EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

COLLECTIVE COMPLAINTS PROCEDURE
1998 – 2010

Summaries of decisions on the merits concerning Roma and Travellers

58/2009 – Centre on Housing Rights and Evictions (COHRE) v. Italy

51/2008 - European Roma Rights Centre (ERRC) v. France

49/2008 - International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece

48/2008 - European Roma Rights Centre (ERRC) v. Bulgaria

46/2007 - European Roma Rights Centre (ERRC) v. Bulgaria

31/2005 - European Roma Right Center (ERRC) v. Bulgaria

27/2004 - European Roma Right Center (ERRC) v. Italy

15/2003 - European Roma Right Center (ERRC) v. Greece

European Social Charter, Directorate General of Human rights and legal affaires

Originating Body	EUROPEAN COMMITTEE OF SOCIAL RIGHTS
Decision	
Type	Decision on the merits
Date	25/06/2010
Importance level	1*
Conclusion	Violations of Article E taken in conjunction with Article 16, Article 19§1; Article 19§4(c), Article 19§8, Article 30 and Article 31§§1-3
Separate Opinion	No
Published in	Collective Complaint Procedure : Decisions on the Merits
Complaint	
Title/ Number	**58/2009 – Centre on Housing Rights and Evictions (COHRE) v. Italy**
Respondent State	**ITALY**
Date of registration	29/05/2009
Articles	E taken together with 16, 19, 30, 31
Other information	
ECHR Case-law	Malone v. the United Kingdom, judgment of 2 August 1984; Jersild v. Denmark, judgment of 23 September 1994; Rotaru v. Romania [GC], judgment of 4 May 2000; Amann v. Switzerland [GC], judgment of 16 February 2000; Chapman v. the United Kingdom [GC], judgment of 18 January 2001; P.G. and J.H. v. the United Kingdom, judgment of 25 September 2001; Conka v. Belgium, judgment of 5 February 2002; Connors v. the United Kingdom, judgment of 27 May 2004; Timishev v. Russia, judgment of 13 December 2005; Evans v. the United Kingdom [GC], judgment of 10 April 2007; Muñoz Díaz v. Spain, judgment of 8 December 2009; Orsus v. Croatia, judgment of 16 March 2010
ECSR Case-law	Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003; International Federation of Human Rights Leagues ("FIDH") v France, Complaint No. 14/2003, decision on the merits of 8 September 2004; European Roma Rights Center ("ERRC") v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004; ERRC v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005; Marangopoulos Foundation for Human Rights v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006; ERRC v. Bulgaria, Complaint No. 31/2005, decision on the merits of 6 December 2006; International Movement ATD Fourth World ("ATD") v. France, Complaint No. 33/2006, decision on the merits of 5 December 2007; European Federation of National Organisations working with the Homeless (FEANTSA), Complaint No. 39/2006, decision on the merits of 5 December 2007; Mental Disability Advocacy Center (MDAC) v. Bulgaria, Complaint No. 41/2007, decision on the merits of 3 June 2008; Defence for Children International (DCI) v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009; *Confédération Française Démocratique du Travail* (CFDT) v. France, Complaint No. 50/2008, decision on the merits of 9 September 2009; ERRC v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009. Conclusions 2007 Article 31 Italy, Conclusions 2009 Article 30 Italy.
Other Case-law	*Court of Justice of the European Union*: Huber v. Bundesrepublik Deutschland [GC], judgment of 16 December 2008 *Inter-American Court of Human Rights*: Myrna Mack Chang v. Guatemala, judgment of 25 November 2003; Las Masacres de Ituango

* 1 – 3 importance levels:
- 1 – High importance: new case-law or decisions which make a significant contribution to the clarification or modification of the case-law
- 2 – Medium importance: Decisions which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law
- 3 – Low importance: decisions with little legal interest

	v. Colombia, judgment of 1 July 2006; Goiburú and others v. Paraguay, judgment of 22 September 2006 and La Cantuca v. Peru, judgment of 29 November 2006.
Other sources	United Nations Convention on the Elimination of all forms of Racial Discrimination (Article 2); United Nations Covenant on Economic, Social and Cultural Rights (Article 11); European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 8 and Article 4 of Protocol No. 4); Directive 95/46/EC of the European Parliament and of the Council; Draft articles on Responsibility of States for internationally wrongful acts adopted by the International Law Commission (Article 4).
Keywords	Aggravated violation, racial discrimination, data collection, stigmatization, marginalization and social exclusion, personal scope, human dignity, substandard living conditions, forced evictions, homelessness, collective expulsions.

NOTICE

Racial discrimination in the enjoyment of the right to housing by the Roma and Sinti and difficulties for these groups in having access to housing and family benefits
Racial discrimination in the protection of family life with regard to census and identification procedures
Xenophobic and racist propaganda aggravating social exclusion
Difficult access to identification documents and unlawful collective expulsions

Preliminary issues

In general

The complaint:
– alleges that authorities have not ensured a proper follow-up to the decision on the merits of 7 December 2005 in respect of ERRC v. Italy, Complaint No. 27/2004,
– raises new issues linked to the adoption of allegedly regressive measures that would have worsened the situation.

In this respect, “when the achievement of one of the rights in question is exceptionally complex and particularly expensive to resolve, a State Party must take measures that allows it to achieve the objectives of the Charter within a reasonable time, with measurable progress and to an extent consistent with the maximum use of available resources. States Parties must be particularly mindful of the impact that their choices will have for groups with heightened vulnerabilities as well as for other persons affected.” (Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, §53).

More particularly, with regard to the right to housing “implementation of the Charter requires State Parties not merely to take legal action but also to make available the resources and introduce the operational procedures necessary to give full effect to the rights specified therein” (ATD v. France, Complaint No 33/2006, decision on the merits of 5 December 2007, § 61).

In this situation, the realisation of the rights recognised by the Revised Charter is guided by the principle of progressiveness established in the Preamble, in the aims to facilitate the "economic and social progress" and to secure to (…) populations "the social rights specified therein in order to improve their standard of living and their social well-being".

Personal scope

The vulnerable group covered by the complaint includes Italian citizens and nationals of other Parties lawfully resident in Italy but also, in a proportion which is not clearly determined, third country nationals or persons without residence permit.

The lack of identification possibilities should not lead to depriving persons fully protected by the Charter of their rights under it. In addition, that part of the population at stake which does not fulfil the definition of the Appendix cannot be deprived of their rights linked to life and dignity under the Charter (FIDH v. France, Complaint No. 14/2003, decision on the merits of 8 September 2004, § 32 and DCI v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 37).

Discrimination

Article E prohibits discrimination and therefore establishes an obligation to ensure that, in the absence of objective and reasonable justifications, any individual or groups with particular characteristics enjoys in practice the rights secured in the Revised Charter. Moreover, Article E not only prohibits direct discrimination but also all forms of indirect discrimination. Discrimination may also arise by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all (see, *inter alia*, Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, § 52 and ERRC v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 40).

In respect of complaints alleging discrimination the burden of proof should not rest entirely on the complainant organisation, but should be the subject of an appropriate adjustment (MDAC v. Bulgaria, Complaint No. 41/2007, decision on the merits of 3 June 2008, § 52).

The European Court of Human Rights held that "Discrimination on account of one's actual or perceived ethnicity is a form of racial discrimination (…) No difference in treatment which is based exclusively or to a decisive extent on a person's ethnic origin is capable of being objectively justified in a contemporary democratic society built on the principles of pluralism and respect for different cultures (*Timishev v. Russia,* judgment of 13 December 2005, §§ 56 and 58)." The same interpretation is valid for the Charter.

Furthermore, with regard to the Roma, the European Court of Human Rights takes into account the fact that "(…) as a result of their history, the Roma have become a specific type of disadvantaged group and vulnerable minority (…). They therefore require special protection. (…) special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases (…) not only for the purpose of safeguarding the interests of the minorities themselves but to preserve cultural diversity of value to the whole community" (*Orsus v. Croatia*, judgment of 16 March 2010, §§ 147-148). The Committee bears in mind these important features.

The complaint, in substance, presents allegations of racial discrimination concerning the enjoyment of the right to housing by the Roma and Sinti in view of their substandard living conditions and forced evictions, as well as of difficulties for these groups in having access to housing and family benefits. COHRE also claims that Roma and Sinti populations are discriminated against in the protection of

family life with regard to census and identification procedures, and that they are the victims of a xenophobic and racist propaganda which aggravates their social exclusion.

FIRST PART: ARTICLE E TAKEN IN CONJUNCTION WITH ARTICLE 31

i. Article E taken in conjunction with Article 31§1

In the decision on the merits of 7 December 2005 in ERRC v. Italy, Complaint No. 27/2004, the situation in Italy was held in breach of Article E taken in conjunction with Article 31§1 (§§ 36-37).

Adequate housing means a dwelling which is safe from a sanitary and health point of view, i.e. it must possess all basic amenities, such as water, heating, waste disposal, sanitation facilities and electricity and must also be structurally secure, not overcrowded and with secure tenure supported by the law (see Conclusions 2003, Article 31§1 France, European Federation of National Organisations Working with the Homeless, FEANTSA v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, § 76 and Defence of Children International, DCI v. the Netherlands, Complaint No. 47/2008, decision on the merits of 20 October 2009, § 43).

