

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



13 September 2010

Case document No. 2

European Roma Rights Centre (ERRC) v. Portugal
Complaint n° 61/2010

**OBSERVATIONS OF THE GOVERNMENT
ON THE ADMISSIBILITY**

Registered at the Secretariat on 10 September 2010

On the admissibility of the complaint submitted by the European Roma Rights Centre (ERRC) concerning the housing rights situation of Roma in Portugal, we would like to bring to the attention of the European Committee of Social Rights the following information and observations:

- Portugal has signed and ratified the Additional Protocol of 1995 to the European Social Charter, which has entered into force on 1 July 1998;
- According to Article 1 of the abovementioned Protocol, we do recognize the right of international non-governmental organizations which have consultative status with the Council of Europe and have been put on a list established for this purpose by the Governmental Committee - which is the case with the European Roma Rights Centre - to submit complaints alleging unsatisfactory application of the Charter;
- According to Article 3 of the same Protocol, the international non-governmental organization may submit complaints only in respect of those matters regarding which they have been recognized as having particular competence, which appears to be the case of the European Roma Rights Centre with respect to the Roma situation in Europe;
- Also, we have no reason to doubt that Mr. Robert Kushen, Managing Director of the ECRR is the person with the competence to represent the complainant organization, as required by Rule 23 of the Rules of the ECSR.

However, we have some doubts on the association of a national non-governmental organization – “Númena Centro de Investigação em Ciências Sociais e Humanas” - to this complaint in view of the fact that Portugal has not recognized the right of any other representative national non-governmental organization to lodge complaints against it.

Moreover, we do not consider that the complaint indicates sufficiently, as required by Article 4 of the Protocol, in what respect Portugal has not ensured the satisfactory application of articles 16, 30, 31 and E of the Charter.

Indeed, in the conclusions formulated by the European Committee of Social Rights of the Charter on the Portuguese national reports, there has never been a reference to any case of non-conformity related to a violation of the rights stated in the provisions of Articles 16 (the right of the family to social, legal and economic protection), 30 (right to protection against poverty and social exclusion) and 31 (right to housing) of the Revised Charter in relation to the Roma.

This is particularly the case with article E of the Charter. In the complaint, the ECRR explicitly admits that the Portuguese legislation relevant to anti-discrimination provides adequate safeguards for the prevention of discrimination. We dispute that alleged failures of implementation of these legislation are disproportionately affecting Roma. We rather believe that the problems affecting

the housing rights of Roma and their possible differential treatment are, in general, based on an objective and reasonable justification, which, according to Part V, Article E of the Appendix to European Social Charter (Revised), "*shall not be discriminatory*".

We also dispute the blanket statement that "Portugal has failed to meet its human rights obligations under the RESC and other relevant international law" (para. 33 of the Complaint). The Complaint itself underlines that the European Commission against Racism and Intolerance "*noted that progress had been made in the development of law and practice to combat discrimination and provide for equal access to social services in Portugal*" (para. 36 of the complaint).

Also, above and beyond the Constitutional and ordinary legislative framework promoting non-discrimination and the principle of the right to housing, Portuguese authorities have, in practice, endeavoured to apply it. In this context, it is important to highlight that Portuguese authorities have put a National Action Plan for Inclusion (2008-2010) in place, with some specific measures aimed at the Roma communities, and the issue of access to housing. The Plan also foresees the imminent creation of a follow-up mechanism aimed at checking how well these communities actually integrate. Indeed, it is the preferred instrument for cross-cutting planning, strategic and operational coordination of policies and measures designed to address the challenges raised by population groups such as the Roma.

Besides this specific approach, the Roma community is increasingly covered by many of the measures for the general population. These include the Social Integration Income, housing programmes, social protection and school social action.

The High Authority for Immigration and Intercultural Dialogue (ACIDI) has been conducting some important measures to promote the social inclusion of the Roma communities. The Support Office for Roma Communities, for example, has been assuming a mediating role between these communities and several institutions, in order to solve some difficult situations, including in the domain of housing. In the same context, ACIDI has also launched a Pilot-Project on Municipal Mediators, whose goal is to improve the access, by Roma communities, to local services and infrastructures, and to promote a better communication between the said communities, local institutions and the local population.