

DECISION ON ADMISSIBILITY
10 October 2005

By the European Roma Rights Centre
v. Bulgaria

Complaint No. 31/2005

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 210th session attended by:

Messrs	Jean-Michel BELORGEY, President
	Gerard QUINN, First Vice-President
	Andrzej SWIATKOWSKI, Second Vice-President
Messrs	Stein EVJU, General Rapporteur
	Rolf BIRK
	Matti MIKKOLA
	Alfredo BRUTO DA COSTA
	Nikitas ALIPRANTIS
	Tekin AKILLIOĞLU
Mrs	Csilla KOLLONAY LEHOCZKY
	Polonca KONČAR
Mr	Lucien FRANÇOIS
Mr	Lauri LEPPIK
Mrs	Beatrix KARL

Assisted by Mr Régis BRILLAT, Executive Secretary of the European Social Charter

Having regard to the complaint registered as number 31/2005, lodged on 22 April 2005 by the European Roma Rights Centre ("the ERRC") and represented by its programmes Director, Mr Claude CAHN, requesting that the Committee find that Bulgaria fails to apply in a satisfactory manner Article 16 alone or read in conjunction with Article E of the Revised European Social Charter ("the Revised Charter");

Having regard to the documents appended to the complaint;

Having regard to the observations submitted on 29 July 2005 by the Bulgarian Government ("the Government");

Having regard to the response of the ERRC to the Bulgarian Government's observations submitted on 20 September 2005;

Having regard to the Revised Charter and, in particular, to Articles 16 and E which read as follows:

Article 16 – The right of the family to social, legal and economic protection:

"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."

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 during its 201st session ("the Rules");

After having deliberated on 10 October 2005;

Delivers the following decision, adopted on the above date:

1. The ERRC alleges that Bulgaria discriminates against Roma in the field of housing with the result that the Roma population is segregated in housing matters, lack legal security of tenure and forced evictions and lives in substandard conditions contrary to Article 16 read alone or in conjunction with Article E.

2. The Government in its observations registered on 20 September 2005 raises the following objections to admissibility:

- the author of the complaint has not shown that he has been mandated by the complainant organisation;
- the complaint is manifestly ill founded *ratione materiae* as the matter complained of falls outside the scope of Article 16 the Revised Charter;
- the domestic remedies have not been exhausted.

AS TO THE LAW

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

3. The Committee observes that, in accordance with Article 4 of the Protocol, which was ratified by Bulgaria on 7 June 2000, and entered into force for this State on 1 August 2000, the complaint is submitted in writing and concerns Articles 16 and E of the Revised Charter, provisions accepted by Bulgaria at the time of the ratification of this treaty. In addition, the grounds for the complaint are indicated.

4. The Government does not contest that the complaint respects the conditions for admissibility laid down in Articles 1 b) of the Protocol.

5. The Committee observes 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.

6. 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.

7. The Committee notes that the complaint is signed by its programmes Director Mr Claude CAHN. The Government contests that there is nothing to establish whether Mr. Claude CAHN has been empowered in a proper way to represent the ERRC. The Committee notes that by letter of 20 September 2005, the ERRC submitted a power of attorney dated 25 January 2005, in which, in accordance with Article 6 of the deed of foundation, Mr CAHN was authorized by two members of the board and on its behalf, to represent the organisation as of latter date. The Committee considers therefore that the formal requirement of Rule 23 of its Rules of Procedure has been met.

As to the other objections to admissibility raised by the Government:

8. The Government argues that the matter complained of, the right to housing, falls outside the scope of Article 16 of the Revised Charter, read independently or in conjunction with Article E of the Revised Charter. It

considers in this respect that the right to housing is explicitly stipulated in Article 31 and not in Article 16, which deals with the right of the family to social, legal and economic protection and the respective obligation of the Parties to undertake to promote this right by several non-exhaustively listed means, which include provision of family housing.

9. The Committee considers that the fact that the right to housing is stipulated under Article 31 of the Revised Charter, does not preclude a consideration of relevant housing issues arising under Article 16 which addresses housing in the context of securing the right of families to social, legal and economic protection. In this context and with respect to families, Article 16 focuses on the right of families to an adequate supply of housing, on the need to take into account their needs in framing and implementing housing policies and ensuring that existing housing be of an adequate standard and include essential services. The Committee considers that the exact delineation between Articles 16 and 31, in as much as this is relevant to the allegations made is to be considered when dealing with the merits. Hence, the Government's objection on this point to the admissibility of the complaint must be dismissed.

10. Regarding the argument submitted by the Government that domestic remedies have not been exhausted, the Committee recalls that neither the Protocol nor the Rules lay down a requirement that domestic remedies be exhausted. For this reason, the Committee dismisses the Government's objection to admissibility on this ground.

11. For these reasons, the Committee, on the basis of the report presented by Mr Gerard QUINN, 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 defending 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 paragraph 2 of the Revised Charter, and to make it public.

Invites the Government to make written submissions on the merits of the complaint by 13 January 2006.

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 paragraph 2 of the Revised Charter to make comments by 13 January 2006, 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 13 January 2006.