As highlighted by several international monitoring bodies, a growing number of Roma and Sinti live in socially excluded locations characterised by substandard conditions on the edges of towns, segregated from the rest of the population. Moreover the respondent Government provided no evidence to demonstrate that the numerous examples of substandard living conditions of Roma and Sinti have improved rather than deteriorated following the adoption of the contested “security measures”.

As, on the one hand, the measures in question directly target these vulnerable groups and, on the other, no adequate steps are taken to take due and positive account of the differences of the population concerned, the situation amounts to stigmatisation which constitutes discriminatory treatment.

Violation of Article E taken together with Article 31§1.

ii. Article E taken in conjunction with Article 31§2

In the decision on the merits of 7 December 2005 in ERRC v. Italy, Complaint No. 27/2004, the situation in Italy was held in breach of Article E taken in conjunction with Article 31§2 (§§ 41-42).

The authorities have the obligation to avoid criminal actions being perpetrated against Roma and Sinti settlements by individuals or organised groups. Additionally, when criminal actions or violence are allegedly perpetrated by police officers, the authorities have the obligation to investigate all such cases.

Evictions of Roma and Sinti continue to be carried out in Italy without respecting the dignity of the persons concerned and without alternative accommodation being made available. Moreover the respondent Government has not provided credible evidence to refute the claims that Roma have suffered unjustified violence during such evictions and that raids in Roma and Sinti settlements, including by the police, have not systematically been denounced and those responsible for destroying the personal belongings of the inhabitants of the settlements have not always been investigated and, if identified, condemned for their acts.

As, on the one hand, the measures in question directly target these vulnerable groups and, on the other, no adequate steps are taken to take due and positive account of the differences of the

population concerned, the situation amounts to stigmatisation which constitutes discriminatory treatment.

The lack of protection and investigation measures in cases of generalized violence against Roma and Sinti sites, in which the alleged perpetrators are officials, implies for the authorities an aggravated responsibility (see, *mutatis mutandis*, the Inter-American Court of Human Rights in Myrna Mack Chang v. Guatemala, judgment of 25 November 2003, § 139; Las Masacres de Ituango v. Colombia, judgment of 1 July 2006, § 246; Goiburú and others v. Paraguay, judgment of 22 September 2006, § 86-94; or La Cantuca v. Peru, judgment of 29 November 2006, § 115-116).

An aggravated violation is constituted when the following criteria are met:
– on the one hand, measures violating human rights specifically targeting and affecting vulnerable groups are taken;
– on the other, public authorities not only are passive and do not take appropriate action against the perpetrators of these violations, but they also contribute to such violence.

These criteria are met : aggravated violation of Article E taken in conjunction with Article 31§2.

iii. Article E taken in conjunction with Article 31§3

In the decision on the merits of 7 December 2005 in ERRC v. Italy, Complaint No. 27/2004, the situation in Italy was held in breach of Article E taken in conjunction with Article 31§3 (§§ 45-46)

“Under Article 31§3 housing benefits must be introduced at least for low-income and disadvantaged sections of the population. Housing allowance is an individual right and all qualifying households must receive it in practice; legal remedies must be available in case of refusal.” (Conclusions 2007 on Article 31§3 Italy)
There is no evidence to establish that Italy has taken sustained positive steps to improve the situation. It has not been demonstrated that the financial resources allocated by the Italian authorities to specific initiatives and projects were aimed at improving access of Roma and Sinti to social housing without discrimination.

As to difficulties to deal with social housing coherently given the complex distribution of competences between the national level and the Regions, ultimate responsibility for policy implementation, involving at a minimum oversight and regulation of local action, lies with the State.

Violation of Article E taken in conjunction with Article 31§3.

SECOND PART: ARTICLE E TAKEN IN CONJUNCTION WITH ARTICLE 30

Living in a situation of social exclusion violates the dignity of human beings. (…) Article 30 requires States Parties to adopt an overall and co-ordinated approach, which should consist of an analytical framework, a set of priorities and measures to prevent and remove obstacles to access to fundamental rights. There should also be monitoring mechanisms involving all relevant actors, including civil society and persons affected by exclusion. This approach must link and integrate policies in a consistent way (Conclusions 2003, Article 30, France, p. 214 and more recently ERRC v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, § 93).

The respondent State has not proved that it has invested real efforts to prevent or eradicate the poverty situation affecting Roma and Sinti population, especially those evicted people who were rendered homeless without any social assistance from the Italian authorities in a context of isolated ghettos with highly substandard conditions and inadequate public infrastructure or services.

The Committee held that Italy failed to adopt an overall and co-ordinated approach to promoting effective access to housing for persons who live or risk living in a situation of social exclusion (Conclusions 2009, Italy, Article 30). This finding is confirmed in the present complaint.

Furthermore, the segregation and poverty affecting most of the Roma and Sinti population (especially those living in the nomad camps) is linked to a civil marginalisation due to the failure of the authorities to address the Roma and Sinti's lack of identification documents. In fact, substandard living conditions in segregated camps imply likewise a lack of means to obtain residency and citizenship in order to exercise civil and political participation.

The fight against social exclusion is one area where the notion of the indivisibility of fundamental rights takes a special importance. In this regard, the right to vote, as with other rights relating to civic and citizen participation, constitutes a necessary dimension in social integration and inclusion and is thus covered by Article 30 (ERRC v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, § 99).

Civil and political participation of the Roma and Sinti population not only requires strategies for empowerment from public authorities but also respect for ethnic identity and cultural choices. States have the positive obligation to encourage citizen participation in order to overcome obstacles deriving from the lack of representation of Roma and Sinti in the general culture, media or the different levels of government, so that these groups perceive that there are real incentives or opportunities for engagement to counter the lack of representation.

By not facilitating access to identification documents for Roma and Sinti, the Italian authorities have excluded some potential voters. Consequently, the situation results in restricting the possibility for the persons concerned to participate in the decision-making processes. This leads to discriminatory treatment with regard to the right to vote or other forms of citizen participation for Roma and Sinti and, thus, is a cause of marginalization and social exclusion.

As on the one hand, the measures in question directly target these vulnerable groups and, on the other hand, no adequate steps are taken to take due and positive account of the differences of the population concerned, the situation amounts to stigmatisation which constitutes discriminatory treatment.

Violation of Article E taken in conjunction with Article 30.

THIRD PART: ARTICLE E TAKEN IN CONJUNCTION WITH ARTICLE 16

In accordance with the principle of equality of treatment, under Article 16 States are required to ensure the protection of vulnerable families, including Roma and Sinti families.

i. The right of the family to adequate housing

Articles 16 and 31, though different in personal and material scope, partially overlap with respect to several aspects of the right to housing. In this respect, the notions of adequate housing and forced eviction are identical under Articles 16 and 31 (ERRC v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 17 and ERRC v. France, Complaint No. 51/2008, decision on the merits of 19 October 2009, § 89).

Thus, the finding of a violation under Article E taken in conjunction with Article 31 amounts to a finding of a violation of Article E taken in conjunction with Article 16 in this respect.

ii. The right of the family to protection against undue interference in family life

The authorities have carried out interventions focusing on the monitoring of Roma and Sinti camps by means of identification and census of the people present in such camps, including through fingerprinting of inhabitants or the compilation and storage of photometric and other personal information in databases, as well as in some cases a specific identity card allowing access to the camp.

" When it is generally acknowledged that a particular group is or could be discriminated against, the state authorities have a responsibility for collecting data on the extent of the problem (ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27). The gathering and analysis of such data (with due safeguards for privacy and against other abuses) is indispensable to the formulation of rational policy. Similarly, if homelessness is to be progressively reduced (..), states will need the necessary factual information to deal with the problem. The regular collection of detailed information and statistics is a first step towards achieving this objective (Conclusions 2005, France, Article 31§2, p.268)."

In fact, if data on ethnicity may appear necessary or appropriate for the achievement of the objectives of the Revised Charter, including for the design and implementation of effective policies to combat discrimination against Roma, Sinti and other vulnerable groups, this collection of detailed information must respect minimum international standards:

– First of all, to avoid that the collection of sensitive data (on ethnic origin, religion, etc.) becomes unduly constraining, the principles of individual voluntary declaration (rather than compulsory) and self-identification should be promoted.
– Then, in order to increase the response rates among the vulnerable groups and to overcome the resistance to declare one's ethnic consciousness , it is important to establish and enhance cooperation with national and international monitoring bodies (see, e.g. ECRI(2005)31, 7 November 2005 and "Ethnic statistics and data protection in the Council of Europe countries", Study report by Patrick Simon, ECRI, 2007) as well as consultation with NGOs representing or working with these groups.
– Finally, to ensure confidentiality throughout the process of collecting and producing data (including information to guarantee the exercise of habeas data), qualified staff (e.g., social workers) must be associated with the reporting of multiple ethnic responses.

In this context, if discretion must be left to the competent national authorities, the margin will tend to be narrower where the right at stake is crucial to the individual's effective enjoyment of intimate or key rights (see, *mutatis mutandis*, European Court of Human Rights, Connors v. the United Kingdom, judgment of 27 May 2004, § 82). Where a particularly important facet of an individual's existence or identity is at stake, the discretion allowed to the State will be restricted (see, mutatis mutandis, European Court of Human Rights, Evans v. the United Kingdom [GC], judgment of 10 April 2007, § 77). Similarly, by interpreting Article 7 of Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, the Court of Justice of the European Union (see, *mutatis mutandis*, Huber v. Bundesrepublik Deutschland [GC], judgment of 16 December 2008, §§ 63-65) has stated that, while Community Law has not excluded the power of Member States to adopt measures enabling the national authorities to have an exact knowledge of population movements affecting their territory, the exercise of that power does not, of itself, mean that the collection and storage of individualised personal information is necessary. These principles of interpretation are also valid in the context of Article 16.

