their children, and their right to housing; and the police targeted Travellers in Belgium on the basis of their ethnic origin, which amounts to discrimination.
8. The conduct of the Belgian authorities has resulted in failures in practice to implement the European Social Charter (Revised). We detail how this has happened below.

## **b. Summary of the Facts**

9. What follows is based on the attached report by Belgium's statutory equality body, Unia (Annex 2), and on the ERRC's own investigations carried out in discussions with activists and lawyers.
10. On 7 May 2019, the Belgian police deployed 1,200 officers in what has been named "Operation Strike". This was the largest police operation in Belgium in the last two decades. Police targeted 19 halting sites for Travellers, arresting 52 people suspected of involvement in a fraudulent scheme involving the sale of cars. Of those arrested, 24 were taken into custody; many were released without questioning. The police were armed and, on some sites, forced adults, children, and elderly people to wait in the centre of the site until the late afternoon with no access to water, shade, or food, despite the hot weather. Many of the people affected are now presenting symptoms of post-traumatic stress disorder.

### **i. Seizing and reselling of caravans, and seizure of other property**

11. As part of the police operation, 90 caravans (i.e. the vehicles in which Travellers live), 91 other vehicles, 34 valuable goods, and large sums in cash were seized, leaving many families from the community street homeless. Witnesses say that no social aid or housing alternatives were offered. There is no suggestion that the caravans seized were involved in

any criminal activity. The Federal Prosecutor has been reselling the seized caravans, with what appears to be the aim of compensating the victims of the organised crime for their stolen cars. However, it does not appear that the people whose caravans have been seized and stolen are actually suspected of involvement in the criminal scheme. As the Committee will note from the report, the seizure of caravans has continued after 7 May, with reports that people who have rented caravans to live in have had those caravans seized, despite being able to present the rental papers and having no apparent connection to any criminal activity. The Committee will note from Unia's report that Travellers continue to be stopped by police and continue to have their property, including cash, seized by police, despite the fact that the people concerned do not appear to be under investigation for any criminal activity. Some of the cars that were seized did not belong to Travellers; instead they belonged to customers of Travellers who were running a registered car-cleaning business.

#### **ii. Freezing of bank accounts and deletion of VAT numbers**

12. The raid was not only about seizing caravans and other valuable objects. Many Travellers have had their bank accounts frozen, even though their home was not searched by the police during the raid and there is no other indication that they were involved in any criminal activity. As a consequence, several families have no access to their money at all, at a time when they most need it. Some have even been threatened with eviction because they could not pay their rent. The people concerned include individuals who are dependent on social assistance and social security payments, including people with disabilities. The Committee will note from Unia's report that these people have no access to information from their banks and are unable to open new bank accounts. Some bank accounts have been unfrozen but all of the funds have been withdrawn. The families concerned have not received any explanation. Travellers running small businesses (notably cleaning cars) have had their VAT numbers struck off; this, combined with the freezing of their bank accounts, means they can no longer carry on their work.

#### **iii. Deregistration of vehicles that were not seized during the raid**

13. While many Travellers did not have their cars seized during the raid, they were informed later, by registered letters dated the same day as the raid, that their vehicles had been deregistered and could no longer be used. The letters came with no reasoning. These people are now at risk of having their cars seized if they are caught driving them, as the number

plates are no longer valid. The people concerned do not have any connection to any suspected criminal activity and do not appear to be under suspicion of any offence. An insurance underwriter contacted the public registration service in order to get more information for one person affected and was told that the deregistration was related to the fact that the vehicles concerned were all stolen. This is manifestly not the case.

### c. Violations of the European Social Charter

14. We claim that the conduct of the Belgian authorities has violated the following provisions of the European Social Charter (Revised):

- a. Article E, taken with all of the provisions mentioned below.
- b. Article 1 § 2.
- c. Article 11 § 1.
- d. Article 12 § 1.
- e. Article 13 § 1.
- f. Article 15 § 3.
- g. Article 16.
- h. Article 17 in its entirety.

15. **Article E, taken with the other provisions.** Based on the evidence that we have been able to gather about the police operation, it appears that the police had cause to believe that a small number of Travellers were involved in criminal activity. They responded by assuming that all Travellers across the country were involved in that criminal activity. They acted on this assumption by mounting a massive, disproportionate police raid (the largest in two decades) with the aim of seizing caravans, cars, and other property from all Travellers under the assumption that it was tainted by criminal activity. This amounts to ethnically targeted collective punishment. This is part of a pattern across Europe of this kind of racially-targeted, heavy handed policing. See, e.g., *Lingurar and others v Romania* (judgment of the European Court of Human Rights of 16 April 2019), § 80 (“*Roma communities are often confronted with institutionalised racism and are prone to excessive use of force by the law-enforcement authorities*”). The small number of arrests made compared to the number of officers involved, and the fact that Traveller sites across the country were targeted, raises a presumption that the Belgian police are contaminated by institutional antigypsyism. It also raises the presumption that every violation alleged below is connected to direct discrimination against Travellers.

