

**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITE EUROPEEN DES DROITS SOCIAUX**



15 April 2003

Case Document No. 1

COMPLAINT No. 15/2003
European Roma Rights Center
v. Greece

registered at the Secretariat on 4 April 2003

THE EUROPEAN COMMITTEE OF SOCIAL RIGHTS

**COUNCIL OF EUROPE
STRASBOURG, FRANCE**

COMPLAINT

**under the Additional Protocol to the European Social Charter providing for a
system of collective complaints**

COMPLAINANT

European Roma Rights Center

POSTAL ADDRESS

1386 Budapest 62,
P.O Box 906/93
Hungary

TELEPHONE
+ 36 1 413 22 00

FAX
+ 36 1 553 413 2201

REPRESENTATIVE FOR THE COMPLAINANT:

Mr Claude CAHN

THE CONTRACTING PARTY

GREECE



EUROPEAN ROMA RIGHTS CENTER

1386 Budapest 62, P.O. Box 906/93, Hungary
Phone: (36-1) 413-2200; Fax: (36-1) 413-2201
E-mail: office@errc.org
<http://errc.org>

April 4, 2003

Secretariat of the European Social Charter
Directorate General of Human Rights – DG II
Council of Europe
F-67075 Strasbourg CEDEX
France

Collective Complaint The European Roma Rights Center against Greece Admissibility

State Party

Greece: High Contracting Party to the European Social Charter (hereinafter “ESC”) since June 1984; accepted the collective complaint procedure by signing the 1995 Second Additional Protocol in June 1998.

Articles Concerned

Article 16: “With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal, and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.”

In light of:

The non-discrimination clause in the Preamble of the 1961 ESC: “[T]he enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin.”

A. Standing of the European Roma Rights Center

The European Roma Rights Center (hereinafter “ERRC”) is an international non-governmental organisation which has consultative status with the Council of Europe and is among organisations entitled to lodge collective complaints under the ESC mechanism. Under Article 1(b) of the Second Additional Protocol, the Parties recognise the right of international non-governmental organisations which have consultative status with the Council of Europe and are listed as having standing before

the ESC mechanism to submit collective complaints to the European Committee of Social Rights, irrespective of whether the organisations concerned come under the jurisdiction of any of the State Parties to the ESC. The ERRC has had standing with the ESC collective complaint mechanism since June 2002.¹

In addition, under Article 3 of the Second Additional Protocol, the international non-governmental organisations referred to in Article 1(b) may submit complaints only with respect to those matters regarding which they have been recognised as having particular competence. The ERRC is a Budapest-based international public interest law organisation which monitors the human rights situation of Roma in Europe and provides legal defence in cases of abuse. Since its establishment in 1996, the ERRC has undertaken first-hand field research in more than a dozen countries, including Greece, and has disseminated numerous publications, from book-length studies to advocacy letters and public statements. An ERRC monitor is currently stationed in Greece and is reporting regularly on human rights developments concerning Roma.² In April 2003, the ERRC and GHM published *Cleaning Operations: Excluding Roma in Greece* (Hereinafter “ERRC/GHM Country Report 2003”), a book-length comprehensive report on the human rights situation of Roma in Greece, included herewith.³ The report is based on extensive field research and focuses in particular on housing rights violations against Roma in Greece. ERRC publications about Greece and other countries, as well as additional information about the organisation, are available on the Internet at: <<http://www.errc.org>>.

¹ See Appendix 1, Letter from the Secretariat General of the Council of Europe to Mr Claude Cahn, European Roma Rights Center, 14 June 2002.

² The ERRC undertakes monitoring of the human rights situation of Roma in Greece in partnership with the Athens-based Greek Helsinki Monitor (hereinafter “GHM”).

³ See Appendix 2 to this document.

Subject Matter of the Complaint

Discrimination against Roma in Greece in the field of housing: Discriminatory legislation, residential segregation and forced evictions

Housing is fundamental for the development of family life. In order to ensure the necessary conditions for the full development of the family, which is a fundamental unit of society, Greece has undertaken under Article 16 of the ESC to promote the economic, legal and social protection of family life by means such as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and by other appropriate means. The aforementioned commitment cannot be fulfilled by enacting laws, ordinances or directives, or by undertaking policies or practices that strike at the fundamental basis of family existence, namely the need for security, privacy and shelter, and freedom from racial and other discrimination. Security, privacy and shelter, as well as freedom from racial and other discrimination, constitute the foundation not only for family stability but also for the successful realisation of other basic human rights.

