



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS  
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

15 July 2015

**Case Document No. 2**

**Transgender Europe and ILGA-Europe v. Czech Republic**  
Complaint No. 117/2015

**OBSERVATIONS OF THE GOVERNMENT  
ON ADMISSIBILITY**

**Registered at the Secretariat on 30 June 2015**



European Committee of Social Rights

Executive Secretary

Council of Europe

Transgender Europe and ILGA-Europe

v.

Czech Republic

Collective Complaint No 117/2015

- I. On March 2015, the Transgender Europe and ILGA-Europe lodged in accordance with Article 5 of the Additional Protocol to the European Social Charter Providing for a System of Collective Complaints, the complaint alleging a violation of Article 11 of the European Social Charter of 1961, along or in conjunction with the non-discrimination principle stated in the Preamble to the European Social Charter.
- II. The complaint claims the violation of Article 11 of the European Social Charter of 1961 (“1961 Charter”) with respect to the right to health alleging that the legal requirement of sterilisation imposed on trans people wishing to change their personal documents so that they reflect their gender identity is in breach of Article 11.
- III. The Czech Republic cannot identify itself with the subject of the complaint, especially for following reasons:
  - *In Article 11, 1961 Charter establishes the following:*  
*“With a view to ensuring the effective exercise of the right to protection of health, the Contracting Parties undertake, either directly or in co-operation with public and private organizations, to take appropriate measures designed inter alia:*
    - 1. to remove as far as possible the causes of ill-health;*
    - 2. to provide advisory and educational facilities for the promotion of health and encouragement of individual responsibility in matters of health;*
    - 3. to prevent as far as possible epidemic, endemic and other diseases.”*

The European Committee of Social Rights (“ECSR”) did not connect the access to legal recognition of trans people and change of sex with Article 11 of 1961 Charter in its previous interpretation. The “travaux préparatoires” also does not indicate that the subject of the complaint has been covered by Article 11.

**Article 11 of the 1961 Charter thus cannot be interpreted as establishing the right of an individual to be legally recognized as an individual of the opposite gender and cannot be considered as a denial of the right to health care.**

- IV. In the light of ECHR judgments, the Czech Republic is not in breach with Article 11 of the 1961 Charter, as the surgical change of sex is legal in the Czech Republic, the expenses for a surgery itself including partial consequent treatment bears the Government of the Czech Republic, the surgery change of sex is not the only way how to change the sex and at last, a new sex is fully legally recognised.
- V. With respect to facts mentioned above and in the light of the ECSR case law and ECHR judgments, the Government of the Czech Republic denies the allegation that Czech legislation is in breach of Article 11 of the 1961 Charter due to inconsistency of the subject of the complaint with Article 11 and asks the European Committee of Social Rights

**to declare the complaint inadmissible.**

Zuzana Zajarošová

Director of the EU and International Cooperation Department

Ministry of Labour and Social Affairs of the Czech Republic