16. **Article 1 § 2.** By seizing the homes, vehicles, and other property of Travellers, without any apparent suspicion that they are involved in

criminal activity besides their ethnicity, the Belgian authorities have deprived many Travellers of their ability to work. This is particular the case for those who were running businesses on Traveller sites. Those who were running registered car-washing business, for examples, and had their clients' cars seized, their bank accounts frozen, and their VAT numbers struck off, have been arbitrarily denied their right to earn a living. The same is true for all others who depend on their vehicles, homes, and other seized possessions to work, and those who had their earnings seized, including by having cash seized and by having their bank accounts frozen or emptied. All of these actions have been taken arbitrarily, with no explanation given. Any indirect explanation seems to be that the police have assumed – without any basis other than people's ethnicity – that the property concerned was stolen.

17. **Article 11 § 1.** By seizing Travellers' homes and denying them access to social assistance and social security funds on which they rely, particularly at a moment when they have been exposed to traumatic stress and are showing symptoms of post-traumatic stress disorder, the Belgian authorities have failed "to remove as far as possible the causes of ill-health". Indeed, they have put the health of large numbers of Travellers at risk, particularly people with disabilities and health problems. The authorities have taken no account of individual circumstances or health consequences when seizing property and freezing bank accounts; the only relevant factor appears to have been the ethnicity of the people involved.
18. **Article 12 § 1.** By freezing the bank accounts of people based on their ethnicity, the Belgian authorities have denied access to large numbers of Travellers to social security. This amounts to depriving people of access to the social security system based on their ethnicity, in violation of the obligation to maintain such a system.
19. **Article 13 § 1.** By exposing Travellers to traumatic stress and denying them access to social security and social assistance funds on which they are reliant, the Belgian authorities have failed to ensure that people without adequate resources have access to social and medical assistance.
20. **Article 15 § 3.** Many of the people affected by the actions impugned in this complaint have disabilities. By denying those people access to social assistance and social security funds and to the enjoyment of their homes, cars, and other possessions, the Belgian authorities have

deprived those people of their right to independence, social integration, and participation in the life of the community.

21. **Article 16.** The Belgian authorities have deprived those Traveller families affected by the actions impugned in this complaint of social, legal, and economic protection. These families no longer have access to family-related benefits, to their homes and cars, and to the other advantages on which they rely to make their family lives possible.

22. **Article 17 in its entirety.** Many children are living on the sites affected by the 7 May raids and the events that have followed. Many of those children find themselves sleeping in cars or in the open, unable to attend school, and faced with their parents' powerlessness to secure access to their money or possessions, despite the fact that they do not appear to have any link to any criminal activity other than the fact that they are of the same ethnicity of some people accused of crime.

23. Although Belgium has not accepted to be bound by Articles 23 and 31 of the European Social Charter (Revised), it will be obvious to the Committee that the authorities' actions fly in the face of those provisions as well.

#### **d. Request for Indication of Immediate Measures**

24. In accordance with Rule 36 of the Rules of the European Committee of Social Rights, we ask the Committee to indicate to the Belgian Government to indicate the following immediate measures to the Belgian Government:

- a. to cease the sale of all caravans which have been seized on or after 7 May 2019 from Travellers in the context of the police operation described above;
- b. to return the caravans seized on or after 7 May 2019 from Travellers in the context of the police operation described above to their owners who have been left homeless, or to provide adequate accommodation for the families who have been left homeless as a result;
- c. to ensure that all Travellers whose access to their bank accounts has been blocked since 7 May 2019 again have access to their bank accounts and to the funds that were previously in them;
- d. to stop the seizure of belongings from Travellers in the context of the police operation described above;



- e. to assist all Travellers whose automobiles have been deregistered to re-register them, either with the number plates they have previously or with new number plates.

25. It will be clear to the Committee that the lives and health of many people, including people with disabilities and children, are at stake.

Yours faithfully,

Dorde Jovanovic  
President  
European Roma Rights Centre

Adam Weiss  
Managing Director  
European Roma Rights Centre