In addition, the protections offered by Article 16 of the 1961 Charter, taken together with the broadened base of the right to housing provided under Article 31 of the Revised Social Charter,⁴ indicate that the quality and force of the right to housing flowing from the text of Article 16 is arguably stronger than when the 1961 Charter was originally adopted.

Furthermore, the Preamble to the 1961 ESC states that “the enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin”.⁵ By including within its ambit

⁴ Article 31 of the Revised Social Charter states: “With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: 1. to promote access to housing of an adequate standard; 2. to prevent and reduce homelessness with a view to its gradual elimination; to make the price of housing accessible to those without adequate resources.”

⁵ Other international human rights instruments place similar burdens on Greece. In particular, Article 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (hereinafter “ECHR”; ratified by Greece on 28 November 1974) requires that “[t]he enjoyment of the rights and freedoms set forth in this Convention [including the “right to respect for private and family life” set forth in Article 8 of the Convention] shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.”

Article 2 of the International Convention on the Elimination of All Forms of Racial Discrimination (hereinafter “ICERD”; ratified by Greece on 18 June 1970) states that:

“States Parties condemn racial discrimination and undertake to pursue by all appropriate means and without delay a policy of eliminating racial discrimination in all its forms and promoting understanding among all races, and, to this end:

- (a) Each State Party undertakes to engage in no act or practice of racial discrimination against persons, groups of persons or institutions and to ensure

“social rights” and not only the rights guaranteed under the 1961 ESC, the ESC non-discrimination clause arguably extends beyond the particular rights provided in the 1961 ESC to the full range of social rights secured under the international human rights instruments.

Additionally, Article 16 of ESC should be read in light of the Preamble of the ESC, which requires Contracting Parties to pursue by *all appropriate means* the attainment of the provisions of the ESC. The phrase “all appropriate means” encompasses at

that all public authorities and public institutions, national and local, shall act in conformity with this obligation;

- (b) Each State Party undertakes not to sponsor, defend or support racial discrimination by any persons or organizations;
- (c) Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind or nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists;
- (d) Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization [...].”

Similar obligations with respect to discrimination incur *inter alia* from Articles 2.1 and 26 of the International Covenant on Civil and Political Rights (hereinafter “ICCPR”; ratified by Greece on 5 May 1997).

Article 2.2 of the International Covenant on Economic, Social and Cultural Rights (hereinafter “ICESCR”; ratified by Greece on 16 May 1985), states that “[t]he States Parties to the present Covenant undertake to guarantee that the rights enunciated in the present Covenant [including the right to adequate housing, enshrined in Article 11.1 of the Covenant] will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”

With specific reference to housing, Article 5 of the ICERD reads: “In compliance with the fundamental obligations laid down in article 2 of this Convention, States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of [...] (e)(iii) the right to housing.”

Finally, as a member of the European Union, Greece is bound by the provisions of the European Council of the European Union Directive 2000/43/EC “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin” (hereinafter “EU Race Directive”), a broad-ranging instrument which expands the cannon of regional anti-discrimination jurisprudence. The EU Race Directive includes in Article 3(1)(h) a ban on discrimination “in access to and supply of goods and services which are available to the public, including housing.” As a European Union member, Greece must harmonize its domestic legislation with the provisions of the EU Race Directive in 2003. As of April 2003, Greece has not taken any steps towards amending domestic law to comply with the norms set forth in EU Race Directive, to the knowledge of the ERRC.

Similarly, as of April 2003, Greece had not ratified Protocol 12 to the ECHR, nor made the declaration under Article 14 of the ICERD, which recognises the competence of the United Nations Committee on the Elimination of Racial Discrimination to hear individual complaints.

For an analysis of deficiencies in existing Greek domestic law with respect to discrimination, please see the appended ERRC/GHM Country Report 2003, pp. 178-184.

minimum an understanding that the Party must refrain from practices that are in contravention of the ESC; that the Party review legislation and policy to ensure that no laws or other regulations or practices contravene its commitments under the ESC or provide a framework for violations of such commitments; and that the Party must ensure that the law is enforced against its agents or against third parties engaging in practices that are in contravention of the ESC. Additionally, “all appropriate means” include the adoption of legislative measures in order to promote the right of family to appropriate social, legal and economic protection to ensure its full development.

