



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

28 May 2020

**Case Document No. 1**

**European Roma Rights Centre (ERRC) v. Belgium**  
Complaint No. 195/2020

**COMPLAINT**

**Registered at the Secretariat on 27 April 2020**



European Committee of Social Rights  
Council of Europe  
By email only: [social.charter@coe.int](mailto:social.charter@coe.int)  
27 April 2020

**Re: Introduction of a New Collective Complaint and URGENT Request for the Indication of Immediate Measures**

**EUROPEAN ROMA RIGHTS CENTRE v BELGIUM**

Dear Sir/Madam,

In accordance with Rule 23 and Rule 36 of the Rules of the European Committee of Social Rights, the European Roma Rights Centre as a complainant organization is writing to introduce a collective complaint against Belgium and requests from the Committee to indicate to the Belgian Government adoption of immediate measures, necessary to avoid irreparable injury or harm of several Traveller families whose homes (caravans) have been confiscated by the Belgian police on 4 and 5 April, 2020, during extraordinary measures in the context of the COVID-19 world pandemic.

2. This complaint includes the following sections:

- a. Admissibility**
- b. Summary of the Facts**
- c. Violations of the European Social Charter (Revised)**
- d. Request for Indication of Interim Measures**

## a. Admissibility

3. The European Roma Rights Centre (“the ERRC”) is on the list of international non-government organisations entitled to bring collective complaints. See GC(2019)1. The complaint has been signed by Dorde Jovanovic, who according to the attached statutes of the organisation (Annex 1), is entitled to sign on its behalf.
4. The ERRC has extensive experience investigating and exposing institutional antigypsyism among police as well as police misconduct against Roma and Travellers. For example, the ERRC represented the applicants in various successful cases before the European Court of Human Rights concerning police misconduct: see, e.g., *Nachova and others v Bulgaria* (Grand Chamber, 2005); *Moldova and others (no2) v Romania* (Grand Chamber, 2005); *Borbála Kiss v Hungary* (2012). The ERRC has also submitted numerous third-party interventions in such cases to the European Court of Human Rights, providing an extensive overview of antigypsyism in policing in various jurisdictions. For example, we recently made such submissions in cases concerning Slovakia<sup>1</sup> and North Macedonia.<sup>2</sup> The ERRC regularly compiles reports, fact-sheets, and other documents on issues arising under the European Social Charter (Revised). In relation to the issue dealt with here, the ERRC recently published a fact-sheet on collective punishment of Roma across Europe.<sup>3</sup> The issue dealt with here is a subject we know well and have reported on frequently in many countries.
5. The ERRC currently has a small, Brussels-based team which has been following this particular matter since the first big police operation in relation to sites populated by Traveller communities across Belgium

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<sup>1</sup> Our third-party intervention in *M.B. v Slovakia* (pending, application number 45322/17) can be found at [http://www.errc.org/uploads/upload\\_en/file/5133\\_file1\\_echr-mb-v-slovakia-final-intervention-15-february-2019.pdf](http://www.errc.org/uploads/upload_en/file/5133_file1_echr-mb-v-slovakia-final-intervention-15-february-2019.pdf).

<sup>2</sup> Our third-party intervention in *Dzeladin v North Macedonia* and two other cases (pending, application number 43440/15) can be found at : [http://www.errc.org/uploads/upload\\_en/file/dzeladin-v-macedonia-and-two-other-cases-third-party-intervention-5-february-2018.pdf](http://www.errc.org/uploads/upload_en/file/dzeladin-v-macedonia-and-two-other-cases-third-party-intervention-5-february-2018.pdf).

<sup>3</sup> The fact-sheet, published in March 2019, is available at <https://issuu.com/romarightsjournal/docs/mob-justice-collective-punishment-a>.

starting from 7 May 2019. In Complaint No.185/2019 from 12 July 2019,<sup>4</sup> we already informed the Committee about the arbitrary conduct of the Belgian police authorities in relation to sites populated by Traveller communities across Belgium starting from 7 May 2019 in what was the largest police operation in Belgium (known as Operation “STRIKE”) in the last two decades. As part of that police operation, 90 caravans (i.e. the vehicles in which Travellers live), 91 other vehicles, 34 valuable items, and large sums in cash were seized, leaving many families from the community homeless, without social aid or housing alternatives being offered to them. On that occasion we made the Committee aware that many of the actions, such as searches and seizures of caravans, continued to occur or to produce effects. Evidencing this is the most recent police operation from 4 and 5 April, 2020 targeting Traveller families in Couillet and Jumet areas, in Charleroi municipality.

