

Resolution CM/ResChS(2007)2
Collective Complaint No. 31/2005
by the European Roma Rights Centre against Bulgaria

*(Adopted by the Committee of Ministers on 5 September 2007
at the 1003rd 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 22 April 2005 by the European Roma Rights Centre against Bulgaria,

Having regard to the report transmitted by the European Committee of Social Rights, in which the Committee concluded:

i) by 9 votes to 1 that the situation concerning the inadequate housing of Roma families and the lack of proper amenities, constitutes a violation of Article 16 of the Revised Charter taken together with Article E.

The inadequate housing situation of Roma families as alleged by the complainant organisation demonstrated that legal and practical measures were necessary to redress such a situation. As regards the adequacy of the measures taken by the government, national authorities are better placed to evaluate the needs of their country. Nonetheless, the measures taken must meet the following three criteria: (i) a reasonable timeframe, (ii) a measurable progress and (iii) a financing consistent with the maximum use of available resources.

Notwithstanding the clear political will expressed by the government to improve the housing situation of Roma families, all these programmes and their implementing measures have not yet yielded the expected results. Although the effective implementation of the right to housing may require time, given the urgency of the housing situation of Roma families, a time frame of six years (1999-2005) should have been enough to realise significant improvements.

Article E enshrines the prohibition of discrimination and establishes an obligation to ensure that, in the absence of objective and reasonable justifications (see paragraph E, Part V of the Appendix), any individual or groups with particular characteristics benefit in practice from the rights in the Charter. In the case of Roma families, the simple guarantee of equal treatment as the means of protection against any discrimination does not suffice. Article E imposes an obligation of taking into due consideration the relevant differences and acting accordingly. This means that for the integration of an ethnic minority as Roma into mainstream society measures of positive action are needed.

¹ In conformity with Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints, the Contracting Parties to the European Social Charter or to the Revised European Social Charter have participated in the vote: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, 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, Slovak Republic, Slovenia, Spain, Sweden, "the former Yugoslav Republic of Macedonia", Turkey, Ukraine, and United Kingdom.

ii) by 9 votes to 1 that the lack of legal security of tenure and the non-respect of the conditions accompanying eviction of Roma families from dwellings unlawfully occupied by them, constitute a violation of Article 16 of the Revised Charter taken together with Article E.

It follows from the fact that illegal Roma settlements have existed for many years and that, though not uniform, provision of public services, as electricity, was ensured and inhabitants charged for it, that state authorities acknowledged and tolerated *de facto* the actions of Roma. Accordingly, though state authorities enjoy a wide margin of appreciation as to the implementation of measures concerning town planning, they must strike a balance between the general interest and the fundamental rights of the individuals, in this particular case the right to housing and its corollary of not making the individuals homeless.

The legislation on the legalisation of dwellings set conditions too stringent to be useful in redressing the particularly urgent situation of the housing of Roma families and thereby affected them in a disproportionate manner.

Though in certain cases the Roma evicted were provided with alternative accommodation or compensation, these measures, on the one hand, did not concern all families involved because of the conditions set by the law, and on the other hand, accommodation was either substandard or of a temporary nature. It is the responsibility of the state to ensure that evictions, when carried out, satisfy the conditions required by the Charter, in particular respect for the dignity of the persons concerned, even when they are illegal occupants, and that alternative accommodation or other compensatory measures are available in order to ensure that the persons evicted are not made homeless. By failing to take into account that Roma families run a higher risk of eviction as a consequence of the precariousness of their tenancy, Bulgaria has discriminated against them.

Having regard to the information communicated by the Bulgarian delegation at the 995th meeting of the Ministers' Deputies,

1. Takes note of the statement made by the respondent government indicating that Bulgaria undertakes to bring the situation into conformity with the revised Charter:
 - by implementing the measures already adopted for the improvement of the housing situation of Roma at local (municipal development plans for housing, improvement of infrastructures) and at national level (cadastre agency);
 - and by adopting the pending draft legislation (see Appendix to this resolution);
2. Looks forward to Bulgaria reporting, on the occasion of the submission of the next report concerning the relevant provisions of the European Social Charter (revised), that the situation has improved, and keeping the Committee of Ministers regularly informed of all progress made.

Appendix to Resolution CM/ResChS(2007)2

Summary of the information provided by the Permanent Representative of Bulgaria on Collective complaint No. 31/2005, European Roma Rights Centre against Bulgaria, for consideration by the Committee of Ministers

The Government of the Republic of Bulgaria had taken measures following the European Committee of Social Rights (ECSR) decision on the merits in the complaint. These measures were carried out in order to implement government policy for improvement of the situation of disadvantaged groups, including the Roma, and to ensure their integration into society, as well as to bring the situation into conformity with the revised Charter following the ECSR's decision on the merits of the complaint.

The decision was translated into Bulgarian and forwarded to the competent institutions to allow them to take it into account in their activities.

The following bills are pending before parliament:

- draft Act Amending and Supplementing the Territorial Planning Act (2007); the aim of the bill is to make it easier to legalise existing buildings and to construct new dwellings, including social housing;
- draft Housing Association Act, which aims to provide an alternative to municipalities running housing for disadvantaged groups.

The National Action Plan for Protection against Discrimination was adopted in 2007, as well as the Regulation of the Work of the National Legal Assistance Service for legal aid. The Cadastral Agency was also established. It developed cadastral maps and registers of 39 settlements with a Roma population (from a total of 153 settlements). These maps and registers are the foundation for planning and executing all sorts of development and construction works.

Out of a total of 60 municipalities with Roma amounting for more than 10% of the population, 59 have developed and adopted municipal plans for the 2007-2013 period in order to implement the National Programme for Improvement of the Living Conditions of Roma in Bulgaria (2005-2015). Work on existing technical infrastructures, mainly street maintenance, have been carried out in Roma neighbourhoods. Finally, training of non-governmental organisations based in the Roma community on ethnic and demographic issues were organised by municipal administrations.

Local self-government bodies and the local administration have an immensely important role to play in the process of improving the housing conditions of the Roma. The role of the government is to encourage and support them in fulfilling their obligations. Non-governmental organisations should also be used more effectively in the field for improving the housing conditions of the Roma. The limited results achieved in the past six-year period (from 1999 to 2005) were mainly due to the specific economic conditions of the country at the time.

Positive measures targeting Roma specifically have been taken, such as local self-government bodies delaying and executive power bodies hindering the execution of court verdicts when these damage interests of the Roma community. These sort of measures are not applied to any other community or citizens of any other ethnic origin. In order to create favourable conditions for resolving the housing problems of the Roma, a number of municipalities have provided, and are willing to provide further, for free or for a nominal fee, the right to build on municipal property and even to build municipal housing that is leased or put up for sale.

The Bulgarian Government has stressed once again its willingness to implement the planned measures to improve the housing situation of the Roma, in conformity with the National Housing Strategy and the legislation, as well as with the European Social Charter provisions and the case law of the ECSR. The government believes that the implementation of these measures will bring about a positive outcome in a reasonable period of time and will allow for the full practical use of the rights provided for in the Charter.