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







**Case Document No.2**

**Inclusion Europe v. Czech RepublicCD2**
Complaint No. 267/2026

# OBSERVATIONS BY THE GOVERNMENT ON ADMISSIBILITY

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THE CZECH REPUBLIC

# OBSERVATIONS OF THE GOVERNMENT ON THE ADMISSIBILITY OF THE COLLECTIVE COMPLAINT

**INCLUSION EUROPE v. the CZECH REPUBLIC**
*(no. 267/2026)*

PRAGUE

6 NOVEMBER 2026

1. By a letter dated 14 September 2026, the European Committee of Social Rights ("the Committee") informed the Government of the Czech Republic ("the Government") that on 24 August 2026, a collective complaint had been lodged against the Czech Republic by the non-governmental organisation *Inclusion Europe* ("the complainant organization") against the Czech Republic, registered under number 267/2026 ("the collective complaint"). At the same time, the Committee invited the Government to comment on the admissibility of this collective complaint.

## I. SUMMARY OF THE COMPLAINANT ORGANIZATION'S ALLEGATIONS

2. The complainant organization alleges before the Committee a violation of Articles 11(1), 14(1) and 16 and the equality principle of the European Social Charter ("the Charter"), either on their own or in conjunction with the Preamble to the Charter. The complainant organization has set out the subject matter of the collective complaint in three objections (see § 4 of the collective complaint):

a) The Czech Republic has failed to adopt an appropriate regulatory framework to prevent segregation and has tolerated the maintenance of a social care infrastructure in which especially people with intellectual disabilities are structurally and continuously channelled into segregated residential social care services.

b) Prague citizens and residents with disabilities and especially with intellectual disabilities have been systematically territorially segregated in social care institutions located outside the territory of the capital city, often in remote or socially isolated localities, instead of being offered an adequate range of accessible community-based support services within the territory of Prague or, if appropriate, in the Metropolitan area.

c) Prague failed to develop an adequate network of community-based social care infrastructure within its territory by financing consistent with the obligation of maximum use of available resources, preventing the channelling of Prague's citizens and residents into territorially segregated residential social care services.

3. The Government propose that the complaint be declared inadmissible, namely:

- on the grounds of **incompatibility *ratione personae* with the Charter** in respect of objection c) and, in part, objection b); and
- as regards the remainder of the collective complaint, on the grounds that **its content overlaps with a previous collective complaint** against the Czech Republic lodged with the Committee, **on which no decision has yet been taken**.

## II. INCOMPATIBILITY OF PART OF THE COMPLAINT RATIONE PERSONAE WITH THE CHARTER

4. The collective complaint, in the context of objection c) and, in part, objection b), argues that the alleged violations of the Charter are the result of a long-standing practice and individual decisions by the City of Prague (hereinafter 'Prague') as a self-governing territorial unit to which the State has entrusted powers and obligations in the field of social care, in particular under the Act No. 108/2006 Coll., on social services ("Social Services Act"), and which, according to the collective complaint, fails to exercise these powers in accordance with the Charter (summary of § 5 and § 6 of the collective complaint).

5. The collective complaint argues that, under the Charter, the Czech Republic is responsible for these individual decisions, practices and potential failures on the part of Prague as a self-governing territorial unit, the consequence of which is claimed to be a situation inconsistent with the Charter. In support of its claims, it refers to several decisions of the Committee (see § 6 of the collective complaint).

6. However, none of the decisions cited supports such a conclusion (see below, § 14 et seq.). On the contrary, some of them suggest the exact opposite, namely that the Czech Republic is responsible only for the overall resulting situation and its compliance with the Charter.

7. Prague is a territorial self-governed authority which is not a party to the Charter. Its self-government (like that of other local authorities) is guaranteed by Chapter Seven of the Czech Constitution and also by the European Charter of Local Self-Government, which, amongst other things, guarantees that local authorities, in accordance with the principle of subsidiarity, "*shall, within the limits of the law, have full discretion to exercise their initiative with regard to any matter which is not excluded from their competence nor assigned to any other authority*" and that "*Powers given to local authorities shall normally be full and exclusive*" (Article 4 of the European Charter of Local Self-Government).

