



European Roma and Travellers Forum (ERTF) v. the Czech Republic

Complaint No. 104/2014

Country: Czech Republic

Region:

Year: 2016

Court: European Committee of Social Rights

Facts

The complainant, European Roma and Travellers Forum (ERTF), filed a complaint against the respondent, the Czech Republic, alleging violation of Article 16 of the European Social Charter, 1961, which provides for right of the family to social, legal and economic protection, on the grounds that Roma people suffered from a lack of accessible housing, residential segregation, inadequate living conditions and forced evictions. They also alleged a violation of Article 11 read alone or in conjunction with the Preamble of the Charter, on the ground that the respondent had failed to protect the housing and health care rights of Roma people, along with inadequate treatment or misdiagnosis of mental health of Romani Children and putting them in special schools. The lack of proper sanitation and waste disposal has aggravated the exposure to infectious diseases like hepatitis and bacillary dysentery and other health risks. All these allegations were rejected by the defendant in toto.

Decision and Reasoning

The Committee, relying on the 2015 report from the European Commission against Racism and Intolerance and General Comment 7 of UN CESCR, held that the defendant had violated the Preamble and Article 16 on the ground of insufficient access to housing, poor housing conditions, and territorial segregation and forced evictions. It took note of the increasing discrimination in the housing market which was affecting the already vulnerable Roma people and the living condition of Roma people, which was highly deplorable. The Committee looked into Article 31 of the Czech Charter of Fundamental Rights and Freedoms and Article 11 of the European Social Charter, to stress on the principle of universal access to health care. The Committee found disparity, between the Romas and non-Romas, in access to health care facilities and disproportionate health risks. It took note of the unavailability of any evidence to show that Roma people receive the necessary care when they don't have any resources to provide them with necessary health services. The respondent was, therefore, made responsible for the violation of Article 11 of the Charter as it had failed in its obligation to provide adequate access to health care and had not taken measures to address the specific health problems being faced by the Roma population. The Committee found there was no violation of Article 11 with respect to the segregation of Roma children in education because such allegations would fall under Article 17(Right to Education) of the Revised Charter, which the Czech Republic has not yet ratified. Separate Opinion of Mr. Marcin Wujczyk: Mr. Wujczyk though agreed with the majority decision but he opined that the Committee had acted incorrectly by not considering the complainant's request for compensation from the respondent Government.

Decision Excerpts

"The principle of the universal access to health care is embodied in Article 31 of the Czech Charter of Fundamental Rights and Freedoms, which provides for the right of the citizens to health protection. More precise provisions are included in the Act No. 20/1966 Coll. on Care of People's Health which in Article 11 sets the following principle:

"Availability of the health care without direct payments, based upon the public health insurance (within the extent stipulated by a separate Act), or based upon contractual health insurance." (Para 113)

"The Committee considers that the health care system must be accessible to everyone, especially the health care should be available to all who require it, and free of charge to those without the necessary resources. States Parties must ensure the best possible state of health for the population according to existing

knowledge. Health systems must respond appropriately to avoidable health risks, i.e. ones that can be controlled by human action.â€• (Para 117)

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