In violation of Article 16 of the ESC read with a view to the provisions of the Preamble cited above, Greece has conducted discriminatory housing policies against the Romani population on its territory. Ghettoising practices are endorsed by a frequently enforced 1983 Ministerial Decree. The result of this policy is widespread residential segregation of Roma, as well as the prevalent practices of forced eviction and relocation of Roma to segregated areas. Roma in segregated areas frequently lack basic security of tenure and live in substandard conditions, with inadequate infrastructure and limited access to public services. By pursuing a policy of racial segregation in the field of housing and failing to secure adequate living standards for the a large number of Roma in Greece,⁶ the Party named in this complaint has failed to abide by its obligations under the ESC where Roma are concerned.

⁶ It is difficult to estimate with any reasonable degree of accuracy the number of Roma living in Greece today. Even official sources provide varying estimates. The 2001 Comprehensive Plan of Action for the Social Integration of the Greek Gypsies, for example, gave the number 250,000-300,000 (Official document of April 2001, *Olokliromeno Programma Drasis gia tin Koinoniki Entaxi ton Ellinon Tsinganon*, p.5). At a Human Dimension Implementation Meeting of the Organisation for Security and Cooperation in Europe (OSCE) in 2001, the Greek delegation presented another estimate: Roma were estimated to be between 120,000 to 150,000, 70 to 85% of whom were held to be well integrated in Greek society (see <<http://www.osce.org/odihr/hdim2001/statements.php3?topic=4a&author=23>>). In 1997, Minority Rights Group International, a non-governmental organization based in London, estimated that there were between 160,000 and 200,000 Roma living in Greece (see MRG, *World Directory of Minorities*, London: MRG, 1997, p. 155), while other researchers have suggested a figure as high as 500,000 (Folkeryd, Fredrik and Ingvar Svanberg, *Gypsies (Roma) in the Post-Totalitarian States*, Stockholm: The Olaf Palme International Centre, 1995, p. 45). GHM estimates the Romani population to be approximately 3% of the total Greek population, around 300,000 to 350,000. Although not all Roma in Greece are affected by discriminatory policies in the field of housing, ERRC and GHM field research has found that a core comprising thousands if not tens of thousands of persons are, by law, policy and practice, exposed to systematic violations of their housing rights, as detailed in the present complaint and the report appended herewith.

1. Discriminatory legislation: The 1983 Ministerial Decree

A 1983 Ministerial Decree entitled “Sanitary provision for the organised relocation of wandering nomads”⁷ – in effect today – provides for the segregation and ghettoisation of Roma.

Article 1 of the Ministerial Decree states:

“The unchecked, without permit, encampment of wandering nomads (*Athinganoi*, etc.) in whatever region is prohibited.”⁸

According to Article 3(1) the Decree:

“The lands for the organised encampments of wandering nomads [...] must be outside inhabited areas and in good distance from the approved urban plan or the last contiguous houses.”

Furthermore, Article 3(3) states:

“Encampment is prohibited near archaeological sites, beaches, landscapes of natural beauty, visible by main highway points or areas which could affect the public health (springs supplying drinking water, etc.).”

The link between “wandering nomads” and “Athinganoi” is informed by racist presuppositions about Roma as a wandering population with no links or loyalties other than to kin and clan, and with a propensity to crime and fraud – a category requiring government action for the protection of “normal people”. The provisions of the 1983 Ministerial Decree have moreover been applied, and continue to be applied, arbitrarily and indiscriminately to any Roma, regardless of whether they are itinerant or not. The 1983 Ministerial Decree therefore violates the general non-discrimination provision enshrined in the Preamble of the Charter by singling out “Athinganoi” – Roma – as a principal target group of its provisions, which in effect limit the realization of the housing rights of Roma.⁹ The continuing existence of this decree

⁷ No A5/696/25.4-11.5.83, Common Ministerial decision of the Minister of Internal Affairs and the Minister of Health entitled “Sanitary provision for the organised relocation of wandering nomads”, published in *Government Gazette B’ 243* (unofficial translation by the ERRC/GHM; hereinafter “1983 Ministerial Decree”).

