**Resolution CM/ResChS(2013)7
Collective Complaint No. 61/2010
by the European Roma Rights Centre (ERRC) against Portugal**[1](https://wcd.coe.int/ViewDoc.jsp?id=2054811&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383" \l "P5_119" \t "_self)

*(Adopted by the Committee of Ministers on 10 April 2013
at the 1168th meeting of the Ministers' Deputies)*

The Committee of Ministers,[2](https://wcd.coe.int/ViewDoc.jsp?id=2054811&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383" \l "P11_530" \t "_self)

Having regard to Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints;

Taking into consideration the complaint lodged on 23 April 2010 by the European Roma Rights Centre (ERRC) against Portugal;

Having regard to the report transmitted by the European Committee of Social Rights, in which the European Committee of Social Rights concluded unanimously that there is:

**(i) a violation of Article E taken in conjunction with Article 31§1 of the Revised Charter**

It had been established that the percentage of Roma living in poor housing conditions was far above the national average and that they were therefore in a different and disadvantaged situation. This difference in their situation triggered a positive obligation of the authorities to take such a difference into account and accordingly respond to it with discernment. However, the overall picture of the living conditions of Roma remained poor, with numerous examples of substandard housing conditions in Roma settlements, and without the government having demonstrated that it had taken sufficient measures to find lasting solutions to the deteriorating residential conditions in unauthorised Roma settlements.

The situation was examined in the light of different criteria on which it assesses adequacy of housing. The right to adequate housing includes a right to fresh water sources, and States Parties are therefore required, under Article 31§1 of the Revised Charter, to ensure that Roma settlements have access to safe drinking water. It is noted in this respect that the Roma settlement in Vidigueira had been without water for over a week, and that the authorities had not clarified the circumstances which prompted the cutting off of the water supply.

Also pursuant to Article 31§1, adequate housing must be in a location which allows access to public services, employment, health care services, schools and other social services. States should be vigilant when implementing housing policies so as to prevent spatial or social segregation of ethnic minorities or immigrants. On this question, it was found that segregated neighbourhoods for Roma had, to a large extent, been created by the action of municipalities. Roma had been re-housed by municipalities in such neighbourhoods in a higher proportion than the general population with housing needs. Moreover, there were also examples of discriminatory practices by local authorities, such as the construction of a concrete wall to separate the Roma in Beja, the cutting off of water in Vidigueira, or the precarious municipal houses of the Roma community in Sobral de Adiça, lacking electricity, water or sanitation. Therefore, implementation of re-housing programmes by municipalities had often led to segregation of Roma, and had on other occasions been tainted by discrimination. For these reasons, the situation was in violation of Article E taken in conjunction with Article 31§1.

**(ii) a violation of Article E taken in conjunction with Article 16 of the Revised Charter**

“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” (COHRE v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, § 115).

Thus, the finding of a violation under Article E taken in conjunction with Article 31§1, also entailed a violation of Article E taken in conjunction with Article 16.

**(iii) a violation of Article E taken in conjunction with Article 30 of the Revised Charter**

Article 30 requires States Parties to adopt positive measures for groups generally recognised as excluded or disadvantaged, such as Roma, to ensure that they are able to access rights such as housing, which in turn will have an impact on access to other rights such as education, employment and health.

In assessing compliance with this provision of the Charter, particular attention was given to the re-housing measures taken by the authorities, as these are of utmost importance for the general social inclusion of Roma. In this respect, it was found that there were examples of failed re-housing projects which could be attributed to the municipalities, namely all those which had led to new housing developments for Roma in segregated settings, which demonstrated the absence of political will to provide integrated, adequate housing. Examples of this were the Cucena neighbourhood in Seixal (Lisbon metropolitan area) or the Pedreiras neighbourhood in Beja (Alentejo-south region).

The inability and unwillingness of central authorities to correctly oversee/co-ordinatethe implementation of housing programmes at the local level taking into consideration the specific situation of Roma, for instance by taking action against those municipalities where housing projects had led to the isolation or segregation of Roma, demonstrated the lack of an “overall and co-ordinated approach” in this area, amounting to a violation of Article E taken in conjunction with Article 30.