6. Belgium has accepted the Additional Protocol.
7. This complaint concerns various provisions of the Charter, set out below (see § 14). In particular, the conduct of the Belgian authorities in relation to Traveller communities across Belgium has deprived people of their right to housing, right to work, to protection of their health, to social security, to social and medical assistance, to benefit from social welfare services, to social, legal, and economic protection for their families, to social, legal, and economic protection for their children; and the police targeted Travellers in Belgium on the basis of their ethnic origin, which amounts to discrimination.
8. The conduct of the Belgian authorities has resulted in failures in practice to implement the European Social Charter (Revised). We detail how this has happened below.

## **b. Summary of the Facts**

9. Our Brussel-based team received numerous reports and gathered testimony on this last incident from witnesses, a local Roma activist from Brussels, the Belgian Statutory Equality Body (UNIA), and throughout direct contacts with the affected families. From these sources we learned that on the 4 and 5 April police operations took place concerning two

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<sup>4</sup> European Committee on Social Rights, Complaint no. 185/2019, European Roma Rights Centre v. Belgium, 12 July 2019. Available at: <https://rm.coe.int/cc185casedoc1-en-complaint/168096f74a>.

unofficial Traveller sites located in Couillet and Jumet areas, in Charleroi municipality. The police exclusively targeted members of the Traveller community with the aim of seizing their caravans. In the course of these operations they arrested people and seized their property. Notably, four caravans which were their owners only homes were seized on the suspicion that they were stolen property. Adult Travellers were arrested and taken for interrogation at the Charleroi police station. They were made to sign documents and declarations which they did not fully understand and were released without any charges being brought against them. The affected Traveller families were made homeless, without being offered any alternative housing solution, social aid or COVID-19 emergency support. When families asked the police where they would live after confiscation of their homes (caravans), the police told them: "*You gypsies can arrange it among yourselves*". The families heard the officers say about one of the caravans "*this is one we missed last year*", indicating that the police operation is connected to the May, 2019 raids described in our previous complaint to the Committee.

10. The families affected by the police operation once again include minor children, a pregnant young woman (in the third month of her pregnancy) and persons with serious health conditions who currently find themselves sleeping in open air or sharing overcrowded caravans together with other Travellers, without being able to practice self-isolation. Their current living conditions are extremely dire and they are completely dependent on the help of those in their immediate vicinity i.e. other Travellers, friends and/or relatives. They have no access to public water or toilets, proper nutrition, health care services or medication. Children have not been fed properly for days and are not able to follow online education, the pregnant young woman has no access to a gynaecologist, persons with serious health conditions are running out of medicines and none of the adults can work or freely move around because of the confinement.
11. According to a testimony of one of the affected persons, whose entire family was affected by the police operation in Couillet, Charleroi municipality: "*the police arrived on the site at around 3:00 pm on 5 April, 2020, fully armed with weapons, disproportionately many in around 7-10 police cars. Me and my family were parked with our two caravans in an open area belonging to the municipality as we were forcibly evicted from the previous site where we resided legally. We are a total of 7 family members - myself, my spouse, our 18 year old daughter, 8 year old son and my older son with his family, a 2 year old child and his pregnant wife. I am Norwegian citizen, my spouse and children are French and my daughter-in-law is Belgian. The police searched and seized the two caravans. I bought my caravan a year ago from a private person and have documents proving that. The four of us adults in the family were arrested*

*for interrogation and taken to Charleroi police station. During the arrest a police officer used a racial slur calling us “dirty gypsies”. The interrogation lasted for about two hours. I was asked whether I wanted a lawyer to be present but refused because I just wanted to finish as soon as possible and go back to my children whom I left outside depending on me. The rest of the adults also signed the documents without understanding their content. For instance, my daughter-in-law only speaks Dutch but the police refused to speak to her in a language other than French. She signed without being able to read the documents, while in pain from her pregnancy and having a little child waiting for her outside the police station. The police told us the caravan was “stolen property that we had in possession”, and that it had an issue with the chassis – that the number was altered – so they had to take it”. The affected person also noted to the ERRC that back in 2019, during the police operation STRIKE, his caravan was searched by the police multiple times but no problem had been detected back then. For the moment these two families are staying with Traveller friends but are too many people living in one caravan. The caravan is so overcrowded that there is no possibility to exercise social distancing as recommended to prevent infection and spread of the new coronavirus. The situation regarding water, electricity, food and medicines is desperate. His family is completely dependent on the individual support of his friend. The police told them to “stay outside with other gypsies”. They were not offered any accommodation or assistance. His daughter-in-law has no access to a gynaecologist and he is running out of medicine for treating his high blood pressure.” (Annex 2,3,4,5)*