In the present case, the procedures of identification and census of Roma and Sinti were not accompanied by the due safeguards for privacy and against abuses as set out above. The procedures instead amounted to an undue interference in the private and family life of the Roma and Sinti concerned. Moreover, the Italian authorities did not justify that the contested "security measures"

respected the principle of proportionality and were necessary in a democratic society. Indeed, the way in which the Italian authorities collected personal data concerning Roma and Sinti (including fingerprinting) exceeded the requirements that may entail public security and was not used to their benefit. The same observations are valid as concerns identification through badges and formal permission from civil protection to enter and exit the camps/settlements.

In parallel with Article 8 of the European Convention on Human Rights, Article 16 of the Revised Charter protects a right to personal development and the right to establish and develop relationships with other human beings and the outside world (see, *mutatis mutandis*, European Court of Human Rights, P.G. and J.H. v. the United Kingdom, judgment of 25 September 2001, § 56).

In view of the specific discriminatory context in which the information at issue was recorded and retained, on the one hand, the census and measures of identification concerning Roma and Sinti adopted by the Italian authorities were exclusively based on theoretic security reasons (the "*emergenza nomadi*") and were of no use to enlighten any social problem. On the other hand, the conditions in which the operations were carried out, particularly due to the emergency legislation in place, constituted an obstacle to real protection against arbitrariness (see, *mutatis mutandis*, European Court of Human Rights, Malone v. the United Kingdom, judgment of 2 August 1984, §§ 66-68; Rotaru v. Romania [GC], judgment of 4 May 2000, § 55; Amann v. Switzerland [GC], judgment of 16 February 2000, § 56).

Violation of Article E taken in conjunction with Article 16.

FOURTH PART: ARTICLE E TAKEN IN CONJUNCTION WITH ARTICLE 19

i. Article E taken in conjunction with Article 19§1

Article 19§1 guarantees the right to free information and assistance to nationals wishing to emigrate and to nationals of other Parties who wish to immigrate (Conclusions I, Statement of Interpretation on Article 19§1). States must take measures to prevent misleading propaganda relating to immigration and emigration. Such measures should prevent the communication of misleading information to nationals leaving the country and act against false information targeted at migrants seeking to enter (Conclusions XIV-1, Greece). To be effective, action against misleading propaganda should include legal and practical measures to tackle racism and xenophobia as well as women trafficking. Such measures, which should be aimed at the whole population, are necessary, *inter alia*, to counter the spread of stereotyped assumptions that migrants are inclined to crime, violence, drug abuse or disease (Conclusion XV-1, Austria).

Italian authorities have been considered directly responsible for the relaxation of the anti-discrimination law dealing with incitement of racial hatred and violence and racially-motivated offences, as well as for the use of xenophobic political rhetoric or discourse against Roma and Sinti, by different international bodies. Statements by public actors such as those reported in the complaint create a discriminatory atmosphere which is the expression of a policy-making based on ethnic disparity instead of on ethnic stability.

Thus, the racist misleading propaganda against migrant Roma and Sinti indirectly allowed or directly emanating from the Italian authorities constitutes an aggravated violation of Article E taken in conjunction with Article 19§1.

ii. Article E taken in conjunction with Article 19§4(c)

Article 19§4 guarantees the right of migrant workers to a treatment not less favourable than that of nationals in the areas addressed by the subheadings of the provision. Within these areas States are required to guarantee certain minimum standards with a view to assisting and improving the legal, social and material position of migrant workers and their families. States are required to prove the absence of discrimination, direct or indirect, in terms of law and practice (Conclusions III, Italy) and should inform the Committee of any practical measures taken to remedy cases of discrimination. Moreover, States should pursue a positive and continuous course of action providing for more favourable treatment of migrant workers (Conclusions I, Italy, Norway, Sweden, United-Kingdom).

Under sub-heading (c) which concerns accommodation. States undertake to eliminate all legal and *de facto* discrimination concerning access to public and private housing. There must be no legal or *de facto* restrictions on home–buying (Conclusions IV, Norway), access to subsidised housing or housing aids, such as loans or other allowances (Conclusions III, Italy).

Some Roma and Sinti in Italy are in an illegal situation and therefore do not fall *prima facie* within the scope of Article 19§4c. However, this population includes Roma and Sinti migrant workers from other States Parties who are in a legal situation and therefore enjoy the rights set out in Article 19§4c.

The finding of a violation of Article E taken in conjunction with Article 31 as far as the right to housing is concerned amounts to a finding of violation also of Article E taken in conjunction with Article 19§4c.

iii. Article E taken in conjunction with Article 19§8

Article 19§8, which obliges States to prohibit by law the expulsion of migrants lawfully residing in their territory, admits exceptions where there is a threat to national security, or offend against public interest or morality (Conclusions VI, Cyprus). However, expulsion for offences against public order or morality shall only be in conformity with the Revised Charter if they constitute a penalty for a criminal act, imposed by a court or a judicial authority, and are not solely based on the existence of a criminal conviction but on all aspects of the non-nationals' behaviour, as well as the circumstances and the length of time of their presence in the territory of the State. States must ensure that foreign nationals served with expulsion orders have a right of appeal (Conclusions IV, United-Kingdom) to a court or other independent body, even in cases where national security, public order or morality are at stake.

According to the European Court of Human Rights, "collective expulsion, within the meaning of Article 4 of Protocol No. 4, is to be understood as any measure compelling aliens, as a group, to leave a country, except where such a measure is taken on the basis of a reasonable and objective examination of the particular case of each individual alien of the group. That does not mean, however, that where the latter condition is satisfied the background to the execution of the expulsion orders plays no further role in determining whether there has been compliance with Article 4 of Protocol No. 4". (…) in those circumstances and in view of the large number of persons of the same origin who suffered the same fate as the applicants, the Court considers that the procedure followed does not enable it to eliminate all doubt that the expulsion might have been collective." (Conka v. Belgium, no. 51564/99, judgment of 5 February 2002, §§ 59 and 61). The same interpretation is valid for the Revised Charter.

Moreover, migrant worker's family members, who have joined him or her through family reunion, may not be expelled as a consequence of his or her own expulsion, since these family members have an independent right to stay in the territory (Conclusions XVI-1, Netherlands).

The contested "security measures" represent a discriminatory legal framework which targets Roma and Sinti, especially by putting them in a difficult situation of non access to identification documents in

order to legalise their residence status and, therefore, allowing even the expulsion of Italian and other EU citizens.

Although the exact figures on expulsions of Roma and Sinti lawfully residing in Italy (in particular those fulfilling all requirements to be considered Italian nationals but being impeded to prove it through the relevant identification documents) could be controversial, the contested “security measures” (in the framework of the “strategic plan” which directly tackles the “Roma emergency”) did entail that many were forced to return to their countries of origin, especially to Romania.

Even if according to the Italian legislation on aliens no collective expulsion might be allowed, the practices permitted by the contested “security measures” are evidenced by the fact that the so-called “*emergenza rom*” offers a collective basis to proceed in identical abstract terms to these collective expulsions. Furthermore, the doubt that the expulsion is collective is reinforced in the present complaint because it is to be placed in the framework of the “*piano strategico emergenza rom*” and in the context of the above violations.

Violation of Article E taken in conjunction with Article 19§8.

Originating Body	EUROPEAN COMMITTEE OF SOCIAL RIGHTS
Decision	
Type	Decision on the merits
Date	19/10/2009
Importance level	1*
Conclusion	Violation of Articles 31§1 and 2, 16, 30 and 19§4c violation of Arrticle E in conjunction with Articles 31, 16, 30
Separate opinion	No
Published in	Collective Complaint Procedure: Decisions on the Merits
Complaint	
Number / Title	**51/2008 - European Roma Rights Centre (ERRC) v. France**
Respondent state	**FRANCE**
Date of registration	17/04/2008
Articles	31§§1 and 2, 16, 30, 19§4c ; E in conjunction with 31, 16 and 30
Other information	
ECHR case-law	European Court of Human Rights, Rasmussen judgment of 28 November 1984, Series A No. 87, p. 12, §40
ECSR case-law	ERRC v. Bulgaria, complaint No 31/2005, decision on the merits of 18 October 2006, §§40, 41 and 51 ; FEANTSA v. France, complaint No 39/2006, decision on the merits of 5 December 2007, §163 ; ERRC v. Italy, complaint No 27/2005, decision on the merits of 7 December 2005, §§35 and 41 ; CFDT v. France, complaint No 50/2008, decision on the merits of 9 September 2009, §§ 37 and 38 ; Autism-Europe v. France, complaint No 13/2002, decision on the merits of 4 November 2003, § 52 ;
Other sources	Recommandations of the anti-discrimination and equality commission (*HALDE*), Délibération No 2009-316 of 14 September 2009, Délibération No 2009-143 of 6 April 2009, Memorandum of the Council of Europe Human Rights Commissioner, Thomas Hammarberg, visit to France from 21 to 23 May 2008; Recommendation (2005)4 of the Committee of Ministers to member states on improving the housing conditions of Roma and Travellers in Europe; Recommandation CM/Rec(2008)5 of the Committee of Ministers to member states on policies for Roma and/or Travellers in Europe
Key words	right to housing, adequate housing, substandard housing, eviction, rehousing prior to eviction, construction of social housing, allocation of social housing, discrimination in access to housing, housing for Travellers, no-discrimination, difference of treatment, margin of appreciation.