⁸ “Athinganoi” is the term used for administrative purposes for Roma in Greek. Alternatives in common usage are the usually neutral “Tsinganoi” and the pejorative “Gyftoi” or “Yiftoi”. The term “Roma” was not commonly used in Greece until recently.

⁹ The Ombudsman has been critical of Article 3(1) of the Ministerial Decree on the grounds that its application promotes social exclusion. See Ombudsman’s letter to Mrs Besbea, Prefect of Athens, Ref No: 17724/00/2.2, Athens, 8 March 2001, p. 5. Such social exclusion, the Ombudsman added, would be contrary to the principle of absolute protection of human dignity provided for in Article 2(1) of the Greek Constitution and would, moreover, serve to perpetuate distinctions based on racial criteria, contrary to Article 4(1) and 5 of the Constitution. Article 4(1) provides that all Greeks are equal before the law, Article 5 provides for the right to free development of personality. The Constitution of Greece, in official translation, is available at: <http://confinder.richmond.edu/greek_2001.html>.

endorses the efforts of municipal authorities aiming to evict Roma from land they may occupy, and ultimately institutionalises the exclusion of Roma in Greece.

The enforced separation of Romani “encampments” from the approved urban plan called for by the 1983 Ministerial Decree amounts to racial segregation, a phenomenon unequivocally banned under international law. In particular, the provisions of the 1983 Ministerial Decree place Greece in violation of Article 3 of the ICERD, which states that “States Parties particularly condemn racial segregation and apartheid and undertake to prevent, prohibit, and eradicate all practices of this nature in territories under their jurisdiction”, and of Article 5 of the ICERD, which requires that “State Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of [...] (d) (i) The right to freedom of movement and residence within the border of the State”. Furthermore, the very fact that the 1983 Ministerial Decree continues to be in force – and to be enforced – is in contravention to Greece’s commitment under Article 2 (c) of the ICERD, which states: “Each State Party shall take effective measures to review governmental, national and local policies, and to amend, rescind and nullify any laws and regulations which have the effect of creating or perpetuating racial discrimination wherever it exists.”

The failure of Greek authorities to strike down the 1983 Decree places Greece in violation of domestic law as well — in particular, of Article 28(1) of the Greek Constitution, which states that, “[t]he generally recognised rules of international law and the international conventions after their ratification by law and their having been put into effect in accordance with their respective terms, shall constitute an integral part of Greek law and *override* any law provision to the contrary” (emphasis added). The 1983 Ministerial Decree should at the very least have been annulled upon ratification of the 1961 European Social Charter in 1984.

The commitment of the Greek government to promote the protection of family life is particularly undermined by its sanctioning of racist regulations directly targeting and undermining the very right the Greek government is bound under international law to promote and safeguard.

B. 2. Residential segregation of Roma

Large numbers of Roma in Greece today live segregated from non-Roma, in violation of international human rights norms banning racial segregation.¹⁰ Discriminatory housing policies (such as the one illustrated in the 1983 Ministerial Decree discussed above) which preclude Roma from living among the rest of the Greek population and subject them to forced evictions and multiple relocations have largely been responsible for the development of a system of segregated Romani settlements throughout Greece.

Greek authorities routinely distinguish between Romani settlements and the rest of the urban plan, frequently placing the housing inhabited by Roma outside legal and administrative arrangements as a matter of discourse and practice. This distinction places Romani settlements not only outside the reach of legal protections afforded to housing inside municipalities, but also outside the ambit of public services such as sanitation or public transportation. As a result of such discriminatory housing policies, the National Commission for Human Rights stated that [in Greece] “Gypsies are condemned to living in conditions of apartheid.”¹¹

Residential segregation often occurs as a result of a decision or decisions by municipal authorities to relocate Romani residents. The motivation behind these relocations often appears to be related to the desire to remove Roma from central areas to the outskirts of particular localities or to expel them from municipalities entirely. Roma in Greece are frequently moved from integrated neighbourhoods to segregated settlements.

Relocated Roma often end up in even worse conditions than those in which they were previously living. Where alternate accommodation is provided at all, the majority of relocation settlements in Greece offer a substantial decline in living conditions, manifested *inter alia* through the absence of basic infrastructure, such as decent roads leading to the settlements, connections to the electricity grid, clean water supply, sewage removal systems and public transportation services. Furthermore, relocated Roma often are deprived proximity to schools, businesses and other services, which severely limits their education and employment opportunities. Relocated Roma also frequently lack legal tenure in the new settlements. Lack of legal tenure renders the residents of Romani settlements vulnerable to forced evictions by municipal authorities or private individuals or legal entities.

