

**DECISION ON ADMISSIBILITY**

**2 June 2008**

**European Roma Rights Centre  
v. Bulgaria**

Complaint No. 48/2008

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 230<sup>th</sup> session attended by:

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

Assisted by Mr Régis BRILLAT, Executive Secretary

Having regard to the complaint dated 27 March 2008, registered on 28 March 2008 as number 48/2008, 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 Article 13, Paragraph 1 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 Articles 13§1 and Article E, which read as follows:

**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; (...)"

**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 201<sup>st</sup> session and revised on 12 May 2005 at its 207<sup>th</sup> session ("the Rules");

Having deliberated on 2 June 2008;

Delivers the following decision, adopted on the above date:

1. The ERRC submits that Bulgaria does not respect Article 13§1 of the Revised Charter, taken alone or in conjunction with Article E because:

- by making social assistance benefits limited in time the February 2006 amendments to the Bulgarian Social Assistance Act undermine the only permissible ground for granting social assistance – the presence of an individual need.

- this measure is to have a disparate impact on Roma. Members of this ethnic group will be affected in a substantially higher proportion compared to members of the other ethnic groups in Bulgaria; the amendments are also likely to have a disparate effect on the basis of sex with mothers in the poor families more likely to be adversely affected.

## **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 1<sup>st</sup> August 2000. In accordance with Article 4 of the Protocol, the complaint has been submitted in writing and concerns Article 13§1 a provision 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 1<sup>st</sup> August 2000.

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

4. The Committee notes firstly that, in accordance with Articles 1 b) and 3 of the Protocol, the ERRC is an international non-governmental organisation with participatory status with the Council of Europe. It is included on the list, established by the Governmental Committee, of international non-governmental organisations that 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 Mr Colm O'Cinneide 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 21 July 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 21 July 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 21 July 2008.

Colm O' CINNEIDE  
Rapporteur

Polonca KONČAR  
President

Régis BRILLAT  
Executive Secretary