NOTICE

No-respect of the effective right to housing of Travellers leading to social exclusion and racial discrimination, (shortage of halting sites, substandard living conditions, lack of access to permanent housing and lack of security of tenure, lack of measures to address the deplorable living conditions of Romani migrants)

(i) violation of Article 31§1 of the Revised Charter(unanimously)

a) on the ground of the failure to create a sufficient number of stopping places;

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* 1 – 3 importance levels:
- 1 – High importance: new case-law or decisions which make a significant contribution to the clarification or modification of the case-law
- 2 – Medium importance: Decisions which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law
- 3 – Low importance: decisions with little legal interest

The Committee notes that legislation on stopping places for Travellers was adopted in 2000 (the Reception and Accommodation of Travellers Act, No. 2000-614 of 5 July 2000), known as the ".Besson Act". This legislation requires municipalities with over 5,000 residents to prepare a plan for the setting up of permanent camp sites for Travellers. The Committee notes, however, that so far, the Act has only been implemented in a minority of the municipalities concerned. The Committee observes that the failure to implement the aforementioned legislation adequately compels Travellers to make us of illegal sites, exposing them to the risk of forcible eviction under the 2003 Internal Security Act.

The Committee notes in this regard that, according to the memorandum produced by the Human Rights Commissioner following his visit to France in 2008, there is a shortage of available spaces.

The Committee observes that, despite the efforts of central and local authorities in this area and the positive results that have been achieved at times, there appears to have been a long period during which local authorities and the state have failed to take sufficient account of the specific needs of Travellers.

b) on the ground of the poor living conditions and operational failures at these sites;

The Committee notes that in theory, the measures taken by the Government to implement the Besson Act satisfy the requirements of Article 31§1. Decree No. 2001-569 of 29 June 2001 on the technical standards applicable to stopping places for Travellers stipulates the number of sanitary blocks to be provided at sites and also requires them to provide access to drinking water and electricity, together with a management and security system. This decree is supplemented by the circulars of 3 August 2006 and 5 July 2001.

The Committee notes, nonetheless, that not all the stopping places meet the required sanitary norms. In his memorandum, the Council of Europe Commissioner for Human Rights observes that in some cases, sites are created outside urban areas or near to facilities which are major sources of nuisance (such as electrical transformers or very busy roads), making them difficult – if not dangerous – to use, particularly for families with young children. The Committee therefore considers that some stopping places effectively fall short of the statutory requirements regarding sanitation and access to water and electricity as set out in the legislation.

c) on the ground of lack of access to housing for settled Travellers;

The Committee notes that, according the French legislation, caravans are not considered to be housing because they do not require a building permit. Moreover, the fact of living in a caravan which is still mobile does not secure eligibility for housing allowances. Finally, the purchase of caravans does not qualify for a housing loan. It appears from the research conducted by the *Fondation Abbé Pierre* that numerous Traveller families have been prevented from buying because they cannot obtain mortgages and, when they do buy, tend to purchase land in non-building areas, owing to the shortage of family plots.

The Committee notes that although some départements have established subsidies to create family home-building sites, tangibly their provision remains negligible compared to the demand. The Committee notes that the Government declares that the defensible right to housing applies to travellers wishing to purchase an ordinary dwelling. However, this possibility does not take into account the caravan lifestyle of settled travellers. Despite the efforts of the state and local authorities and the positive results sometimes achieved, there is a lack of resources mobilised and of accommodation of settled travellers' specific needs by the local authorities, as well as by the State.

(ii) Violation of Article 31§2 of the Revised Charter on the ground of the eviction procedure and other penalties (unanimously)

The Committee notes that "illegal occupation of a site or dwelling may justify the eviction of the illegal occupants. However the criteria of illegal occupation must not be unduly wide, the

eviction should take place in accordance with the applicable rules of procedure and these should be sufficiently protective of the rights of the persons concerned" (ERRC v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 51).

It further notes that "States Parties must make sure that evictions are justified and are carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation is available (FEANTSA v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, §163). The law must also establish eviction procedures, specifying when they may not be carried out (for example, at night or during winter), provide legal remedies and offer legal aid to those who need it to seek redress from the courts. Compensation for illegal evictions must also be provided" (ERRC v. Italy, Complaint No. 27/2005, decision on the merits of 7 December 2005, § 41).

The Council of Europe Human Rights Commissioner observed in his memorandum that evictions are a particularly problematic issue, plunging families into a climate of fear. "Such expulsions often involve brutal methods, tear gas and the destruction of personal property". Following some evictions, the National Commission for Police Ethics (CNDS) has found that unjustified and disproportionate acts of violence were committed.

The Committee finds that travellers have been victims of unjustified violence during these expulsions.

(iii), Violation of Article E taken in conjunction with Article 31 of the Revised Charter (12 votes to 2)

Article E complements the substantive clauses of the Revised Charter. It has no independent existence as it applies only to "the enjoyment of the rights" safeguarded by these clauses. Although the application of Article E does not necessarily presuppose a breach of these clauses – and to this extent it has an autonomous meaning – there can be no room for its application unless the facts at issue fall within the ambit of one or more of the latter (CFDT v. France, Complaint No. 50/2008, decision on the merits of 9 September 2009, § 37).

The Committee considers that the situation described does fall within the scope of Article 31, due to the lack of stopping places, the poor living conditions on these sites, eviction procedures and the fact that caravans are not explicitly recognised as forms of housing which entitle their occupants to housing benefits.

Article E prohibits two categories of discrimination. The first is where persons or groups of people in an identical situation are treated differently. The second is where persons or groups of people in different situations are treated identically (Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, § 52).

Under the first category, a difference of treatment between persons or groups being in the same situation is discriminatory if it "has no objective and reasonable justification", that is, if it does not pursue a "legitimate aim" or if there is not a "reasonable relationship of proportionality between the means employed and the aim sought to be realised" (CFDT v. France, Complaint No. 50/2008, decision on the merits of 9 September 2009, § 38; see also European Roma Rights Centre v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 40). The States Parties enjoy a certain "margin of appreciation" in assessing whether and to what extent differences in otherwise similar situations justify a different treatment in law (see *mutatis mutandis* European Court of Human Rights, Rasmussen judgment of 28 November 1984, Series A No. 87, p. 12, §40), but it is ultimately for the Committee to decide whether the difference lies within this margin.

Under the second category, the Committee considers that, in a democratic society, human difference should not only be viewed positively but should be responded to with discernment in order to ensure real and effective equality. In this regard, Article E prohibits also all forms of discrimination. Such discrimination may arise by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all (Autism-Europe v. France, Complaint No. 13/2002, decision on the merits of 4 November 2003, § 52).

The Committee considers that in the case of Travellers, merely guaranteeing identical treatment as a means of protection against any discrimination is not sufficient. In the instant case, there is no doubt that Travellers are in a different situation, and that the difference in their situation must be taken into account. It considers that Article E imposes an obligation to take due account of the relevant differences and to act accordingly. The Committee concludes from the foregoing that the specific differences of Travellers are not sufficiently taken into account at and thus, as a result, they are discriminated against when it comes to implementing the right to housing.

(iv) Violation of Article 16 and of Article E in conjunction with Article 16 of the Revised Charter (unanimously)

The Committee considers that the population concerned by this collective complaint unquestionably includes families. In view of the scope it has constantly attributed to Article 16 as regards housing of the family, the findings of a violation of Article 31 or Article E in conjunction with Article 31, amount to a finding that there has also been a breach of Article 16, and of Article E in conjunction with Article 16 (Conclusions 2006, Statement of Interpretation on Article 16, p. 13 and Conclusions XVIII-1, Article 16, Czech Republic, p. 243-244).

(v) Violation of Article 30 of the Revised Charter (unanimously)

The Committee considers that living in a situation of social exclusion violates the dignity of human beings. With a view to ensuring the effective exercise of the right to protection against social exclusion, Article 30 requires States Parties to adopt an overall and co-ordinated approach, which should consist of an analytical framework, a set of priorities and measures to prevent and remove obstacles to access to fundamental rights. There should also be monitoring mechanisms involving all relevant actors, including civil society and persons affected by exclusion. This approach must link and integrate policies in a consistent way (Conclusions 2003, Article 30, France, p. 214).

Adequate resources are one of the main elements of the overall strategy to fight social exclusion, and should consequently be allocated to attain the objectives of the strategy (Conclusions 2005, Slovenia, p. 674). Finally, the measures should be adequate in their quality and quantity to the nature and extent of social exclusion in the country concerned (Conclusions 2003, Statement of Interpretation on Article 30, all countries).

The Committee considers that it is clear from its conclusions under Article 31 that the housing policy for Travellers is inadequate. It accordingly finds that France has failed to adopt a co-ordinated approach to promoting effective access to housing for persons who live or risk living in a situation of social exclusion.