12. Concerning official responses to the COVID-19 world pandemic and its disproportional negative impact on marginalized communities such as Travellers in Belgium, the Centre of Mediation for Travellers and Roma in Wallonia (Centre de Médiation des Gens du Voyage et des Roms en Wallonie) and the Belgian Equality Body (UNIA) already addressed in written form all of the Mayors of Municipalities in Wallonia, recommending that municipalities: 1) *allow Travellers (whatever their nationality) who currently occupy a reception area [an official Traveller site] to continue to occupy this area for as long as they wish, until travel bans are lifted;* 2) *make the necessary arrangements to allow prolonged occupation, and in particular to invite family members currently present elsewhere who would like to join their families in Wallonia to be able to occupy the same reception area, and to stay there until the Coronavirus situation improves;* 3) *allow families currently settled on unofficial sites to be authorised to remain there without being disturbed until the end of the containment measures period, during which all eviction measures should be suspended;* 4) *ensure that access to water and electricity is guaranteed.*(Annex 6)

13. In an official communication from 23 March 2020 the Belgian Minister of Housing, Local Authorities, and the City, Mr. Pierre Yves- DERMAGNE,<sup>5</sup> invited all municipal authorities in the country to conform to the following recommendations: 1) *Travellers who are currently living on official or unofficial sites must be able to remain there without hindrance to the exercising of their rights, nor fulfilment of their obligations;* 2) *Travellers should not move, either within Wallonia or from outside. In addition the controls on the Belgian border are strict and foreign travel is strictly regulated;* 3) ***municipal authorities are requested to suspend the execution of eviction procedures which are in progress or are to come;*** 4) ***municipal authorities should be asked to organise access to water and electricity. This should last for the entire duration of the containment period.*** The Committee will have no difficulty in concluding that the recommendations of the Belgian Minister of Housing, Local Authorities, and the City were not respected by the Charleroi municipal authorities and police in this instance.

### c. Violations of the European Social Charter

14. It is incompatible with the Charter to seize someone's home on the basis that it is a personal possession implicated in an investigation for theft. A person's home must be treated as such and they can be only deprived of it when it is proportionate to a legitimate aim. The seizure of the caravans without consideration of the proportionality of the measure and without offering an alternative solution in return, such as provision of alternative accommodation, access to water, sanitation, electricity, food and medical services, has placed the affected families in direct exposure to hardships and health risks associated with the new coronavirus. The act represents a severe interference with the Charter rights guaranteed under: **Article 1 § 2 (right to work), Article 11 § 1 and 3 (protection of health), Article 12 § 1 (right to social security), Article 13 § 1 (social and medical assistance), Article 16 (social, legal and economic protection of the family), Article 17 (right of children and young persons to social, legal and economic protection), Article 30 (protection against poverty and social inclusion), Article 31 (right to housing), and Article E (non-discrimination, taken in conjunction with all of the provisions mentioned above).** This had resulted in Traveller families currently living in insecure conditions, being homeless and at a higher risk of ill-health.

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<sup>5</sup> An official sample of the written response is available at : <https://cmgv.be/habitat-mobile/gerer-le-sejour-temporaire-des-gens-du-voyage/546-sejour-temporaire-et-communes>