Having regard to the information communicated by the Portuguese delegation during the 1132nd meeting of the Ministers’ Deputies (1 February 2012) and most recently by a letter dated 12 February 2013,

1. takes note of the statement made by the respondent government and welcomed the authorities' commitment to protect the fundamental rights of the Roma community and their initiative of setting up a national strategy for the integration of the Roma community (see Appendix to this resolution);

2. looks forward to Portugal reporting that, at the time of the submission of the next report concerning the relevant provisions of the revised European Social Charter, the situation is in full conformity with the revised European Social Charter;

3. decides not to accede to the request for the reimbursement of costs transmitted by the European Committee of Social Rights.

*Appendix to Resolution CM/ResChS(2013)7*

**Remarks by the Portuguese delegation regarding Collective Complaint No. 61/2010 by the European Roma Rights Centre (ERRC) against Portugal communicated during the 1132nd meeting of the Ministers’ Deputies (1 February 2012)**

Without prejudice of the additional information to be given by the local authorities where the events described in Complaint No. 61/2010 took place, related to the possible development of the situations detailed therein, the Portuguese authorities would like to bring to your attention the following important facts:

For several years now, **some programmes and action projects**[3](https://wcd.coe.int/ViewDoc.jsp?id=2054811&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383" \l "P58_7936" \t "_self) have already been implemented in Portugal aiming at the integration of the Roma community. Meanwhile, recognising that only a co-ordinated mobilisation of the different participants with sector-specific competences could lead to a coherent answer, the Portuguese Government, in compliance with the EU’s recommendations and aware of the fact that the fundamental rights of the Roma community must be protected, took the initiative of setting up, in co-ordination with different concerned departments, non-governmental organisations and different Roma community leaders, the development of a **National Strategy for the integration of the Roma Community**.[4](https://wcd.coe.int/ViewDoc.jsp?id=2054811&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383" \l "P59_9599" \t "_self)

Currently, the national objectives until 2020 are being prepared in the education, housing, employment and health fields. These objectives take into account the **10 EU’s common basic Principles**[5](https://wcd.coe.int/ViewDoc.jsp?id=2054811&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383" \l "P62_12735" \t "_self) as well as the transversal dimensions of the above fields, such as discrimination, gender equality, social security and education for citizenship.

This strategy, encompassing a set of priorities to be translated into concrete measures to be applied to every field, especially housing, was subject to public consultation from 28 December 2011 until 18 January 2012.

Furthermore, the ROMED Programme (European Training Programme for Roma Mediators), financed by the European Union under the Strasbourg Declaration on Roma, adopted in 2010, at the 1099th Ministers’ Deputies’ meeting, has been implemented in Portugal since 8 November 2011. Twenty mediators have already been trained for three days, and a second stage of their training period is foreseen for May 2012.

[1](https://wcd.coe.int/ViewDoc.jsp?id=2054811&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383" \l "P5_120" \t "_self) The term “Roma” used at the Council of Europe refers to Roma, Sinti, Kale and related groups in Europe, including Travellers and the Eastern groups (Dom and Lom), and covers the wide diversity of the groups concerned, including persons who identify themselves as Gypsies.

[2](https://wcd.coe.int/ViewDoc.jsp?id=2054811&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383" \l "P11_531" \t "_self) In accordance with Article 9 of the Additional Protocol to the European Social Charter providing for a system of collective complaints, the following Contracting Parties to the European Social Charter or the revised European Social Charter have participated in the vote: Albania, Andorra, Armenia, Austria, Azerbaijan, Belgium, Bosnia and Herzegovina, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Republic of Moldova, Montenegro, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Serbia, Slovak Republic, Slovenia, Spain, Sweden, “the former Yugoslav Republic of Macedonia”, Turkey, Ukraine and United Kingdom.

