



Vulnerable and Marginalized Communities in Accessing Healthcare Services

Tatiana Puiu, Vice-President of the ECSR, Council of Europe

The Right to Health under ESC

A right recognised in both ESC 1961 + ESC 1996: a comprehensive provision accepted by almost all State Parties.

The European Committee of Social Rights (15 independent members) ascertains whether countries have honored the undertakings set out in the Charter: reporting procedures and collective complaints.

The right to access healthcare

- must be ensured to **everyone without discrimination** (role of Article E - serves to secure the equal and effective enjoyment of all the rights enshrined in the Charter, regardless of any particular characteristic of an individual or group)
- healthcare must be **effective and affordable to everyone**
- **vulnerable groups at particularly high risk**, such as homeless persons, persons living in poverty, older persons, persons with disabilities, persons living in institutions, persons detained in prisons, Roma people and persons with an irregular migration status must be adequately protected



Access to healthcare and cost coverage. Standards

the cost of healthcare should be borne, at least in part, by the community as a whole; it must not represent an excessively heavy burden for the individual. **Out-of-pocket payments** should not be the main source of funding of the health system. Steps must be taken to reduce the financial burden on patients from the most disadvantaged sections of the community



arrangements for access to care must not lead to **unnecessary delays** in its provision. Access to treatment must be based on transparent criteria, agreed at national level, taking into account the risk of deterioration in either clinical condition or quality of life



the number of **health care professionals and equipment must be adequate**. In the case of hospitals, the objective laid down by WHO for developing countries of 3 beds per thousand population should be strived at. A very low density of hospital beds, combined with waiting lists, could be an obstacle to access to health care for the largest possible number of people.

Prohibition of discrimination. Standards

The rights of the Charter must be guaranteed to everybody concerned

Healthcare must be effective and affordable to everyone, and vulnerable groups at particularly high risk, such as homeless persons, persons living in poverty, older persons, persons with disabilities, persons living in institutions, persons detained in prisons, and persons with an irregular migration status must be adequately protected

States authorities have a responsibility to support the persons whose degree of exclusion, past experience and social status places them in a situation where they may not have the means for seeking remedies, in order to overcome the barriers so that they can effectively assert their rights

States Parties must provide appropriate and timely care on a non-discriminatory basis, including services relating to sexual and reproductive health

A health care system which does not provide for the specific health needs of women will not be in conformity with Article 11, or with Article E of the Charter taken together with Article 11

Collective complaints procedure and ECSR case-law

sexual and
reproductive health,
including education in
schools

access to maternity
care

sterilization
procedures required
for ID documentation
for transgender
persons

access to abortion
versus consensus

impact of
environmental
pollution on human
health

access to healthcare
for vulnerable groups
or the impact of social
housing on human
health

Sexual and Reproductive Health

- ***Confederazione Generale Italiana del Lavoro (CGIL) v. Italy***, Complaint No. 91/2013: the right guaranteed to women concerning the access to termination of pregnancy procedures;
- ***International Planned Parenthood Federation – European Network (IPPF EN) v. Italy***, Complaint No. 87/2012: the adequacy of the steps taken by competent authorities to guarantee effective access to abortion services, which national legislation has classified as a form of medical treatment that relates to the protection of health and individual well-being;
- ***International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Croatia***, Complaint No. 45/2007: right to health and education, Croatian schools did provide comprehensive or adequate sexual and reproductive health education for children and young people.



Healthcare for Vulnerable Groups

- ***European Roma and Travellers Forum (ERTF) v. the Czech Republic***, Complaint No. 104/2014: One of the main questions which the complaint raises relates to the operation of the health insurance and medical assistance systems and whom the latter benefit, as well as how the Roma community access health care in practice (health and environment);
- ***European Roma Rights Centre (ERRC) v. Bulgaria***, Complaint No. 46/2007: alleged that legislation excludes a large number of Roma persons from health insurance coverage, that Government policies do not adequately address the specific health risks affecting Romani communities, and that there is widespread discriminatory practices on the part of health care practitioners against Roma in the provision of health services;
- ***Médecins du Monde – International v. France***, Complaint No. 67/2011: right to health of Roma migrants/special attention to the migrant Roma population;
- ***Transgender Europe and ILGA-Europe v. the Czech Republic***, Complaint No. 117/2015: raises a new issue relating to the health of transgender persons legal requirement of sterilization imposed on trans people wishing to change their personal documents so that they reflect their gender identity.

Impact of Environmental Pollution on Health

- ***International Federation for Human Rights (FIDH) v. Greece***, Complaint No. 72/2011: the effects of massive environmental pollution on the health of persons living near the Asopos river and in proximity to the industrial zone of Inofyta, located 50 km north of Athens. The complainant organisation alleges that the State has not taken adequate measures to eliminate or reduce these dangerous effects and to ensure the right to health protection;
- ***Marangopoulos Foundation for Human Rights (MFHR) v. Greece***, Complaint No. 30/2005: The ECSR has interpreted Article 11 of the Charter (right to protection of health) as including the right to a healthy environment.



Access to Healthcare for Minors

- *European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France*, Complaint No. 114/2015: the right of unaccompanied foreign minors to protection of their health.
- **Defence for Children International (DCI) v. Belgium**, Complaint No. 69/2011: right to health on migrant children; foreign children living accompanied or not, either as illegal residents or asylum seekers in Belgium, were excluded from social assistance.



Measures to be taken by States

- implement inclusive legal frameworks that guarantee healthcare access without discrimination
- ensure bodily integrity and autonomy by removing abusive medical requirements
- allocate adequate resources to healthcare systems
- enhance accessibility by addressing territorial barriers
- promote awareness of healthcare rights
- assess the social impacts of economic policies to prevent adverse effects on vulnerable groups
- address environmental health risks through precautionary measures
- prepare for public health crises by ensuring epidemiological readiness.