- 15. Article E (non-discrimination, taken in conjunction with all of the provisions mentioned above).** Based on the evidence that we have been able to gather about the police operation, it appears that the police had cause to believe that small number of Traveller families were involved in criminal activity. They acted on this assumption by mounting a disproportionate police raid with the aim of seizing several caravans and leaving those families without homes. This amounts to ethnically collective punishment and represents a pattern across Europe of a racially-targeted, heavy handed policing in Romani communities, See, e.g., *Lingurar and others v Romania* (judgment of the European Court of Human Rights of 16 April 2019), § 80 (“Roma communities are often confronted with institutionalised racism and are prone to excessive use of force by the law-enforcement authorities”). The small number of arrests made compared to the number of officers involved, and the fact that Traveller sites across the country were targeted, raises a presumption that the Belgian police are contaminated by institutional antigypsyism. It also raises the presumption that every violation alleged below is connected to direct discrimination against Travellers.
- 16. Article 1 § 2 (right to work).** By seizing the homes of Traveller families, especially in times of COVID-19 pandemic, without offering any alternative housing and social aid, the Belgian authorities have deprived these families of their ability to work. This is particularly the case for families who depend on their homes to work and whose earning and belongings were sized together with the caravans.
- 17. Article 11 § 1 and 3 (protection of health)** By seizing Travellers homes, particularly during the period of emergency coronavirus measures, Belgian authorities have endangered the health of these people. Instead of protecting the health of people belonging to a marginalised group and supporting measures designed to prevent the spread of the virus, they have further worsened the situation of these families, making them homeless and failing “*to remove as far as possible the causes of ill-health*” as stipulated by the European Social Charter (Revised). They have particularly caused undue risk to the health of pregnant women, children, and those who already suffered from health complications.
- 18. Article 13 § 1 (social and medical assistance), Article 30 (protection against poverty and social inclusion).** By exposing Travellers to traumatic stress and denying them access to social security and assistance funds on which they are reliant, the Belgian authorities have failed to ensure that people without adequate resources have access to social and medical assistance. This has lead to further marginalization, poverty and exclusion of the community members.

19. **Article 16 (social, legal and economic protection of the family), Article 17 (right of children and young persons to social, legal and economic protection).** In this case the specific circumstances related to the COVID-19 pandemic and the specific needs of then children, pregnant woman and persons on medication were not taken at all into consideration by the Belgian police authorities before, during, or after implementing the police operation. Many of the affected children find themselves sleeping in cars or in open, unable to attend school or online lectures, and faced with their parents powerlessness to secure access to their homes, belongings and earnings. These families have no access to advantages which can make their family lives possible. The pregnant woman was subjected to arrest, interrogation, and the seizure of home, as were all other adult individuals. This stands in contrast to past cases where the fact that pregnant women and children were living in the caravans was enough to ensure that the family could keep those caravans and that forced eviction would not occur, without authorities providing adequate alternative accommodation. During last year's Operation STRIKE, in one case the police contacted a judge because a pregnant woman lived in a seized caravan and the judge allowed the caravan to be left to her and her family.<sup>6</sup> The ERRC has already made similar interim measure requests and submitted complaints concerning forced eviction of pregnant Romani women in North Macedonia before the UN CEDAW Committee. Only a month ago, the Committee issued decisions: *CEDAW/C/75/D/110/2016 decision in L.A. and others (represented by counsel, European Roma Rights Centre, 18 March 2020)* and *CEDAW/C/75/D/107/2016 S.N. and E.R. (represented by counsel, European Roma Rights Centre, 19 March 2020)*, finding serious violations of several Convention articles. In the decisions the UN CEDAW Committee considered that: *"in the light of the foregoing, the State party has not given due consideration to the pre-existing conditions of the authors so as to refrain from engaging in discrimination against them in the context of the eviction. The State party instead implemented a decision to evict the entire community without due notice, resulting in the authors' giving birth while on the street or residing in a social centre, where their particular needs as young pregnant Roma women were not adequately addressed. The State had to ensure that no forced eviction against Roma women and girls takes place if no alternative housing had been provided to those affected"*. In particular, in *L.A. and others*, the Committee noted: *"...by evicting pregnant Romani women*

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<sup>6</sup> Second report concerning the situation of travellers in Belgium following police operation "STRIKE" on 7 May 2019 Brussels, 11 July 2019, p.8.

Available at: [http://www.errc.org/uploads/upload\\_en/file/5163\\_file2\\_unia-report-english-31-07-2019.pdf](http://www.errc.org/uploads/upload_en/file/5163_file2_unia-report-english-31-07-2019.pdf).