8. Competences in the field of social services, relating to the establishment of social service facilities, their planning and other measures for which, according to the collective complaint, the State should be responsible, are exercised by Prague within its autonomous powers, as the powers whose allegedly inadequate exercise is contested in the collective complaint are entrusted by Czech legislation to the "regions".[1]

9. The collective complaint claims that "*City of Prague, is endowed by law with devolved powers in social care policy*" (see § 12 of the collective complaint), which is, however, misleading. The devolved powers vested into "regional offices" under § 5(2) of the Social Services Act are very limited, most notably to the registering of social services [§ 78(1) of the Social Services Act] and coordinating

[1] See § 16(1) and (3) of Act No. 131/2000 Coll., on the Capital City of Prague; see also § 5(3) of Act No. 108/2006 Coll., on social services [*a contrario* to § 5(2) of the same Act].

the provision of social services [§ 93(3) of the Social Services Act]. The vast majority of powers exercised by "regions" relevant to the collective complaint, such as "*ensuring the availability of social services, assessing the need for social services, creating plans for the development of social services"* [§ 95(1) of the Social Services Act] are exercised as autonomous powers, while similar autonomous powers are vested into the municipalities (§ 94 of the Social Services Act).

10. Specifically, with regard to the accessibility of social services for people with disabilities, it has been also confirmed by Constitutional Court that *"within the Czech social services system, it is the higher-level territorial authorities – that is, the regions (acting within their autonomous powers) – that play the primary role on the part of the public authorities in creating the conditions for the provision of social services and ensuring their accessibility*".[2]

11. Consequently, if Prague, within the scope of its independent powers, decides to establish facilities for the provision of social services outside its own territory, the State cannot prevent it from creating such capacities whilst maintaining the guaranteed protection of self-government, even if it does so repeatedly or over the long term.

12. The State's task, in accordance with its obligations under the Charter, is to set up its legal framework and to ensure its functioning in such a way that **the overall resulting situation regarding the availability of social services throughout the country** is consistent with its obligations under the Charter.

13. In other words, the establishment of social services facilities outside the territory of a local authority, however long-term, cannot by itself give rise to a situation that is inconsistent with the obligations arising from the Charter. In a situation where the availability of social services would be inadequate, the State may establish its own facilities or take other measures to ensure that the overall resulting situation is in accordance with the Charter. It is precisely for this overall resulting situation, and not for individual measures or strategies of local authorities, that the State bears responsibility under the Charter.

14. This conclusion regarding the State's responsibility solely for the overall resulting situation is also supported by the decision to which the complainant organization refers, namely in the case of *European Roma Rights Centre v. Greece* (no. 15/2003, decision of 8 December 2004), where the Committee stated in paragraph 29 that *"…even if under domestic law local or regional authorities, trade unions or professional organisations are responsible for exercising a particular function, states party to the Charter are still responsible, under their international obligations to ensure that such responsibilities are properly exercised. Thus, ultimate responsibility for implementation of official policy lies with the Greek state."*

[2] Judgment of the Constitutional Court of the Czech Republic, no. I. ÚS 2637/17, § 48.

15. This key wording is repeated in the other decisions cited by the complainant organization. However, whilst these decisions also refer to the State's direct responsibility for decisions taken by local authorities, it is important to note that the context of the collective complaint under consideration differs from that of those previous cases. For the most part, they did not focus exclusively on individual actions taken by a particular local authority; rather, they alleged a general failure to fulfil obligations under the Charter across the entire territory of the State (i.e. the overall resulting situation), and the situations within specific local authority areas served merely as examples. Where the respondent governments argued that they had delegated the fulfilment of these obligations to local authorities and were therefore not responsible for the resulting situation, the relevant passages of these decisions—which express the Committee's rejection of such arguments—must also be read in this context.[3] [4]

16. That being said, the Government acknowledge that they bear responsibility for the overall resulting situation. Precisely because the State is responsible for the resulting situation of availability of social services throughout the entire territory of the Czech Republic, **it is necessary for the Committee to assess the situation in the Czech Republic as a whole, and not merely within the framework of a single territorial unit**.