As a rule, Roma in segregated settlements live in substandard conditions, in makeshift shacks with little or no infrastructure, no public services such as sewage, garbage removal, and limited access to public transportation, education, or job opportunities. The Greek government is fully aware of the dire living conditions which Romani populations across Greece are forced to endure. As part of a study conducted by the

¹⁰ In particular ICERD Article 3. In its General Recommendation No 27 on “Discrimination Against Roma”, the United Nations Committee on the Elimination of Racial Discrimination called on states “[t]o develop and implement policies and projects aimed at avoiding segregation of Roma communities in housing” (CERD General Recommendation 27: 16/08/2000, para. 30).

¹¹ See National Commission for Human Rights, “Ekthesi 2001” (“Report 2001”), January 2002, p. 194.

Greek government — a component of the 1996 Government Housing Programme under the larger government programme for the Roma — the localities and living conditions of Roma throughout Greece were examined. The 1999 study conducted by the Public Enterprise for Town Planning (hereinafter referred to according to its Greek acronym, “DEPOS”) broke housing facilities for Roma down into three main categories: first, the study identified what the authors term “genuine” settlements (settlements in which all living quarters are makeshift); secondly, it identified “mixed” settlements (containing both makeshift dwellings and permanent homes); the final category identified by the authors of the study is termed “neighbourhoods”, *i.e.*, constellations of houses inhabited by Roma which are essentially part of a city or village.¹² According to the study, more than half of the “genuine” settlements and some of the mixed settlements and neighbourhoods were located in areas unsuitable for habitation — for example, in areas prone to flooding or in close proximity to landfill sites. Moreover, 15 percent of the “genuine” settlements were farther than one kilometre from the nearest urban centre and only a small number had access to paved roads, with the remainder reachable only by unpaved, bumpy trails. In 7 of the 46 “genuine” settlements, there was no water supply, while in the remainder there was inadequate access to running water. Approximately one third of the “mixed” settlements was furthermore found to be without adequate supply of running water. Not a single “genuine” settlement, and only 25 percent of the “mixed” settlements had any kind of connection to the electricity grid. Merely 9 of the 46 “genuine” settlements throughout Greece, and 6 of the 26 “mixed” settlements recorded were connected to an adequate sewage system, while less than half of the “genuine” settlements and only 70 percent of the “mixed” settlements possessed garbage removal services. Finally, in 75 percent of the “genuine” settlements public telephones were not accessible.¹³

The aforementioned information was collected between 1997 and 1999. Recent first-hand field research by the ERRC and GHM has shown that the living conditions of Roma in Greece have changed little since the study was conducted, and may even be said to be in a state of regression.¹⁴ For instance, the original Romani settlement in Spata, near Athens, was given a score of 5.5 on a scale of 1 to 12.5, where 12.5 stands for the worst living conditions. Based on the criteria by which the DEPOS Study rates living conditions, the new settlement provided by the Spata municipality to several

¹² Dimosia Epixeirisi Poleodomias kai Stegasis (DEPOS), *Meleti Sxediou Programmatos gia tin antimetopisi ton ameson oikistikon provlimaton ton Ellinon Tsinganon* (hereinafter referred to as “DEPOS Study”), Athens, July 1999, pp. 6–7. The authors of the DEPOS Study devised a rating system to assess settlements, giving factors such as distance from other settlements numerical value. Distance from other settlements, accessibility and connection to the electricity grid was assigned a value of one point. The unsuitability of an area for habitation was assigned a value of two, while the ownership status (denoting the risk of potential eviction) was assigned a value of one and a half. Access to running water was not rated on this scale as it was considered a fundamental necessity. It should be noted that the ranking system’s purpose was not to rank the quality of the feature but rather the existence of a particular feature.

¹³ DEPOS Study, pp. 7-9.