*without taking measures to ensure appropriate alternative housing, health and maternal care, the State party did not consider their extremely vulnerable situation and the particularly disproportionate and discriminatory effect...". In S.N. and E.R. the UN CEDAW Committee also noted: "apart from not refraining from forced evictions, which amounts to indirect discrimination against Roma, the State party failed to undertake appropriate positive measures for the elimination of the discriminatory practice of the eviction of Roma, including Roma pregnant women, and failed to provide any adequate remedy to the authors... during and after the eviction, the pregnant authors were exposed to extremely poor living conditions, and lacked drinkable water and water for maintaining personal hygiene. In that connection... all of those elements contributed to the extremely vulnerable and precarious position of the authors, who were under a serious risk of harm to their health".*

**20. Article 31 (right to housing).** It is clear that when the caravans were seized, no one took into account that for families who live in them, caravans are not luxury items (for tourism), but in fact their actual and only homes. These families have already lost the home that was familiar to them, as well as what was inside - objects with little commercial value but that they used on a daily basis (clothes, utensils and dishes, photos, souvenirs, toys). The socio-economic conditions of the affected are modest, and most often tend towards instability and precariousness rather than security and material comfort. This is due in part to the history of discrimination and stigmatisation of the group, which has confined them to the margins of society, but also to specific institutional problems that could be improved such as *"the structural lack of halting sites in Belgium where Travellers can stay with some legal certainty"*... engaging in stable employment or other economic activity. The European Committee for Social Rights has already condemned the Belgian state in *Complaint no 62/2010, International Federation for Human Rights (FIDH) v. Belgium*, for its lack of efforts regarding housing solutions for Travellers. Since 2012, when the decision was delivered it cannot be said that much progress has been made.<sup>7</sup> On the contrary, the situation has tended to worsen in regard to provision of sites.

21. Therefore, once again the conduct of the Belgian authorities resulted in a flagrant violation of human rights in general and a failure in practice to implement the European Social Charter (Revised), especially in relation to: *removing as far as possible the causes of ill-health and prevention as*

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<sup>7</sup> European Committee for Social Rights, decision on the merits dated 21 March 2012, *International Federation for Human Rights (FIDH) v. Belgium*, Complaint no 62/2010. Available at [http://www.luttepauvrete.be/publications/jurisprudence/dec\\_comeds\\_20120321.pdf](http://www.luttepauvrete.be/publications/jurisprudence/dec_comeds_20120321.pdf).

*far as possible of epidemic and other diseases; ensuring that any person who is without adequate resources and who is unable to secure such resources either by his own efforts or from other sources, in particular by benefits under a social security scheme, be granted adequate assistance, and, in case of sickness, the care necessitated by his condition; promoting the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means; protecting effectively the right of the worker to earn his living in an occupation freely entered upon; undertaking measures within the framework of an overall and coordinated approach to promote the effective access of persons who live or risk living in a situation of social exclusion or poverty, as well as their families, to, in particular, employment, housing, training, education, culture and social and medical assistance; preventing and reducing homelessness with a view to its gradual elimination as well as, overall enjoyment of all the rights set forth in this Charter without discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national extraction or social origin, health, association with a national minority, birth or other status. Hence, when Travellers are victim of an unfavourable treatment due to their belonging to this group, we speak of direct discrimination. Ethnic origin and descent are grounds protected from discrimination. It should be noted that this discrimination does not necessarily have to be pursued as intentional goal by those responsible in order for it to be prohibited. It is the effect of the action, the result, that must be considered. If treating people in similar situations differently can lead to discrimination, treating people in different situations similarly can also be discriminatory. We speak now of a form of indirect discrimination. For example: the situation of Travellers is fundamentally different compared to other citizens, in that their lifestyle implies that they live in caravans. If we take away a caravan from a family of Travellers, this family is instantly homeless - one of the most noxious forms of material precariousness and social marginalisation that exists in our European societies, and more violent still when it impacts children, pregnant women, and sick people.*

#### **d. Request for Indication of Immediate Measures**

22. In accordance with Rule 36 of the Rules of the European Committee of Social Rights, we ask the Committee to indicate to the Belgian Government to indicate the following immediate measures to the Belgian Government:

- a. to stop the seizure of caravans from Travellers in the context of police operations described above, especially during the period of the COVID-19 world pandemic;
- b. to return all caravans which have been seized on 4 and 5 April 2020 from Travellers in Couillet and Jumet sites, or to provide adequate alternative accommodation which is family-appropriate for the people who have been left homeless as a result;
- c. to ensure that all affected families have access to water, sanitation, electricity, medical services, enough food and medicine, and social aid;
- d. to provide access to free-of-charge gynaecological care for pregnant women affected by the police operation;
- e. to ensure that Traveller children have access to online education tools and materials during the COVID-19 pandemic.

There is enough information to justify the indication of immediate measures to put an end to serious violations of the Charter rights against people who have been affected on the basis of their ethnicity. We therefore, ask the Committee to make a decision as quickly as possible.

Yours faithfully,



Đorđe Jovanović  
President  
European Roma Rights Centre

