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STEERING COMMITTEE FOR HUMAN RIGHTS IN THE FIELDS OF BIOMEDICINE AND HEALTH (CDBIO)

**Recent developments as regards complaints
of the European Committee of Social Rights (ECSR)
related to health and biomedicine**

Document prepared by the Secretariat
based on the terms of the official documents published by the ECSR

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Provisions of the Charter relating to health

Article 11 – The right to protection of health

With a view to ensuring the effective exercise of the right to protection of health, the Parties undertake, either directly or in cooperation with public or private organisations, to take appropriate measures designed inter alia:

1. to remove as far as possible the causes of ill-health;
2. to provide advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health;
3. to prevent as far as possible epidemic, endemic and other diseases, as well as accidents.

(...)

Article 13 – The right to social and medical assistance

With a view to ensuring the effective exercise of the right to social and medical assistance, the Parties undertake:

1. to ensure 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;
2. to ensure that persons receiving such assistance shall not, for that reason, suffer from a diminution of their political or social rights;
3. to provide that everyone may receive by appropriate public or private services such advice and personal help as may be required to prevent, to remove, or to alleviate personal or family want;
4. to apply the provisions referred to in paragraphs 1, 2 and 3 of this article on an equal footing with their nationals to nationals of other Parties lawfully within their territories, in accordance with their obligations under the European Convention on Social and Medical Assistance, signed at Paris on 11 December 1953.

Decisions on the admissibility of complaints

Decisions involving article 11(right to the protection of health)

- **International Association Autism-Europe v. Czech Republic (Application no. 245/2025)**

The complaint was registered on 19 March 2025. It relates to **Articles 11§§1 and 3 (the right to protection of health)**, 14§§1 and 2 (the right to benefit from social welfare services) and 16 (the right of the family to social, legal and economic protection) of the 1961 Charter read alone as well as to Articles 11§1, 11§3 and 16 read in the light of the non-discrimination clause established in the preamble to the 1961 Charter.

Autism Europe alleges that the Czech Republic has failed in its duty to provide people with disabilities, including adults and especially children with autism, intellectual disabilities and challenging behaviours, with affordable and adequate community-based social care services and has neglected to provide sufficient support to informal carers, in violation of the aforementioned provisions of the 1961 Charter.

The European Committee of Social Rights declared the complaint **admissible on 2 July 2025**.

[Case-document No. 1, Complaint registered on 19 March 2025](#)

[Case-document No. 2, Observations by the Government on admissibility](#)

[Decision on admissibility of the Complaint No. 245/2025](#)

Decisions involving other articles (relevant for CDBIO)

- **European Disability Forum (EDF) v. Spain (Application no. 246/2025)**

The complaint was registered on 6 of May 2025. It relates to **Articles 15 (the right of persons with disabilities to independence, social integration and participation in the life of the community)**, 16 (the right of the family to social, legal and economic protection), 23 (the right of elderly persons to social protection), 30 (the right to protection against poverty and social exclusion), 31 (the right to housing) as well as Article E (non-discrimination) of the Revised European Social Charter.

The complainant organisation alleges that the situation in Spain is not in conformity with the above-mentioned provisions due to the lack of effective access to adequate housing for persons with disabilities and older persons that results in indirect discrimination against them and against those living in or at risk of poverty and social exclusion.

The European Committee of Social Rights declared the complaint **admissible on 15 October 2025**.

[Case-document No. 1, Complaint registered on 6 May 2025](#)

[Decision on admissibility of the Complaint No. 246/2025](#)

Decisions on the merits

Decisions involving article 11

• Open Society European Policy Institute (OSEPI) v. Bulgaria, Complaint No. 204/2022

(Complaint No. 204/2022)
Adoption: 3 December 2024
Publicity: 29 July 2025

The complaint lodged by Open Society European Policy Institute (OSEPI) v. Bulgaria, Complaint No. 204/2022 was registered on 25 January 2022. OSEPI alleged that in the context of the COVID-19 pandemic and the distribution of COVID-19 vaccines, Bulgaria failed to adequately protect health under Article 11 of the Charter (the right to protection of health). It alleged that this has been the case particularly in respect of older persons and persons with underlying health conditions, by not providing them with priority and effective access to COVID-19 vaccines during the period between December 2020 and May 2021. In this regard, OSEPI alleged that the Government disregarded scientific and credible statistical information indicating the higher morbidity of older persons and persons with specific vulnerabilities. Moreover, OSEPI alleged that Bulgaria failed to develop a communication campaign and strategy in relation to COVID-19 vaccines and to provide guidance and training to health care staff. Finally, OSEPI alleged that the situation as regards distribution of COVID-19 vaccines amounted to discrimination, in particular on the grounds of age and health, in violation of Article E in conjunction with Article 11 of the Charter.

The ECSR adopted its decision on the merits on 3 December 2024.