[3](https://wcd.coe.int/ViewDoc.jsp?id=2054811&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383" \l "P58_7937" \t "_self) In acidi.gov.pt, *Relatório de Actividades* 2010 (Activity Report 2010):
a) Pilot project oriented to municipal mediators: *“in co-operation with the Portuguese Social Security Institute, 15 municipalities (interlocutor entities) and 15 institutions from the civil society (management entities), the ACIDI, I.P. launched this project that includes 15 different projects. […] Only 13 projects have been launched for now.*”
b) GACI’s field interventions (GACI = Roma communities support office).
c) Supporting the Roma communities in order to help them participate in an active citizenship.
d) “*February 2010 saw the launch of the study No. 8 of the collection “Colecção Olhares-Etnografia e produção de conhecimento”* (Perspectives’ Collection: Ethnography and production of knowledge)*, critical thoughts about an enquiry that was done amongst the Portuguese Roma community, by Maria José Casa-Nova.”*
e) The play “*Porta Cigana*” (“Roma door”) was produced to raise public awareness.

[4](https://wcd.coe.int/ViewDoc.jsp?id=2054811&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383" \l "P59_9600" \t "_self) In the EU’s Framework for the National Roma Integration Strategies up to 2020:
“*1 –* ***Improving the situation of Roma: a social and economic imperative for the Union and its member States*** *[…] in order to complement and reinforce the EU’s equality legislation and policies by addressing, at national, regional and local level, but also through dialogue with and participation of the Roma, the specific needs of Roma regarding equal access to employment, education, housing and health care.”*
“*2 –* ***A need for a targeted approach: an EU Framework to achieve significant progress towards Roma integration****, […] to step up a gear and ensure the national, regional and local integration policies focus on Roma in a clear and specific way, and address the needs of Roma with explicit measures to prevent and compensate for disadvantages they face.*”
“*3 –* ***Expressing the EU ambition: setting Roma integration goals*** *[…] for crucial areas: access to education, employment, health care and housing. […]*
*- Access to education: ensure that all Roma children complete at least primary school […]*
*- Access to employment: cut the employment gap between Roma and the rest of the population […]*
*- Access to health care: reduce the gap in health status between the Roma and the rest of the population […]*
*- Access to housing and essential services: close the gap between the share of Roma with access to housing and to public utilities (such as water, electricity and gas) and that of the rest of the population. […]”*
“*4* – ***National Roma integration strategies: a clear policy commitment from member States*** *that […] should bear in mind the following approaches:*
*- set achievable* ***national goals for Roma integration*** *to bridge the gap with the general population […]*
*- identify where relevant those* ***disadvantaged micro-regions or segregated neighbourhoods*** *[…]*
*- allocate a* ***sufficient funding from national budgets*** *[…]*
*- include* ***strong monitoring methods*** *[…]*
*- be designed, implemented and monitored in* ***close co-operation and continuous dialogue with the Roma civil society, regional and local authorities***
*- appoint a national* ***contact point for the National Roma Integration Strategy*** *[…]”*
“*5 –* ***Achieving concrete results for Roma people*** *that will depend on sufficient allocation of national resources.”*
*“6 –* ***Promoting Roma integration beyond the EU: the particular situation of enlargement countries*** *[…] The Commission’s Enlargement Strategy highlighted the precarious situation of many Roma in the Western Balkans and in Turkey.”*
*“7 –* ***Empowering civil society: a stronger role for the European platform for Roma inclusion****”*
*“8 –* ***Measuring progress: putting in place a robust monitoring system*** *[…] The Commission will report annually to the European Parliament and to the Council on progress on the integration of the Roma population in member States and on the achievement of the goals. […]”*

[5](https://wcd.coe.int/ViewDoc.jsp?id=2054811&Site=CM&BackColorInternet=C3C3C3&BackColorIntranet=EDB021&BackColorLogged=F5D383" \l "P62_12736" \t "_self) Inthe EU’s Framework for the National Roma Integration Strategies up to 2020, p. 8:
“*The* ***10 common basic principles*** *on Roma Inclusion that were presented at the first Platform meeting on 24 April 2009 […] comprise: 1) constructive, pragmatic and non-discriminatory policies; 2) explicit but not exclusive targeting; 3) intercultural approach; 4) aiming for the mainstream; 5) awareness of the gender dimension; 6) transfer of evidence-based policies; 7) use of EU instruments; 8) involvement of regional and local authorities; 9) involvement of civil society and 10) active participation of Roma.*”