



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

4 June 2018

Case Document No. 4

European Roma Rights Centre v. Bulgaria
Complaint No. 151/2017

**FURTHER RESPONSE FROM THE GOVERNMENT
ON THE MERITS**

Registered at the Secretariat on 23 May 2018

TO
MR GIUSEPPE PALMISANO
PRESIDENT OF THE ECSR

DEAR PRESIDENT,

In connection with the opinion of international non-governmental organisation European Roma Rights Centre (ERRC) on the Bulgarian response to the substance of Collective Complaint No 151 of 22 May 2017 lodged by the ERRC to the Council of Europe's European Committee of Social Rights we provide the following submission:

We support the position expressed in the Bulgarian response sent on 28 December 2017 to the ECSR on the admissibility of Collective Complaint 151/2017 filed by the ERRC against Bulgaria by making the following additions and clarifications:

In the complainant's opinion on the Bulgarian response, there are again no specific verified facts or evidence of alleged violations at maternity wards. There is no evidence of probative value in this case to confirm the validity of the anonymous sources quoted in the complaint, which do not even make it clear which person(s) were affected. The specific timing of the alleged "infringements" also remains unclear. Furthermore, how can the Bulgarian government be sure that such statements have been made at all, when there is no evidence to support the relevant quotes set out in the claimant's complaint? With regard to the 4 pages supporting the ERRC opinion on the Bulgarian response with excerpts of telephone conversations between representatives of the Bulgarian Helsinki Committee and hospitals in Bulgaria, the government cannot comment on them as there is no evidence to confirm their genuine nature.

The Bulgarian Government is aware that there is no requirement to use up the domestic remedies before lodging a collective complaint, but the Commission for Protection against Discrimination (CPD) and the independent Bulgarian court are the competent authorities at

national level which rule on whether or not there is discrimination and all Bulgarian citizens, regardless of ethnic origin, can turn to them; in this sense the Bulgarian Government should examine whether and what signals on the subject of the complaint were submitted to them, and what are the resultant findings or rulings. Our check found that there were no complaints registered for the relevant period at the CPD and the system of the administrative courts. With regard to the difficulties encountered by the Romani in court complaints, please note that there is a national telephone number across the country which is a hotline where every citizen can get free legal advice. The national hotline is administered by the National Legal Aid Bureau. Legal counselling is provided free of charge by telephone by experienced lawyers.

If a person, regardless of his or her ethnicity, falls under the "socially disadvantaged" category, he/she could receive the following types of legal aid from the National Legal Aid Bureau:

- consultation to reach an agreement before filing a case or for filing a case;
- preparation of documents to file a court case;
- procedural representation / defence by a lawyer / in a case that is already in court;
- representation / defence by a lawyer / upon detention by the MoI bodies.

Regarding the complaints about the difficulties of Romani mothers highlighted in the complaint and the response of the claimant organisation arising from lack of knowledge of the Bulgarian language and the direct accusations of discrimination against the Bulgarian Government, please note that the official language according to the country's Constitution is Bulgarian. In this sense, Bulgarians born and raised in the country are supposed to speak the language. We do not impose any obligation on Roma to speak Bulgarian, but on the other hand we cannot require the medical staff at healthcare providers to speak Romani language. We believe that it is in the interests of both parties for a patient and a medical professional to use a language that both understand to get the most effective treatment.

Also, we would like to point out that in order to help Bulgarian citizens belonging to ethnic minorities, since 2007 the Bulgarian state has earmarked a delegated budget to designate health mediators at municipalities. For this period, the number of health mediators has increased from 55 in 2007 to 230 in 2018. One of the criteria for selection of health mediators is the proficiency in the language of the local vulnerable community. The main tasks of health

mediators include mediation between people from these communities and health and social institutions.

To improve the well-being of children is a top priority of the Bulgarian government and hence it pursues targeted and consistent policy to safeguard their rights. **Early childhood development is also one of the top four social priorities during the Bulgarian Presidency of the Council of the EU (January-June 2018).** The aim is to reduce poverty and promote social inclusion by supporting children and families, preventing early childhood risks, early intervention, providing a family or family-friendly environment for each child.

The Bulgarian government does not deprive children from giving their opinion on certain issues, but this cannot be treated as an adult's opinion. We do not consider objective the results of a study that refers to a 14-year-old child as a "woman".

Regarding the complainant's claim that the Bulgarian Government has not rejected the evidence in the collective complaint demonstrating practices of racial segregation, please note that both in this response and in the previous response the Bulgarian Government emphasizes that the complaint is groundless - it does not contain verified facts and circumstances pointing to the presence of segregated maternity wards. In this sense, the supporting quotes from an anonymous source against unidentified persons describing unchecked and unconfirmed situations cannot be considered "evidence".

We would also like to point out that, for the purposes of this response, through the Regional Health Inspectorates (RHI) in Sofia City, Varna, Sliven and Pazardzhik - the Ministry of Health has requested state and municipal hospitals which have maternity wards to provide information on how they organise maternity care activities and the results of complaints and claims regarding their services for 2017. The checks made are relevant to the complainant's allegations of segregated maternity wards in the above districts. Please find enclosed to this response the official letters we have received from the regional health inspectorates, which describe the results of the inspections they carried out.

The reports provided by the RHI found that in 2017 **there were no complaints received** from citizens either at the healthcare providers checked or at the relevant RHIs concerning segregation or other discriminatory treatment of women of Roma or other origin at obstetrics and

gynecology wards. The organisation of the activity, hospital admission and care for pregnant women and women in child-birth guarantees the equal treatment of all patients, regardless of their origin, language, national, racial or political affiliation, education, beliefs, cultural background, economic status, etc.

The admission, treatment and de-hospitalisation of each patient is governed by the effective health legislation and the secondary legislation, the requirements set out in the medical standard in obstetrics and gynecology, the therapeutical-diagnostic algorithms for work in obstetrics and gynecology wards, the rules of good medical practice, the code of professional ethics and the Standard for Emergency Medical Care.

The organisation of the care for mothers in child-birth complies with the regulations for the structure, activity and internal procedure of the Obstetrics and Gynecology Ward. The separation of patients is based on the severity of their condition. If other cases are of equal urgency, pregnant women and women who have recently given birth are treated with priority.

To prevent epidemic separate rooms are allocated to carriers of Australian antigen and Hepatitis C or those suspected of such infections; people infected with Syphilis and women who have not been consulted during pregnancy, regardless of their ethnicity.

In view of the above, both the Bulgarian legislation (detailed in the response of the Bulgarian government of 28 December 2018) and the case law are in line with the requirements of the European Social Charter (revised).

In conclusion:

In view of the foregoing, as well as in respect of the arguments set out in the response of the Bulgarian state of 28 December 2017, the Government of the Republic of Bulgaria rejects Complaint No 151 of 22 May 2017 as completely unfounded and asks the ECSR to discard it in its entirety.