In its decision on the merits, the ECSR concluded:

- **unanimously that there is a violation of Article 11§1 of the Charter;**

The ECSR noted that Bulgaria's Covid-19 vaccine distribution plan failed to prioritise vulnerable groups, such as older persons and those with underlying health conditions, for vaccine access. Instead, these groups were only included in the penultimate phase of the plan, which began in March 2021, following the vaccination of staff of government ministries, journalists, bank employees, and workers in the transportation and communication sectors. The delayed access to vaccination for the most vulnerable populations coincided with a high mortality rate among them, particularly during the second wave of the pandemic in January and February 2021.

The ECSR considered that the Government failed to provide any substantive explanation or justification for its decision not to prioritise access to vaccines for older persons and those with underlying health conditions during the implementation of the Government's Covid-19 vaccine distribution plan from December 2020 to May 2021. Specifically, the Government did not explain why it relegated vaccination of older persons and those with underlying health conditions until after the 3rd phase of the vaccination plan, which was open to everyone. Article 11§1 of the Charter obliges states to ensure the highest attainable standard of health for all persons and to implement measures aimed at eliminating, to the greatest extent possible, the

causes of ill-health. Bulgaria's failure to prioritise vaccine doses for those most susceptible to severe outcomes from Covid-19 is inconsistent with this essential requirement of Article 11§1.

In light of the above, the ECSR considered that there were shortcomings in the distribution and administration of Covid-19 vaccines between December 2020 and May 2021. The ECSR therefore held that there is a violation of Article 11§1 of the Charter.

- **by 13 votes to 2 that there is a violation of Article 11§2 of the Charter;**

The ECSR considered that the evident mistrust among health care workers posed a significant obstacle to the vaccination efforts and that the Bulgarian authorities should have made more efforts to address this issue. Given the pivotal role health care workers play in the vaccination process, targeted efforts such as providing guidance and training should have been undertaken to bolster public trust in vaccines and vaccination.

The ECSR considered that Bulgaria failed to enact a sufficiently comprehensive communication strategy and did not allocate adequate funding for a vaccination promotion campaign. The ECSR therefore held that there is a violation of Article 11§2 of the Charter.

- **unanimously that there is a violation of Article 11§3 of the Charter;**

The ECSR recalled that, under Article 11§3 States Parties must operate widely accessible immunisation programmes. They must maintain high coverage rates not only to reduce the incidence of these diseases, but also to neutralise the reservoir of virus and thus achieve the goals set by the WHO to eradicate a range of infectious diseases. Vaccine research should be promoted, adequately funded and efficiently coordinated across public and private actors (see Statement of interpretation on the right to protection of health in times of pandemic, 21 April 2020).

The ECSR considered the Government's decision to relegate vulnerable groups, including older persons and those with underlying health conditions, to the fourth phase of its vaccination plan as incompatible with its obligations under Article 11§3 of the Charter, demonstrating a clear failure to prioritise their protection. Furthermore, the ECSR considered that the high mortality rates among these vulnerable groups, reflect a significant shortcoming in implementing effective preventive measures.

The ECSR thus considered that there was a failure to adequately prioritise vaccine distribution and ensure accessibility for high-risk populations. The ECSR therefore held that there is a violation of Article 11§3 of the Charter.

- **unanimously that there is a violation of Article E read in conjunction with Article 11§1 of the Charter.**

The ECSR recalled that the principle of equality reflected in Article E means treating persons equally, which may also require treating differently persons whose situations are significantly different (*Associazione sindacale "La Voce dei Giusti" v. Italy*, Complaint No. 105/2014, decision on the merits of 18 October 2016, §63). More particularly, in designing and implementing new additional measures to ensure a Charter-compliant response to the challenges presented by Covid-19, States Parties must take due account of all social rights-holders, according special attention and appropriate priority to the most socially affected groups and persons. States Parties must ensure that measures taken in response to the crisis, including economic and social policy measures, do not result in discrimination in terms of social rights enjoyment, whether direct or indirect (see Statement on Covid-19 and social rights, 24 March 2021).

The ECSR noted that the Government justifies the prioritising of persons with high infection-spreading potential (such as medical, pedagogical, and social staff) over older persons. However, there remains a lack of clarity regarding the decision-making process that led to relegating older persons and those with underlying health conditions in the penultimate phase of the vaccination plan which was given priority only on 17 May 2021. This absence of clarification raises concerns about the Government's strategic approach to vaccination prioritisation and its alignment with international guidelines aimed at protecting the most at-risk population during the Covid-19 pandemic. In addition, the ECSR noted that general practitioners publicly denounced the arbitrary manner in which people received vaccinations through the green corridors, rather than according to a proper prioritisation process.

The ECSR considered that Bulgaria failed to prioritise older persons and those with underlying health conditions in its Covid-19 vaccine distribution plan resulting in discrimination against older persons and those with underlying health conditions. Therefore, the ECSR held that there is a violation of Article E read in conjunction with Article 11§1 of the Charter.