(vi), Violation of Article E taken in conjunction with Article 30 of the Revised Charter(by 11 votes to 3)

The Committee notes that the measures taken to adopt an overall and co-ordinated approach to combating social exclusion must promote and remove obstacles to access to fundamental social rights, in particular employment, housing, training, education, culture and social and medical assistance. It should be noted that this is not an exhaustive list of the areas in which it is necessary to take initiatives in order to address the multidimensional phenomena of exclusion (Conclusions 2003, Statement of Interpretation on Article 30, all countries). The Committee considers that the reference to the social rights enshrined in Article 30 should not be understood too narrowly. In fact, the fight against social exclusion is one area where the notion of the indivisibility of fundamental rights takes a special importance. In this regard, the right to vote, as with other rights relating to civic and citizen participation, constitutes a necessary dimension in social integration and inclusion and is thus covered by article 30.

The Committee notes that Act No. 69-3 of 3 January 1969 relating to the exercise of itinerant trades and the regime applicable to persons travelling around France without a fixed domicile or residence requires Travellers moving around France to be administratively attached to a municipality. The municipality of attachment is chosen for a period of at least two years. The persons concerned may only be added to the electoral roll after three years of uninterrupted

attachment to the same municipality. At the same time, according to article L 15-1 of the electoral code, citizens who cannot furnish proof of an abode or a residence, and who have not been assigned a home municipality by law, shall be included, at their own request, in the electoral roll of the municipality where the welfare provider with whom they have been enrolled for at least 6 months is located.

With regard to the three-year period, the Committee notes that the rules that apply to citizens who are identified in terms of their association with the Traveller community are different from those applied to homeless citizens. The difference in treatment between Travellers and homeless people with regard to their right to vote has no objective and reasonable justification and therefore constitutes discrimination in breach of Article E read in conjunction with Article 30. In this connection, the Committee notes that, in the absence of any positive reaction to its recommendations on the situation and status of Travellers, the anti-discrimination and equality commission (HALDE) subsequently adopted a special report, published in the official gazette of the French Republic, in which it held that section 10 of Act No. 69-3 discriminated against Travellers with regard to their right to vote and recommended that this section should be amended.

As to the quota limit, the Committee notes that under section 8 of Act No. 69-3, the number of holders of circulation documents without a fixed domicile or residence, attached to a given municipality, must not be greater than 3% of the municipal population. When the 3% quota is reached, Travellers cannot attach themselves to a municipality and do not therefore have the right to vote.

The Committee considers that limiting the number of persons with the right to vote to 3% has the effect of excluding some potential voters. In practice this restriction affects Travellers. The Committee considers that setting this limit at such a low level leads to discriminatory treatment with regards to access to the right to vote for Travellers and, thus, is a possible cause of marginalisation and social exclusion.

(vii) Violation of Article 19§4c of the Revised Charter (unanimously)

In its submissions, the Government states that many of the Roma in France are illegal immigrants. The Committee notes that some are indeed in this situation and therefore they do not fall *prima facie* within the scope of Article 19§4c. However, it is also undisputed that this population includes Roma migrant workers from other States Parties who are in a legal situation and therefore enjoy the rights set out in Article 19§4c.

The Committee has already ruled on the housing rights situation of Travellers in this decision under Article 31. Its findings in this regard also apply to Roma migrants residing legally in France. It consequently considers that the findings of a violation of Article 31 amount to a finding that there has also been a breach of Article 19§4c (ERRC v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, §§ 35 and 41).

Originating Body	EUROPEAN COMMITTEE OF SOCIAL RIGHTS
Decision	
Type	Decision on the merits
Date	11/12/2009
Importance level	2*
Conclusion	violation of Article 16
Separate Opinion	No
Published in	Collective Complaint Procedure : Decisions on the Merits
Complaint	
Title/ Number	**49/2008 - International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece**
Respondent State	**GREECE**
Date of registration	28/03/2008
Articles	Article 16
Other information	
ECHR Case-law	Connors v. United Kingdom, judgment of 27 May 2004; McCann v. The United Kingdom, judgment of 13 May 2008;
ECSR Case-law	European Roma Rights Center v. Greece complaint No 15/2003, decision on the merits of 8 December 2004; Autism Europe v. France, complaint No 13/2002, decision on the merits of 4 November 2003; ERRC v. France, complaint No 51/2008, decision on the merits of 19 October 2009; ERRC v. Bulgaria, complaint No. 31/2005, decision on the merits of 18 October 2006; FEANTSA v. France, complaint No. 39/2006, decision on the merits of 5 December 2007; ERRC v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005; European Roma Rights Center v. Bulgaria, complaint No 36/2005 decision on the merits of 18 October 2006;
Other Case-law	
Other sources	Recommendation (2005)4 of the Committee of Ministers to member states on improving the housing conditions of Roma and Travellers in Europe; Recommendation CM/Rec(2008)5 of the Committee of Ministers to member states on policies for Roma and/or Travellers in Europe; General Comment No 7 of the UN Committee on Economic, Social and Cultural Rights on the Right to adequate housing: forced evictions (1997); Report of the Council of Europe's Human Rights Commissioner (Follow up report on the Hellenic Republic (2002-2005) CommDH(2006)13); Report for 2008 of the Greek National Commission for Human Rights; Report for 2007 of the Greek Ombudsman; Report of the UN Independent Expert on Minority Issues to the UN General Assembly following a visit to Greece in 2008 (A/HRC/10/11 add.3 February 2009); Report of the European Commission against Racism and Intolerance (report on Greece CRI 31 2009); Report of the Fundamental Rights Agency of the EU on Housing conditions of Roma and Travellers in the European Union (October 2009)
Keywords	substandard living conditions, racial discrimination, forced eviction, insufficient access to effective remedies

NOTICE

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* 1 – 3 importance levels:

- 1 – High importance: new case-law or decisions which make a significant contribution to the clarification or modification of the case-law
- 2 – Medium importance: Decisions which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law
- 3 – Low importance: decisions with little legal interest

Racial discrimination in the enjoyment of the right to housing
Forced evictions of the Roma without providing suitable alternative accommodation and insufficient access to legal remedies

(i) Violation of Article 16 on the grounds of inadequate housing (unanimously)

The Committee recalls that in its decision on the merits of 8 December 2004 in European Roma Rights Center v. Greece, complaint no. 15/2003, it found that the situation in Greece was in breach of Article 16 of the Charter on the inter alia, on the grounds that there was both an insufficiency of permanent dwellings available for the Roma, and number of temporary dwellings or sites and that many were living in unacceptable conditions:.

The Committee recalls in relation to adequate housing under Article 16 of the Charter it has stated: "In order satisfy Article 16 states must promote the provision of an adequate supply of housing for families, take the needs of families into account in housing policies and ensure that existing housing be of an adequate standard and include essential services (such as heating and electricity). The Committee has stated that adequate housing refers not only to a dwelling which must not be sub-standard and must have essential amenities, but also to a dwelling of suitable size considering the composition of the family in residence. Furthermore the obligation to promote and provide housing extends to security from unlawful eviction*." (*European Roma Rights Center v. Greece complaint No 15/2003 decision on the merits of 8 December 2004, § 24)

Further: "One of the underlying purposes of the social rights protected by the Charter is to express solidarity and promote social inclusion. It follows that States must respect difference and ensure that social arrangements are not such as would effectively lead to or reinforce social exclusion. This requirement is exemplified in the proscription against discrimination in the Preamble and in its interaction with the substantive rights of the Charter.

This imperative to respect difference, avoid discrimination and social exclusion, was (…) the subject of an important judgment given by the European Court of Human Rights, (*Connors v United Kingdom* of 27 May 2004 at para 84) where it stated that: "*The vulnerable position of gypsies as a minority means that some special consideration should be given to their needs and their different lifestyle both in the relevant regulatory framework and in reaching decisions in particular cases (Buckley judgment cited above, pp. 1292-95, §§ 76, 80 and 84). To this extent, there is thus a positive obligation imposed on the Contracting States by virtue of Article 8 to facilitate the gypsy way of life (see Chapman, (…) § 96 and the authorities cited, mutatis mutandis, therein)*" *(*European Roma Rights Center v. Greece complaint No 15/2003 decision on the merits of 8 December 2004 §§ 19-20).

The Committee notes from the information provided by the Government that certain progress has been achieved in ameliorating the living conditions of Roma. It notes in this respect the housing loans programme was extended in that both the number of loans available and the amount of each loan was increased. It also notes the construction of a permanent settlement in Messinia, the establishment of both fixed and mobile medico social centres as well as general developments in non discrimination legislation which covers access to goods and services including housing.

However the Committee finds that there is still significant evidenced that many Roma continue to live in settlements, which fail to meet minimum standards.

In reaching this conclusion the Committee has had regard not only to the evidence submitted by INTERIGHTS but as well to other sources such as the report of the Council of Europe's Commissioner for Human Rights (Council of Europe's Human Rights Commissioner (Follow up report on the Hellenic Republic (2002-2005) CommDH(2006)13), the annual report for 2008 of the Greek National Commission for Human Rights, the annual report for 2007 of the Greek Ombudsman, the report of the UN Independent Expert on Minority Issues to the UN General Assembly following a visit to Greece in 2008 (A/HRC/10/11 add.3 February 2009) the report of the European Commission against Racism and Intolerance (report on Greece CRI 31 2009) as well as to the report of the Fundamental Rights Agency of the EU on Housing conditions of Roma and Travellers in the European Union (October 2009). The Committee refers to the recommendations of the Greek Ombudsman in 2007 where he

stressed that arrangements should be made to include all Roma settlements in water and power supply and sewage networks.