¹⁴ For observations from ERRC/GHM field missions undertaken in August 2001, including findings from many Romani settlements in the Peloponnese and mainland Greece, see GHM/MRG-G, “Report on Field Visits to Roma Communities in Greece: August 2001”, available at <http://www.greekhelsinki.gr/bhr/english/organizations/ghm/report_aug_2001.rtf>

relocated Romani families in October 2000, would receive a score of 7, indicating that the relocation saw the Romani community's living conditions deteriorate further.¹⁵ Yet, in its reports submitted to international fora, the Greek government has referred on several occasions to a number of relocation settlements that, in its view, are satisfactory and ostensibly constitute the blueprint for future relocation.¹⁶

None of the elements of the right to adequate housing,¹⁷ as elaborated by the United Nations Committee on Economic, Social and Cultural Rights (CESCR) in General Comment No 4 are met by segregated housing arrangements for Roma in Greece. The CESCR defined "adequate housing" as having sustainable access to natural and common resources, clean drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, food storage facilities, refuse disposal, site drainage and emergency services. Moreover, housing should be made affordable and habitable. Habitability consists of allocating adequate space and protection from cold, damp, heat, rain, wind or other threats to health, structural hazards and disease vectors. Adequate housing must also ensure the physical safety of residents. Furthermore, housing must be accessible to those entitled to it. The location of the housing facilities must allow access to employment opportunities, health care services, schools, childcare services and other social facilities. Finally, housing should not be built on polluted sites or in immediate proximity to pollution sources that may threaten the right to health of the residents.¹⁸

As the cases presented in the report appended herewith demonstrate, Roma in segregated settlements in Greece enjoy none of these constitutive elements of the right to adequate housing.¹⁹ Furthermore, by its very nature, segregation in the field of housing establishes arbitrary obstacles to the realization of a number of other basic rights. Racial segregation impinges on the right of freedom of movement. Furthermore, racial segregation has the effect of inhibiting Romani families from social participation and ultimately from the full realisation of other human rights such as civil and political rights. Additionally, by removing Roma from mainstream society

¹⁵ As a result of the relocation, Romani residents were deprived of the access to running water they had previously enjoyed, as well as their connection (albeit illicit) to the electricity grid. The loss of their site in the centre of Spata isolated them further geographically.

¹⁶ Although the Greek government does not describe Spata as a "model settlement" *per se*, Greek authorities do bring up the relocation as a sign of good practice. See, for example, the statement made by the Greek Delegation at the Organisation for Security and Cooperation in Europe Human Dimension Implementation Meeting, Warsaw, September 17–27, 2001, session on "Tolerance and Non-discrimination: Roma and Sinti", September 20, 2001, available at <http://www.osce.org/odihr/hdim2001/statements.php3?topic=4a&author=23>

¹⁷ The right to adequate housing is enshrined in a number of international instruments. Outside the Council of Europe framework, in the United Nations system, the right to adequate housing is derived from the right to an adequate standard of living: Article 11.1 of the ICESCR states that "[t]he States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right [...]."

¹⁸ General Comment No 4, E/1992/23, annex III, 6th Session, adopted on 12 December 1991, para. 8.

¹⁹ See in particular ERRC/GHM Country Report 2003, pp. 82-97.

in Greece, residential segregation often impedes upon the realisation of social and economic rights such as the rights to equal access to education or to access to adequate medical care.

C. 3. Forced evictions of Roma

Forced evictions are reported with alarming frequency in Greece. Since beginning monitoring in 1997, the ERRC/GHM have documented dozens of forced evictions of Roma and have received many further allegations of such evictions, as illustrated by the cases documented in the report appended herewith.²⁰

Greek authorities frequently engage in forced evictions of Roma without providing genuine opportunities for the affected individuals to contest the grounds for eviction, without providing adequate alternative housing, and without providing the victims of forced evictions with suitable legal redress. As a result of these actions, many Roma in Greece are effectively rendered homeless. It is commonplace that municipal authorities responsible for the execution of forced evictions of Roma avoid justice.²¹

The Council of Europe European Commission Against Racism and Intolerance (ECRI) has expressed particular concern over the issues of forced evictions of Roma in Greece and of concomitant destruction of their property. In its Second Report on Greece, adopted on 10 December 1999 and made public on 27 June 2000, ECRI stated:

“Roma/Gypsies living in camps often face extremely harsh living conditions. In recent years, including 1999, some municipal authorities have expelled communities of Roma/Gypsies from the camps in which they had lived for

²⁰ See in particular ERRC/GHM Country Report 2003, pp. 50-76.

