

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**



23 February 2010

Case document no. 3

Centre on Housing Rights and Evictions (COHRE) v. Italy
Complaint no. 58/2009

**WRITTEN SUBMISSIONS OF THE GOVERNMENT
ON THE MERITS**

(TRANSLATION)

registered at the Secretariat on 5 February 2010

1. The Italian government refers to the collective complaint against Italy lodged by the non-governmental organisation **Centre on Housing Rights and Evictions (COHRE)** concerning articles 31 and 16, article 19 and article 30 of the revised Charter, taken alone or read in conjunction with Article E of the revised Charter.
2. The Italian Government would like to submit the following observations to the Committee on the merits of the complaint.

I. THE COMPLAINTS

3. According to the COHRE, following the Committee of Ministers' Resolution of 3 May 2006 on the complaint *European Roma Rights Centre v. Italy*, "conditions have not improved, and have in fact worsened dramatically" (paragraphs 14 and 15).
4. The COHRE, in particular, highlights that the government has violated:
 - a) Articles 16 and 31 of the Revised Charter, read alone or in conjunction with Article E, on grounds that recent so-called emergency security measures and heightened racist and xenophobic discourse have resulted in unlawful campaigns of evictions leading to homelessness and expulsions, disproportionately targeting Roma and Sinti. These violations are coupled with Italy's continuing failure to address the findings of the Committee in Collective Complaint No. 27/2004 and subsequent reporting.
 - b) Article 19, read alone or in conjunction with Article E, given Italy's failure to provide migrant workers and their families with protection in the areas of expulsions and racist and xenophobic discourse; and due to Italy's failure to provide protection or assistance to migrant workers and their families in the areas of housing and legal redress.
 - c) Article 30 of the Revised Charter, read alone or in conjunction with Article E, on the basis of policies and practices of segregation of Roma and Sinti and the disparate denial of legal status and social benefits. Italy's failure to develop and implement a national strategy to address these issues and failure to protect Roma from poverty and social exclusion demonstrates Italy's non-compliance with its obligations under Article 30.

II. THE MERITS OF THE COMPLAINT

5. The government observes that the complaint, which has been declared admissible, is based on a very broad approach to the situation of Roma and Sinti in Italy, which calls for a practical and direct appreciation of the regulations adopted by Italy since 2006 in connection with its obligations under the revised Charter.
6. The government refers to Conclusions 2007 in respect of Italy to provide the Committee with further and exhaustive information on the subject.
7. First, the government has introduced measures to improve, both qualitatively and quantitatively, the situation of all Roma and Sinti, and in particular that of children who would otherwise be sent out by their parents or others to beg for money or be subjected to violence or sexual exploitation.
8. The government has therefore produced statistics on the number of such young persons in the cities of Rome, Milan, Florence, Bologna and Naples, with the approval of the European Commission and in collaboration with UNICEF and the Red Cross.
9. This has made it possible to identify all young persons, particularly those of Roma or Sinti origin, in the relevant camps, following which the government and national, regional and local institutions have taken urgent steps to determine whether they are Italian citizens, with the particular aim of offering them protection, whether they were born in Italy or are of migrant origin.
10. In connection with articles 31 and 16 of the revised Charter, the government has taken steps to provide adequate accommodation by financing projects in the cities of Rome, Padua, Turin, Milan and Reggio Calabria, as provided for in the "*Piano Casa*" (Act 133/2008).
11. In this connection, paragraph II.3 of Recommendation (2005)4 of the Committee of Ministers states, with regard to "*choice of lifestyle*" that, while "*all conditions necessary to pursue these lifestyles should be made available to them by the national, regional and local authorities*", this has to be done "*in accordance with the resources available and ... the rights of others and within the legal framework relating to building, planning and access to private land*".
12. New measures have been introduced to protect the health of and provide employment for those concerned, through the establishment, in accordance with Article 30 of the Charter, of a social inclusion of immigrants fund in 2007 and a national social policies fund in 2008.
13. Following the establishment of the European Union Platform for Roma Inclusion, and with the help of structural funds, the national office against racial discrimination (UNAR), in conjunction with the European Commission, is preparing measures to combat racial discrimination and xenophobia.

14. Financial support has been given for various programmes, based on intercultural mediation, to encourage children to attend school and secure closer integration of their parents into Italian life.
15. The current situation is very complex. Current legislation is only likely to be effective if those concerned are willing to accept the assistance available and the measures adopted in accordance with the Charter.
16. Migrants who are not citizens may be liable to expulsion under current legislation for specific reasons. It should be noted in this connection that Article 19§8 of the Charter also authorises the expulsion of workers who are lawfully resident if they endanger national security or offend against public interest or morality.
17. In this context, it is recalled that arrangements can be made for eviction, particularly in the event of illegal occupancy or infringements of individual or collective interests. In its decision of 8 December 2004 on the merits of Complaint No. 15/2003 (*European Roma Rights Centre v. Greece*), the Committee stated that **"illegal occupation of a site or dwelling may justify the eviction of the illegal occupants"**. This is subject to the proviso, however, that *"the criteria of illegal occupation must not be unduly wide"* and that eviction takes place **"in accordance with the applicable rules of procedure and these [are] sufficiently protective of the rights of the persons concerned"**.
18. The Government is currently attempting to implement a policy that has evolved and progressed considerably over recent years and that, while still open to improvement, reflects a genuine national effort in this sphere stemming from an in-depth review of the issues involved.
19. Italy is therefore in compliance with the recommendations of the ECSR, which considers that the situation of travellers requires *"positive intervention"* by the state, combined nonetheless with some discretion as to what constitutes a proper *"balance"* between the general interest and fundamental rights:

"The Committee considers that the effective enjoyment of certain fundamental rights requires a positive intervention by the state: the state must take the legal and practical measures which are necessary and adequate to the goal of the effective protection of the right in question. States enjoy a margin of appreciation in determining the steps to be taken to ensure compliance with the Charter, in particular as regards to the balance to be struck between the general interest and the interest of a specific group (...)" (European Roma Rights Centre v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 35).
20. The government also asks the Committee to consider the observations of the relevant Italian institutions, copies of which, in Italian, are appended, to provide a fuller picture of the various activities, regulations, funding operations and measures introduced to improve the situation and circumstances of

Roma and Sinti. If the Committee so wishes, it is prepared to translate these documents.

21. In the light of the foregoing, it is clear that the Italian authorities are taking all possible steps to ensure that current legislation guarantees:

- a) access to a sufficient standard of accommodation to improve the situation of young Roma and Sinti children and their parents;
- b) their social inclusion and full legal status through the substantive and judicial recognition of their rights;
- c) action to combat discrimination and the implementation of a national strategy to deal with all the problems faced by Roma and Sinti.

22. The Government therefore concludes that there is no violation of Articles 16, 19, 30 and 31 of the revised Social Charter, read in conjunction with Article E.

Rome, 4 February 2010

Council
Agent
Min. Plen. Giorgio Marrapodi
Spatafora

Gouvernement
Ersiliagrazia

Enclosure: Letters: 1) Ministero Interno – Ufficio Affari legislativi e relazioni parlamentari; 2) Ministero Lavoro. Salute e politiche sociali – Direzione generale dell'immigrazione; 3) Ministero Lavoro. Salute e politiche sociali – Direzione Generale Inclusione, diritto sociali e responsabilità sociale delle imprese (CSR).