

DECISION ON ADMISSIBILITY

COMPLAINT No. 27/2004

By the European Roma Rights Centre
v. Italy

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 205th session attended by:

Messrs Jean-Michel BELORGEY, President
Nikitas ALIPRANTIS, Vice-President
Mrs Polonca KONCAR, Vice-President
Messrs Stein EVJU, General Rapporteur
Rolf BIRK
Matti MIKKOLA
Konrad GRILLBERGER
Alfredo BRUTO DA COSTA
Tekin AKILLIOĞLU
Mrs Csilla KOLLONAY LEHOCZKY
Messrs Gerard QUINN
Lucien FRANÇOIS
Andrzej SWIATKOWSKI

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

Having regard to the complaint registered as number 27/2004, lodged on 28 June 2004 by the European Roma Rights Centre ("the ERRC") and represented by its programme Director, Mr Claude CAHN, requesting the Committee find that Italy fails to apply in a satisfactory manner Article 31 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 4 October 2004 by the Italian Government (“the Government”);

Having regard to the response of the ERRC to the Italian Government’s observations submitted on 12 November 2004;

Having regard to the Revised Charter and, in particular, to Articles 31 and E which read as follows:

Article 31 - The right to housing

“With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

- 1 to promote access to housing of an adequate standard;
- 2 to prevent and reduce homelessness with a view to its gradual elimination;
- 3 to make the price of housing accessible to those without adequate resources.”

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 6 December 2004;

Delivers the following decision, adopted on the above date:

1. The ERRC alleges that the housing situation of Roma in Italy amounts to a violation of Article 31 of the Revised European Social Charter. In addition, it alleges that policies and practices in the field of housing constitute racial discrimination and racial segregation, both contrary to Article 31 read alone or in conjunction with Article E.

2. The Government contests the admissibility of the complaint on the ground that it is manifestly ill-founded. The Government considers that Roma people are not covered by the scope *rationae personae* of the Revised Charter since they do not meet the conditions laid down in Article 1 of the Appendix to the Revised Charter, namely be nationals of other Parties lawfully resident or working regularly within the territory of the Party concerned. It alleges that the majority of Roma present on the Italian territory are either nationals of third countries or illegally present. Regarding the Roma who are Italian citizens or nationals of other Parties to the Charter, the Government considers it impossible to distinguish them the Roma population for the purposes of the application of Article 31.

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 Italy on 3 November 1997, and entered into force for this State on 1st July 1998, the complaint is submitted in writing and concerns Articles 31 and E of the Revised Charter, provisions accepted by Italy at the time of the ratification of this treaty. In addition, the grounds for the complaint are indicated.

4. The Committee also 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.

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 Mrs Dimitrina PETROVA, Executive Director, and ERRC is represented by Mr Claude CAHN, Programmes Director. Mrs PETROVA is entitled by two members of the board, in accordance with Article 6 of the deed of foundation, to present the complaint and to authorize Mr CAHN to represent the organisation. The Committee considers therefore that the complaint complies with Rule 23 of its Rules of Procedure.

As to the Government's objection on the admissibility:

7. The Committee considers that the arguments raised by the Government on the admissibility of the complaint do not entirely render the complaint ill-founded and that they can only be properly assessed when examining the merits of the complaint.

8. For these reasons, the Committee, on the basis of the report presented by Mrs Polonca KONCAR, 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 15 February 2005.

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 15 February 2005, 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 15 February 2005.

Polonca KONCAR
Rapporteur

Jean-Michel BELORGEY
President

Régis BRILLAT
Executive Secretary