17. In the context of the collective complaint under consideration, this means that to assess whether the Czech Republic fulfils its relevant obligations under the Charter, it is not relevant whether and to what extent Prague establishes social

[3] Similarly, the Committee's conclusions that "*ultimate responsibility for policy implementation, involving at a minimum oversight and regulation of local action, lies with the (Italian) State"*, as stated in the case of *Centre on Housing Rights and Evictions (COHRE) v. Italy* (No. 58/2009, decision of 25 June 2010, § 90), were set out in a decision whose factual circumstances differed fundamentally from those of the collective complaint under consideration. Firstly, that decision too dealt with the resulting situation in Italy and the steps taken by the State to improve the overall situation. Moreover, the case concerned a situation where the individual measures taken by local authorities could, in themselves, give rise to a situation inconsistent with the Charter (i.e. where they potentially discriminated in access to housing on the grounds of membership of the Roma minority). In such a situation, it may be inferred that it is the State's duty to ensure through oversight and regulation that such discrimination does not occur anywhere within its territory. In the case under consideration, however, the establishment of social services facilities outside the territory of a local authority cannot, by itself, give rise to a situation inconsistent with the Charter.

[4] Even in the case of a collective complaint targeting a single specific situation, the Committee justified its admissibility, amongst other things, precisely on the grounds that this situation serves as an example of a general problem concerning the application of the Charter throughout the entire territory of the state [*European Roma Rights Centre (ERRC) v. Italy*, No. 244/2025, decision on admissibility of 2 July 2025, § 14]: "*The Committee notes that, although the complaint highlights the situation of a specific group of individuals, it does so in order to demonstrate a general problem of the application of the Charter resulting from state* practice". From the Committee's perspective, therefore, the general dimension of the matter was relevant to the admissibility of the collective complaint, which, however, does not apply in the present case. Furthermore, even if this were the case in the present matter, it would constitute a duplication of proceedings with a collective complaint that has not yet been decided (see Part III of these Observations).

services facilities outside its territory, but rather what the overall availability of these facilities is throughout the entire territory of the Czech Republic.

18. Both in Prague and its surrounding areas, social services facilities may be established by other entities – directly by the State, Prague's city districts, neighbouring municipalities, the Central Bohemian Region, or private entities, possibly with state support to ensure their availability. It is the State's obligation to ensure the availability of social services throughout the territory of the Czech Republic, and the choice of methods by which the State achieves this objective is at its discretion. The State is therefore not responsible for the development of capacity by Prague outside the territory of Prague; **it could only be held responsible for any overall shortage of capacity in social services facilities – that is, for its own possible inaction, not for the actions of another entity.** Therefore, there is no direct causal link between strategies and individual acts of Prague and the Czech Republic's obligations under the Charter.

19. It is not, and cannot be, part of the State's obligation to ensure that each local authority fulfils the standards guaranteed by the Charter in isolation. This approach would, taken *ad absurdum,* make it possible to enforce compliance with the obligations arising from the Charter through the collective complaint mechanism by means of successive individual complaints directed separately against each region (in the case of the Czech Republic, this would, for example, involve 14 separate collective complaints against 14 individual regions), or even separately against each municipality.

20. However, the interpretation whereby each municipality would be required to take steps to ensure the fulfilment of the State's obligations within its (often very small) territory, and furthermore the State would be liable for individual steps or inaction taken by the municipality within its own sphere of competence, and each such collective complaint against each municipality could be lodged separately, is not tenable. Collective complaints should therefore be lodged against the overall resulting situation in the State as a whole (the Government would note, at this juncture, that this has already been done in a different collective complaint lodged against the Czech Republic which is currently pending before the Committee (see Part III of these Observations).

21. Furthermore, accepting State´s responsibility for the individual actions of each territorial unit and the situation within this unit – independently on the situation in the rest of the State – would run **completely counter to the purpose of collective complaints**, which are supposed to raise general questions about the State´s systemic violations. Allowing the collective complaints to be lodged one by one against various autonomous bodies within the State and correspondingly impose an obligation on the State to solve the situation in those bodies separately would run counter the systemic dimension of the collective complaint's procedure.

22. For these reasons, the Government propose that the Committee reject the relevant parts of the complaint, which challenge individual measures falling within Prague's powers, on the grounds that they are inadmissible *ratione personae* with the Charter.