The Committee considers, in general but in particular in the case of the Roma, merely ensuring identical treatment as a means of protection against any discrimination is not sufficient. In order to achieve equal treatment differences must be taken into account; in the instant case, there is no doubt that the Roma are in a different situation;" In other words, human difference in a democratic society should not only be viewed positively but should be responded to with discernment in order to ensure real and effective equality" (Autism Europe v. France, complaint No 13/2002 decision on the merits of 4 November 2003 para 53; ERRC v. France, complaint No 51/2008 decision on the merits of 19 October 2009 para 83).

The Committee considers in fact that the specific differences of the Roma are not sufficiently taken into account with the result that a significant number of Roma families continue to live in conditions that fail to meet minimum standards

(ii) Violation of Article 16 of the Charter on the ground of forced evictions (unanimously)

The Committee recalls that in its decision on the merits of 8 December 2004 in complaint European Roma Rights Center v. Greece, complaint no. 15/2003, it found that the situation in Greece was in breach of Article 16 of the Charter on the grounds inter alia that Roma were often forcibly evicted, contrary to the requirements of the Charter.

The Committee further recalls its case law relating to forced evictions: "The Committee considers that illegal occupation of a site or dwelling may justify the eviction of the illegal occupants. However the criteria of illegal occupation must not be unduly wide, the eviction should take place in accordance with the applicable rules of procedure and these should be sufficiently protective of the rights of the persons concerned." (European Roma Rights Center v. Greece complaint No 15/2003 decision on the merits of 8 December 2004, § 51, ERRC v. Bulgaria, Complaint No. 31/2005, decision on the merits of 18 October 2006, § 51)

The Committee further recalls that "States Parties must make sure that evictions are justified and are carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation is available (FEANTSA v. France, Complaint No. 39/2006, decision on the merits of 5 December 2007, §163). The law must also establish eviction procedures, specifying when they may not be carried out (for example, at night or during winter), provide legal remedies and offer legal aid to those who need it to seek redress from the courts. Compensation for illegal evictions must also be provided" (ERRC v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, § 41)

The Committee refers in this respect to the judgment of the European Court of Human Rights in Connors v. The United Kingdom, judgment of 27 May 2004, where the court stated "The procedural safeguards available to the individual will be especially material in determining whether the respondent State has, when fixing the regulatory framework, remained within its margin of appreciation. In particular, the Court must examine whether the decision-making process leading to measures of interference was fair and such as to afford due respect to the interests safeguarded to the individual by Article 8 (see *Buckley*, cited above, pp. 1292-93, § 76, *Chapman v. the United Kingdom* [GC], no. 27138/95, ECHR 2001-I, § 92)" (§83). It also refers to the judgment of the European Court of Human Rights in McCann v. The United Kingdom, judgment of 13 May 2008, (§ 50).

The Committee also has regard to the General Comment No 7 of the UN Committee on Economic, Social and Cultural Rights on the Right to adequate housing: forced evictions (1997) which explicitly mentions that the procedural protections should include an opportunity for genuine consultation with those affected; adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; information on the proposed evictions, and, especially where groups of people are involved, government officials or their representatives to be present during an eviction.

The Committee has already stated that "a person or group of persons, who cannot effectively benefit from the rights provided by the legislation, may be obliged to adopt reprehensible behaviour in order to satisfy their needs. However, this circumstance can neither be held to justify any sanction o measure towards these persons, nor be held to continue depriving them of benefiting their rights". (European Roma Rights Center v. Bulgaria, complaint No 36/2005 decision on the merits of 18 October 2006,§ 53). In such situations, the Government has a responsibility to provide adequate assistance and take appropriate measures.

The Committee finds firstly that the Government failed to provide information demonstrating that the law on evictions in Greece provides for consultation with those to be affected, reasonable notice of and information on the eviction. Nor was information provided either as to whether the law requires the provision of alternative accommodation.

Secondly the Committee finds that the Government has failed to respond adequately to the allegations made that in practice Roma families are not adequately consulted prior to being forcibly evicted, and that no serious efforts are made to find alternative sites or accommodation.

As regards legal remedies, the Committee notes that there are many remedies available to those threatened by eviction. Where the authorities are seeking to evict persons from public land, an administrative act is issued (Protocols of administrative eviction). The respondents in such cases have 30 days in which to seek interim measures before a Justice of the Peace. An appeal against any decision to evict is also possible before a court of first instance. Action to evict persons from private property may be taken under several provisions of the Civil Code, for example under Article 987 or Article 989. All articles permit the respondents to contest the application for an eviction order. The Code of Civil Procedure permits interim measures to be granted. Further, under law 3226/04 legal aid is available to appeal an eviction notice.

As regards the accessibility of remedies it appears in fact to the Committee that many Roma families are not sufficiently aware of their right to challenge an eviction notice, or do not know how to exercise it, and in particular do not avail of their right to legal aid.

The Committee does find sufficient material in the complaint and from outside sources to substantiate the claim that a serious number of Roma continue to be unlawfully forcibly evicted in breach of the Charter, in so far as there has been no prior consultation, adequate notice or provision of alternative accommodation in many of the cases detailed.

The Committee also considers that the special circumstances of Roma families threatened by eviction means that special support should be available including targeted advice on availability of legal aid and on appeals.

Therefore, the Committee holds that Roma families continue to be forcibly evicted in breach of the Charter and the legal remedies generally available are not sufficiently accessible to them.

Originating Body	EUROPEAN COMMITTEE OF SOCIAL RIGHTS
Decision	
Type	Decision on the merits
Date	18/02/2009
Importance level	2*
Conclusion	Violation of Article 13§1 Not necessary to examine whether there has been a violation of Article E of the Revised Charter read in conjunction with Article 13§1
Separate opinion	Yes
Published in	Collective Complaint Procedure: Decisions on the Merits
Complaint	
Number/Title	**48/2008 - European Roma Rights Centre (ERRC) v. Bulgaria**
Respondent state	**BULGARIA**
Date of registration	28/03/2008
Articles	Articles 13§1 and E
Other information	
ECHR case-law	
ECSR case-law	
Other sources	
Key words	minimum income, social assistance, reducing or suspending social assistance benefits, disparate and unjustified impact on Roma

NOTICE

Amendments to the Social Assistance Act limiting the duration of social assistance benefits

Article 13§1

Article 13§1 of the European Social Charter requires States to guarantee minimum income and social assistance for persons without adequate resources. The right to social assistance takes the form of an individual right in circumstances where a basic condition of eligibility is satisfied, which occurs when no other means of reaching a minimum income level consistent with human dignity are available to that person. Reducing or suspending social assistance benefits may only be in conformity with the Charter if they do not deprive persons in need of their means of subsistence.

The Committee considers that the contested amendments to the Social Assistance Act, which establish the interruption of social assistance for unemployed persons in active age after 18, 12 or 6 months, cannot be considered to be a permissible restriction on the right to receive social assistance under the provisions of Article 13§1

The Committee notes that the Government has taken measures to improve the education and training of unemployed persons, as well as measures to encourage the reintegration into the labour market of persons that will be losing social assistance as a result of the contested legislative amendments. Nevertheless, despite these measures, it remains probable that only a limited number of persons affected by the social assistance cuts will actually obtain employment.

Taking into account the serious risk that persons affected by the denial of continued social assistance will be deprived of adequate resources, and that social assistance must be provided as long as need persists to enable the person concerned to continue to live in manner compatible with their human dignity, the Committee holds that the amendments to the Social Assistance Act suspending minimum income for persons in need after 18, 12 or 6 months are in breach of Article 13§1 of the Revised Charter.

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* 1 – 3 importance levels:
- 1 – High importance: new case-law or decisions which make a significant contribution to the clarification or modification of the case-law
- 2 – Medium importance: Decisions which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law
- 3 – Low importance: decisions with little legal interest

Article E of the Revised Charter read in conjunction with Article 13§1

The complainant's allegations that the amendments to the Social Assistance Act also violate Article E of the Revised Charter because they will have a disparate and unjustified impact on Roma can be regarded as subsumed in the circumstances of this complaint within the wider question of whether Article13§1 has been breached by the impugned amendments.

Having regard to the finding of a violation of the right to social assistance of all those persons affected by the amendments to the Social Assistance Act, the Committee does not consider it necessary to examine the allegations of a breach of Article E of the Revised Charter read in conjunction with Article 13§1.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS

Originating Body

Decision

Type	Decision on the merits
Date	03/12/2008
Importance level	1*
Conclusion	Violation of Article 11§§ 1, 2 and 3 in conjunction with Article E; Violation of Article 13§1
Separate opinion	Yes
Published in	Collective Complaint Procedure: Decisions on the Merits

Complaint

Number/Title	**46/2007 - European Roma Rights Centre (ERRC) v. Bulgaria**
Respondent state	**BULGARIA**
Date of registration	23/10/2007
Articles	Articles 11§§ 1, 2, 3, 13 §§ 1, 2, 3, and Article E

Other information

ECHR case-law	
ECSR case-law	
Other sources	
Key words	the right to health care, health insurance, exemption of payment of health care contributions for persons receiving social assistance, living environment of Roma, access of Roma to health care services, measures to address health problems of Roma

NOTICE

The right to health care for Roma (health insurance; medical assistance; access to health facilities)

Article 13§1

Article 13§1 of the Revised Charter provides that persons without adequate resources, in the event of sickness, should be granted financial assistance for the purpose of obtaining medical care or provided with such care free of charge. The situation in Bulgaria partly complies with this requirement because the Health Insurance Act establishes that persons receiving social assistance are entitled to free of charge health insurance. However, as regards persons who do not qualify for social assistance or who have temporarily lost the right to social assistance, they are left without health coverage during the period that their social assistance is interrupted. The medical services available for persons in such circumstances are mainly limited to emergency medical care (under the Health Act) or the reimbursement of the costs of hospital treatment (under Decree No. 17 of 31 January 2007). They will be unable to obtain treatment for a sickness not considered an emergency or primary or specialised outpatient medical care. Therefore, the insufficient medical services available for poor or socially vulnerable persons amounts to a breach of Article 13§1.

