



NEWS REPORT

Date: 01 December 2011
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Title: Failure to Fulfil Positive Obligations regarding Roma in Portugal found by the European Committee of Social Rights
Country: Portugal
Context
Issue at stake: Violation of Article E (Non-discrimination), Article 16, 30 and 31(1) of the Revised European Social Charter (Revised Charter)
Ground of discrimination: Race/ethnic origin
Source: Decision on the merits of 30 June 2011, the European Committee of Social Rights in Complaint No. 61/2010 registered on 23 April 2010 and brought by the European Roma Rights Centre (ERRC)
Field: All fields, immigration
Legislative provisions: Article E (Non-discrimination) of the Revised European Social Charter (Revised Charter) in conjunction with each of Articles 16 (right of the family to social, legal and economic protection), 30 (right to protection against poverty and social exclusion) and 31(1) (right to adequate housing).

Content

Circumstances of the case:

The European Roma Rights Centre's (ERRC) complaint against Portugal was based on findings made between 2005 and 2011 during its field visits to several Roma settlements. Its specific concerns related to (i) "the precarious and difficult housing conditions for a large part of the Roma community"; (ii) "the high number of Roma families that live in segregated settings, whether in unregulated encampments or as a result of re-housing by the authorities in the outskirts of cities; and (iii) "the inadequacy of re-housing programmes for the Roma community in terms of their family composition, cultural habits and ways of life". It submitted to the European Committee Social Rights that each of the situations identified through its visits represented a

violation of the Government's non-discrimination obligations under the Revised Charter. The Portuguese Government argued that along with other members of Portugal's population, the Roma community has access to, and has benefited from, a set of social policies which are aimed at groups affected by poverty and social exclusion.

It claimed that whilst there have been no specific housing programmes based on ethnicity, the Roma have benefited from housing programmes available to all.

On 30 June 2011, the Committee found that the percentage of Roma living in poor housing conditions was "far above the national average" and they are therefore in a different and disadvantaged situation. The conditions in which many Roma are living in Portugal, and the failure of the Government to take sufficient measures to ensure the adequacy of those conditions, represented a violation of Article E (non-discrimination clause) of the Revised European Social Charter in conjunction with Articles 16 (right of the family to social, legal and economic protection), 30 (right to protection against poverty and social exclusion) and 31(1) (right to adequate housing). Identical treatment of the Roma was not sufficient to discharge the Government's positive obligation to avoid indirect discrimination by taking into account the different position of the Roma community as compared with the rest of the population. Finally, the Committee found that the Government had failed to discharge its further obligation, under Article 30 of the Revised Charter, to adopt positive measures to ensure that excluded and disadvantaged groups, such as Roma, are able to access rights such as housing and achieve social inclusion.

http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC61Merits_en.pdf