## III. INADMISSIBILITY OF THE COMPLAINT ON GROUNDS OF DUPLICITY

*a) Substantive overlap between the remaining parts of the collective complaint and a previous collective complaint lodged against the Czech Republic, on which the Committee has not yet ruled*

23. The substance of the remaining objections can be summarised as follows:

- the Czech Republic has failed to adopt a legal framework that would effectively prevent the territorial segregation of persons with disabilities (particularly those living in Prague);
- as a result, these persons are forced to live in isolation far from Prague and from their family members and friends, as there are insufficient community-based social services and an overall lack of capacity in social services within Prague and its Metropolitan area.

24. This objection has, in fact, already been included in the collective complaint in the case *of Autism-Europe v. the Czech Republic* (no. 245/2025), which is currently pending before the Committee (hereinafter referred to as the *"Autism-Europe* collective complaint"). *The Forum for Human Rights*, acting in its capacity as a national non-governmental organisation, was involved in the submission of this previous collective complaint, just as it is in the submission of the collective complaint under consideration. The *Autism-Europe* collective complaint is published on the Committee's website. Therefore, the complainant organization could and should be familiar with its content.

25. In the *Autism-Europe* collective complaint, the complainant organization raised the issue of territorial accessibility to social care facilities. In paragraph 70, it supported its objections with, amongst other things, statistics on the uneven distribution of capacities of social care facilities between large settlements (which undoubtedly include Prague) and small settlements.[5]

26. In subsequent paragraphs, the *Autism-Europe* collective complaint addressed the unavailability of specific types of social services throughout the Czech Republic, highlighting significant regional disparities in their distribution (e.g. § 80 of the complaint). Although Prague may have fared better than other regions in the partial comparisons made in this complaint, the core of the complaint was to highlight the unavailability of community-based (as well as other) social services throughout the Czech Republic, including Prague. The unavailability of

[5] "For example, 30 per cent of all persons with intellectual disabilities live in large towns with more than 50,000 inhabitants, but only 20 per cent of places in community-based facilities are available there. In large towns, there are 14 people with intellectual disabilities (excluding those with mild intellectual disabilities) for every one place in community services. By contrast, in smaller towns, where the majority of places in these services are located, there are six people with intellectual disabilities for every one place."

social services facilities within Prague is also at the heart of the complaint under consideration (see § 18 above).

27. Paragraph 121 of the *Autism-Europe* collective complaint even substantiates the objections raised at the time with the story of a family from Prague, a member of which, due to a lack of suitable facilities within Prague, is being held in a psychiatric hospital far away from Prague, where his father can only visit him once a week. Consequently, according to the collective complaint, this family – and in particular the boy Michal – is suffering in ways that constitute a violation of rights in the same manner as is argued by the collective complaint under consideration, as this is also a situation of separation of a person with intellectual disabilities from their family in Prague.

28. In this story, as in the whole *Autism-Europe* collective complaint, more issues were raised and illustrated than "merely" a lack of a suitable facility within a reasonable distance from Prague, and the resulting *de facto* separation of families; however, this narrower framework was also present there.

29. In addition to the overlap in substance, what is also worth noting is the overlap in the articles of the Charter in respect of which the complainant organizations alleged violations. In both cases, the alleged violations concern Articles 11(1), 14(1) and 16, with the mechanisms describing how these articles were allegedly breached: in both collective complaints, it was due to the lack of capacities of services which, by using methods of social work, contribute to the welfare and development of individuals [Article 14(1)], this happening in various (or specific) areas around the country, and resulting into territorial segregation and isolation of people with special needs which is claimed to be a cause of ill-health [Article 11(1)], thus failing to effectively protect also family life [Article 16). The fact that *Autism-Europe's* collective complaint alleged violations of these articles also in a variety of other ways, and also alleged violations of other articles, does not contradict the substance of this Government's objection.

*b) Submission of a complaint identical in substance to one previously submitted to the Committee as a ground for inadmissibility*

30. The Government is aware that the submission of a collective complaint that is identical in substance (or subsumable under) as a collective complaint previously submitted does not necessarily mean that the later complaint is inadmissible; however, they are convinced that, in the present case, there are strong grounds for reaching such a conclusion.

31. According to the admissibility criteria published on the Committee's website, a collective complaint may be declared admissible even if a similar case has already been submitted to another national or international body. Conversely, the fact that the substance of a complaint has been examined as part of the Charter

supervision procedure based on government reports does not *per se* constitute an obstacle to the complaint's admissibility.[6]

32. However, this is not the case with this collective complaint, where a "similar" (substantially overlapping) collective complaint has been submitted to the same international body (the Committee), which has not yet ruled on it, and the overlap in substance does not relate to an administrative review either. The Government therefore considers that this issue should be relevant to the assessment of admissibility, which can moreover be inferred, at least in part, from the Committee's previous case law.