* 1 – 3 importance levels:
- 1 – High importance: new case-law or decisions which make a significant contribution to the clarification or modification of the case-law
- 2 – Medium importance: Decisions which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law
- 3 – Low importance: decisions with little legal interest

Article 11§§1, 2 and 3 in conjunction with Article E

Article 11 of the Charter imposes a range of positive obligations to ensure an effective exercise of the right to health. Assessment of compliance with this provision is carried out paying particular attention to the situation of disadvantaged and vulnerable groups. There is sufficient evidence showing that Roma communities are faced with disproportionate health risks and that they do not live in healthy environments. This situation can in part be attributed to the failure of prevention policies by the State, for instance the lack of protective measures to guarantee clean water in Romani neighbourhoods, as well as the inadequacy of measures to ensure public health standards in housing in such neighbourhoods. As regards health education, despite recent initiatives such as the establishment of health mediators, there has been a lack of systematic, long-term government measures to promote health awareness among the Roma population. The health status of Roma being inferior to that of the general population, the authorities have also failed to take reasonable steps to address the specific problems faced by Roma communities stemming from their often unhealthy living conditions and difficult access to health services. In sum, the failure of the authorities to take appropriate measures to address the exclusion, marginalisation and environmental hazards which Romani communities are exposed to in Bulgaria, as well as the problems encountered by many Roma in accessing health care services, constitute a breach of Article 11§§ 1, 2 and 3 of the Revised Charter in conjunction with Article E.

Originating Body	EUROPEAN COMMITTEE OF SOCIAL RIGHTS
Decision	
Type	Decision on the merits
Date	18/10/2006
Importance level	1*
Conclusion	Inadequate housing of Roma families and lack of proper amenities: violation of Article 16 taken together with Article E; Lack of legal security of tenure and non-respect of the conditions accompanying evictions of Roma from dwellings unlawfully occupied by them: violation of Article 16 taken together with Article E.
Separate Opinion	No
Published in	Collective Complaint Procedure: Decisions on the Merits
Complaint	
Number /Title	**31/2005 - European Roma Right Center (ERRC) v. Bulgaria**
Respondent State	**BULGARIA**
Date of registration	22/04/2005
Articles	16 of the Revised Charter 16 of the Revised Charter taken together with E
Other information	
ECHR Case-law	
ECSR Case-law	Autism-Europe v. France, complaint No. 13/2002, decision on the merits of 4 November 2003; ERRC v. Greece, complaint No. 15/2003, decision on the merits of 8 December 2004; ERRC v. Italy, complaint No. 27/2004, decision on the merits of 7 December 2005.
Other sources	European Court of Human Rights, Ilascu and others v. Moldova and Russia, judgment of 8 July 2004; European Court of Human Rights, Hatton and others v. the United Kingdom, judgment of 2 October 2001, Appl. No. 36022/97; European Court of Human Rights, Oneryildiz v. Turkey, judgment of 30 November 2004, Appl. No. 48939/99.
Keywords	Housing living conditions, Roma, adequate housing, temporary housing, unlawful occupation, eviction, rules of procedure

NOTICE

The housing conditions for Roma (inadequate housing situation of Roma and lack of proper amenities, lack of legal security of tenure and non-respect of the conditions accompanying evictions of Roma from dwellings unlawfully occupied by them)

1. Preliminary issues

Scope of Articles 16 and 31

Article 16 in its very wording of the Charter (English version, which clarifies the French version), provides for the right to housing of families as an element of the right of the family to social, legal and economic protection. In order to comply with Article 16 states must promote the provision of adequate housing for the family, which means (ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, § 24):

* 1 – 3 importance levels:
  - 1 – High importance: new case-law or decisions which make a significant contribution to the clarification or modification of the case-law
  - 2 – Medium importance: Decisions which do not make a significant contribution to the case-law but nevertheless do not merely apply existing case-law
  - 3 – Low importance: decisions with little legal interest

- a dwelling which is structurally secure;
- possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity;
- is of a suitable size considering the composition of the family in residence;
- and with secure tenure supported by law.

Articles 16 and 31, though different in personal and material scope, partially overlap with respect to several aspects of the right to housing. In this respect, the notions of adequate housing and forced eviction are identical under Articles 16 and 31. The interpretation given under the Charter of 1961 remains valid for those provisions that were not amended by the Revised Charter. Any changes in case law relating to provisions that have not been amended naturally apply to both treaties (General Introduction to Conclusions 2002, para. 4).

2. On the alleged inadequate housing situation of Roma families and the lack of proper amenities

The effective enjoyment of certain fundamental rights requires a positive intervention by the states: they must take the legal and practical measures which are necessary and adequate to the goal of the effective protection of the right in question. States enjoy a margin of appreciation in determining the steps to be taken to ensure compliance with the Charter, in particular as regards to the balance to be struck between the general interest and the interest of a specific group and the choices which must be made in terms of priorities and resources (*mutatis mutandis* most recently European Court of Human Rights, Ilascu and others v. Moldova and Russia, judgment of 8 July 2004, § 332).

The inadequate housing situation of Roma families as alleged by the complainant and recognised by the Government, demonstrated that legal and practical measures were necessary to redress such situation. As regards the adequacy of the measures taken national authorities are better placed to evaluate the needs of their country (*mutatis mutandis* European Court of Human Rights, Hatton and others v. the United Kingdom, judgment of 2 October 2001, Appl. No. 36022/97, § 96). Nonetheless, as stated in the Autism-Europe decision (Autism-Europe v. France, Complaint N° 13/2002, decision on the merits of 4 November 2003, § 53), the measures taken must meet the following three criteria: (i) a reasonable timeframe, (ii) a measurable progress and (iii) a financing consistent with the maximum use of available resources.

The Government did not provide enough evidence that the various programmes and action plans concerning Roma adopted so far are being effectivelly implemented. Notwithstanding the clear political will expressed by the Government to improve the housing situation of Roma families, all these programmes and their implementing measures have not yet yelded the expected results. Although the effective implementation of the right to housing may require time, given the urgency of the housing situation of Roma families a time frame of six years (1999-2005) should had been enough to realise significant improvements.

Article E enshrines the prohibition of discrimination and establishes an obligation to ensure that, in the absence of objective and reasonable justifications (see paragraph E, Part V of the Appendix), any individual or groups with particular characteristics benefit in practice from the rights in the Charter. In the case of Roma families, the simple guarantee of equal treatment as the means of protection against any discrimination does not suffice. Article E imposes an obligation of taking into due consideration the relevant differences and acting accordingly. This means that for the integration of an ethnic minority as Roma into mainstream society measures of positive action are needed.

The situation concerning the inadequate housing of Roma families and the lack of proper amenities constitutes a violation of Article 16 taken together with Article E.

3. On the alleged lack of legal security of tenure and the forced eviction of Roma families from sites or dwellings unlawfully occupied by them

Illegal occupation of a site or dwelling may justify the eviction of the illegal occupants; however the criteria of illegal occupation must not be unduly wide (ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, § 51). States Parties must make sure

that evictions are justified and are carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation is available (see Conclusions 2003, Article 31§2, France, p. 225, Italy, p. 345, Slovenia, p. 557, and Sweden, p. 653).

A person or a group of persons, who cannot effectively benefit from the rights provided by the legislation, may be obliged to adopt reprehensible behaviour in order to satisfy their needs. However, this circumstance can neither be held to justify any sanction or measure towards these persons, nor be held to continue depriving them of benefiting from their rights.

Moreover, it follows from the fact that illegal Roma settlements have been existing for many years and that, though not uniform, provision of public services, as electricity, was ensured and inhabitants charged for it, that state authorities acknowledged and tolerated *de facto* the actions of Roma (*mutatis mutandis* European Court of Human Rights, Oneryildiz v. Turkey, judgment of 30 November 2004, § 105 and §§127-128). Accordingly, though state authorities enjoy a wide margin of appreciation as to the taking of measures concerning town planning, they must strike the balance between the general interest and the fundamental rights of the individuals, in the particular case the right to housing and its corollary of not making individual becoming homeless.

The legislation on the legalisation of dwellings set conditions too stringent to be useful in redressing the particularly urgent situation of the housing of Roma families and thereby affected them in a disproportionate manner. Bulgaria has discriminated against Roma families by failing to take due consideration of the specificity of their living conditions, which is also a consequence of the state non-intervention over a certain period of time.