33. In its decision on the admissibility of the collective complaint in the case *of Confédération française de l'Encadrement CFE-CGC v. France* (no. 16/2003, decision of 16 June 2003, § 8), the Committee declared the collective complaint admissible, inter alia, on the grounds that it was not identical to a previous collective complaint lodged against France, as it was directed against new domestic legislation adopted in the intervening period.

34. For the Committee, therefore, the relevant question in terms of admissibility was clearly whether it would be examining the same issue against the same State, raised shortly after the previous collective complaint. Apart from the fact that, in this case, there had been a change in legislation in the meantime, the respondent State, moreover, had a potentially reasonable period of time (one and a half years since the Committee's previous decision) to remedy the situation of non-compliance with the Charter.

35. **Failure to allow a reasonable period of time within which the respondent States could respond to the violations of the Charter identified by the Committee would call into question the entire process of implementing the Committee's decisions**, in which the time limits within which a State must take specific measures are clearly set out. This process often takes several years, even when all the recommended steps are followed within the specified time limits.[7]

36. The argument that these criteria should be relevant to the assessment of the admissibility of a collective complaint, and that the respondent states should, at the very least, be given a reasonable period of time to remedy the situation between individual collective complaints raising the same issue, is also supported by the

[6] See The Collective Complaints Procedure – Social Rights.

[7] The Committee addressed the question of whether it is admissible to repeatedly lodge collective complaints with overlapping content in its decision on the admissibility of the collective complaint of the European Roma Rights Centre (ERRC) v. Italy (No. 244/2025, decision of 2 July 2025, § 14): "The Committee recalls that the housing situation of the Roma in Italy, including in Giugliano, has been the subject of several previous complaints filed with the Committee (see ERRC v. Italy, Complaint No. 27/2004, Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, and Amnesty International v. Italy, Complaint No. 178/2019)". In this case too, therefore, unlike in the collective complaint under consideration, the requirement for a reasonable period of time for the respondent State to remedy the situation could have been upheld, as 4, 9 and 2 years had elapsed, respectively, between the decisions of the Committee and the lodging of the subsequent collective complaint; this decision is therefore not at odds with the Government's arguments.

academic literature – on the grounds that, otherwise, *"the effectiveness of the collective complaints system would be significantly impaired*."[8]

37. If it was possible to lodge complaints with the Committee against the same State in quick succession concerning the same issue, without the State being given a reasonable period of time to remedy any breach of the Charter identified by the Committee – or indeed even before the Committee had reached a decision on the previous complaint (as is the case here) – such a situation would, moreover, risk seriously overburdening the Committee.

38. Furthermore, just as with regard to the first objection of inadmissibility (see § 21 above), accepting the admissibility of duplicate collective complaint would run **counter to the purpose of collective complaints**. The mechanism of collective complaints was created to complement the judicial protection provided under the European Convention on Human Rights in order to raise complaints about systemic problems of Contracting States in their complexity, so that states could adjust their potentially malfunctioning system. If there is no time for the states to carry out the structural adjustments, the collective complaint cannot fulfil this purpose. Also, acceptance of consecutive collective complaints targeting firstly the general problem and then, again, a specific part of the very same general problem would erase the general dimension of the collective complaint mechanism.

39. For these reasons, the Government propose that the collective complaint be declared inadmissible, even in those parts that are compatible *ratione personae* with the Charter.

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[8] Churchill, Robin R., U. Khaliq. The Collective Complaints System of the European Social Charter: An Effective Mechanism for Ensuring Compliance with Economic and Social Rights? *European Journal of International Law,* (15(3), 1 June 2004*, Oxford University Press, p. 433, available at: https://academic.oup.com/ejil/article/15/3/417/374135. Also in line with this is* Papadopoulos, Nikolaos A. 'Strategic litigation before the European Committee of Social Rights: Fit for purpose?' *Netherlands Quarterly of Human Rights (40(4),* 12 October 2022*, SAGE Journals*, available at: https://journals.sagepub.com/doi/10.1177/09240519221131401