Though in certain cases the Roma evicted were provided with alternative accommodation or compensation, these measures, on the one hand, did not concern all families involved because of the conditions set by the law; and on the other hand, accommodation was either substandard or of a temporary nature. It is the responsibility of the state to ensure that evictions, when carried out, satisfy the conditions required by the Charter, in particular respect the dignity of the persons concerned even when they are illegal occupants, and that alternative accommodation or other compensatory measures are available in order to ensuring that the persons evicted are not rendered homeless.. By failing to take into account that Roma families run a higher risk of eviction as a consequence of the precariousness of their tenancy, Bulgaria has discriminated against them.

The situation constitutes a violation of Article 16 in combination with Article E.

Originating Body	EUROPEAN COMMITTEE OF SOCIAL RIGHTS
Decision	
Type	Decision on the merits
Date	07/12/2005
Importance level	1*
Conclusion	Insufficiency and inadequacy of camping sites: violation of Article 31§ 1 taken together with Article E; Forced eviction and other sanctions: violation of Article 31§ 2 taken together with Article E; Lack of permanent dwellings: violation of Article 31§§ 1 and 3 taken together with Article E.
Separate Opinion	No
Published in	Collective Complaint Procedure: Decisions on the Merits
Complaint	
Number /Title	**27/2004 - European Roma Right Center (ERRC) v. Italy**
Respondent State	**ITALY**
Date of registration	28/06/2004
Articles	31 and E
Other information	
ECHR Case-law	
ECSR Case-law	Autism-Europe v. France, Collective Complaint (No. 13/2002) Decision on the merits of 4 November 2003; OMCT v. Greece, Collective Complaint No. 17/2003, Decision on the merits of 7 December 2004; ERRC v. Greece, Collective Complaint No. 15/2003, Decision on the merits of 8 December 2004.
Other sources	
Keywords	Housing living conditions, Roma, adequate housing, temporary housing, illegal occupation, eviction, rules of procedure

NOTICE

The housing conditions for Roma (insufficiency and inadequacy of camping sites, forced evictions, and lack of permanent dwellings)

1. Preliminary issues

a) Scope of Article 31

Article 31 is directed to the prevention of homelessness with its adverse consequences on individuals' personal security and well being (Conclusions 2005, Norway, Article 31, p.587). The right to housing secures social inclusion and integration of individuals into society and contributes to the abolishment of socio-economic inequalities.

b) Scope of Article E

Equal treatment requires a ban on all forms of indirect discrimination, which can arise "by failing to take due and positive account of all relevant differences or by failing to take adequate steps to ensure that the rights and collective advantages that are open to all are genuinely accessible by and to all" (Autism-Europe v. France, Complaint N° 13/2002, decision on the

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merits of 4 November 2003, § 52). Therefore, equal treatment implies that Italy should take measures appropriate to Roma's particular circumstances to safeguard their right to housing and prevent them, as a vulnerable group, from becoming homeless.

c) Data collection

State authorities have a responsibility for collecting data on particular groups which are, or could be, discriminated against (ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27). The gathering and analysis of such data (with due safeguards for privacy and against other abuses) is indispensable to the formulation of rational policy. Similarly, if homelessness is to be progressively reduced as required by Article 31§2 of the Revised Charter, states will need the necessary factual information to deal with the problem. The regular collection of detailed information and statistics is a first step towards achieving this objective (Conclusions 2005, France, Article 31§2, p.268).

When credible evidence is adduced alleging discrimination it becomes incumbent on the State party concerned to answer to the allegations by pointing to, for example, legislative or other measures introduced, statistics and examples of relevant case-law (OMCT v. Greece, Complaint No. 17/2003, decision on the merits of 7 December 2004, §46, and ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §50). More precise allegations call for more detailed response.

d) Responsibility of the state

Even if under domestic law local or regional authorities, trade unions or professional organisations are responsible for exercising a particular function, states parties to the Charter are still responsible, under their international obligations to ensure that such responsibilities are properly exercised (ERRC v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §29). 29). Thus, ultimate responsibility for policy implementation, involving at a minimum oversight and regulation of local action, lies with the Italian state. Moreover, as a signatory to the Revised Charter and the party against which complaints are lodged, the Government must be able to show that both local authorities and itself have taken practical steps to ensure that local action is effective.

2. On the alleged insufficiency and inadequacy of camping sites

Article 31§1 guarantees access to adequate housing, which means a dwelling which is structurally secure; safe from a sanitary and health point, i.e. it possesses all basic amenities, such as water, heating, waste disposal, sanitation facilities, electricity; not overcrowded and with secure tenure supported by law (see Conclusions 2003, Article 31§1, France, p. 221, Italy, p. 342, Slovenia, p. 554, and Sweden, p. 650). The temporary supply of shelter cannot be considered as adequate and individuals should be provided with adequate housing within a reasonable period.

Article E enshrines the prohibition of discrimination and establishes an obligation to ensure that, in absence of objective and reasonable justifications (see paragraph 1 of the Appendix), any group with particular characteristics, including Roma, benefit in practice from the rights in the Charter. On the contrary, by persisting with the practice of placing Roma in camps the Government has failed to take due and positive account of all relevant differences, or adequate steps to ensure their access to rights and collective benefits that must be open to all.

There is a violation of Article 31§1 taken together with Article E because Italy failed to show that:

- it has taken adequate steps to ensure that Roma are offered housing of a sufficient quantity and quality to meet their particular needs;
- it has ensured or has taken steps to ensure that local authorities are fulfilling their responsibilities in this area.

3. On the alleged forced evictions and other sanctions

Under Article 31§2 States Parties must make sure that evictions are justified and are carried out in conditions that respect the dignity of the persons concerned, and that alternative accommodation is available (see Conclusions 2003, Article 31§2, France, p. 225, Italy, p. 345, Slovenia, p. 557, and Sweden, p. 653). The law must also establish eviction procedures, specifying when they may not be carried out (for example, at night or during winter), provide legal remedies and offer legal aid to those who need it to seek redress from the courts. Compensation for illegal evictions must also be provided.

There is a violation of Article 31§ 2 taken together with Article E because Italy has failed to establish that the relevant evictions it carried out satisfy these conditions, and has not provided credible evidence to refute the claims that Roma have suffered unjustified violence during such evictions.

4. On the alleged lack of permanent dwellings

Article 31§1 guarantees access to adequate housing. Under Article 31§3 it is incumbent on States Parties to adopt appropriate measures for the construction of housing, in particular social housing (see Conclusions 2003, Article 31§3, France, p. 232, Italy, p. 348, Slovenia, p. 561, and Sweden, p. 655). Furthermore, they must ensure access to social housing for disadvantaged groups, including equal access for nationals of other Parties to the Charter lawfully residents or regularly working on their territory. Moreover, the principle of non-discrimination in Article E includes also indirect discrimination.

There is a violation of Article 31§§ 1 and 3 taken together with Article E because Italy has failed to take into consideration the different situation of Roma or to introduce measures specifically aimed at improving their housing conditions, including the possibility for an effective access to social housing.

Originating Body	EUROPEAN COMMITTEE OF SOCIAL RIGHTS
Decision	
Type	Decision on the merits
Date	08/12/2004
Importance level	1*
Conclusion	Violation: Article 16 of the 1961 Charter
Separate Opinion	Yes
Published in	Collective Complaint Procedure: Decisions on the Merits
Complaint	
Number /Title	**15/2003 - European Roma Right Center (ERRC) v. Greece**
Respondent State	**GREECE**
Date of registration	04/04/2003
Articles	16 of the 1961 Social Charter
Other information	
ECHR Case-law	ECourtHR: Connors v United Kingdom of 27 May 2004
ECSR Case-law	Autism-Europe v. France, Collective Complaint (No. 13/2002) Decision on the merits of 4 November 2003
Other sources	
Keywords	Social inclusion, social exclusion, housing, living conditions, Roma, adequate housing, temporary housing, illegal occupation, eviction,

NOTICE

The housing conditions for Roma (standards of permanent dwellings, temporary housing and the forced evictions)

1. One of the underlying purposes of the social rights protected by the Charter is to express solidarity and promote social inclusion. The States must respect differences and ensure that social arrangement are not such as would effectively lead to or reinforce social exclusion.
2. To improve the living conditions of the Roma. The measures taken have not yet achieved what is required by the Charter. A significant number of Roma are living in conditions that fail to meet minimum standards and therefore the situation is in breach of the obligation to promote the rights of the families to adequate housing laid down in Article 16 of the 1961 Charter.
3. The conditions for temporary encampments as well as the conditions regarding the facilities are extremely strict. There is an absence of diligence on the part of the local authorities on one hand to select appropriate sites and on the other the reluctance to carry out the necessary works to provide the appropriate infrastructure. Roma have insufficient supply of appropriate camping sites. The situation constitutes a violation of Article 16 of the 1961 Charter.
4. As regards the forced eviction of Roma, illegal occupation of a site or a dwelling may justify the eviction of the illegal occupants. However, the criteria for illegal occupation must not be unduly wide, the eviction should take place in accordance with the applicable rules of procedure and these should be sufficiently protective of the rights of the persons concerned. In the present case, the situation constitutes a violation of Article 16 of the 1961 Charter (8 votes to 2).
5. The Committee considered it would be fair to award the complainant organisation the sum of 2.000 euros as compensation for expenses incurred and invited the Committee

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of Ministers to make a recommendation on this point (Eight votes to two). The Committee of Ministers rejected this invitation.