²¹ To date, the ERRC is aware of only one case of eviction of Roma which has come before the courts. In November 1999, the Magistrate’s Court of Heraklion, Crete, declared illegal an attempt to evict a local Romani community in Nea Alikarnassos, Crete. In 1997, the municipality of Nea Alikarnassos issued an eviction order against the local Romani community. The Romani settlement was on a site between a main road and an industrial zone; the settlement had no garbage collection services or access to water, no electricity and no sewage system. The eviction order was justified by the fact that the settlement, according to the mayor, “blemished the city’s image”. In a complaint addressed to the Ombudsman’s office on 21 August 2000, the local Romani community alleged that there were plans to build a new sports hall in the area, as well as to create a park in which businessmen had expressed their interest in buying plots of land and building. The Romani community challenged the eviction order before the courts, and the Magistrate’s Court of Heraklion subsequently declared it to be abusive. The Court subsequently condemned the eviction practices of the municipal authorities of Nea Alikarnassos on grounds that there was no alternative housing provided for by the municipality to the affected residents of the Romani settlement. However, the municipal authorities were undaunted by the Court’s ruling and issued a second, almost identical, eviction order on 10 August 2002. Following notification of the impending eviction, the Ombudsman reminded the authorities of the existing Court ruling against them, and stated that, unless the authorities designated an adequate place (with the required infrastructure for securing a decent standard of living) where the Roma could be relocated, the second eviction order would most likely also be declared abusive (Letter of the Ombudsman to the Mayor of Nea Alikarnassos, Ref No 12686/00/2.1, 5 September 2000, on file with the ERRC/GHM). In most of the cases documented by the ERRC and partner organisations, evictions have in fact been implemented. Despite extensive monitoring, the ERRC is unaware of a single instance in which any authority has been held liable for abusive evictions of Roma.

many years, in certain cases without providing alternative accommodation. This has sometimes resulted in Roma/Gypsies being repeatedly expelled from each new place they attempted to settle. These expulsions were sometimes accompanied, apparently unhindered by the police, by the destruction and arson of houses, and by threats and humiliating treatment by local authorities and municipal employees. ECRI urges the Greek authorities to devote immediate attention to these problems.”²²

The CESCR observed in its General Comments No 4 and 7 on the right to adequate housing that all persons should possess a degree of security of tenure which guarantees legal protection against forced evictions, harassment and other threats.²³ According to General Comment No 7 of the CESCR, the term “forced evictions” is defined as “the permanent or temporary removal against their will of individuals, families and/or communities from their homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection”.²⁴ The CESCR concluded in its General Comment No 4 that the practice of forced evictions is a *prima facie* violation of the right to adequate housing, regardless of the level of development or availability of resources.²⁵

The United Nations Commission on Human Rights has affirmed that the practice of forced evictions constitutes a gross violation of human rights, in particular the right to housing.²⁶ Furthermore, the United Nations Sub-Commission on Prevention of Discrimination and Protection of Minorities has reaffirmed that the practice of forced eviction constitutes a gross violation of a broad range of human rights — in particular, of the right to adequate housing, the right to remain, the right to freedom of movement, the right to privacy, the right to property, the right to an adequate standard

²² Council of Europe European Commission Against Racism and Intolerance, CRI (2000) 32, Second Report on Greece, adopted on 10 December 1999 and made public on 27 June 2000, section 32, available on the Internet at: <http://www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Greece/Greece_CBC_2.asp#P224_32325>. ECRI has also raised a number of other issues related to Roma in Greece arguably falling under the ambit of Greece’s commitments under Article 16 ESC, for example:

“31. As noted by ECRI in its first report, the Roma/Gypsy population of Greece is particularly vulnerable to disadvantage, exclusion and discrimination in many fields. [...]

33. Roma/Gypsies are reported to be excluded from many normal citizenship rights and benefits. The integration of Roma/Gypsies in the social security system is low. The vast majority of Roma/Gypsies living in camps are not insured by the public social security system, since they are unable or unwilling to make the required contributions. Like all Greek citizens, indigent Roma/Gypsies are entitled to free health care. However, it is reported that most Roma/Gypsies are not aware of their rights. An additional difficulty is that some municipalities refuse to register Roma/Gypsies if they want to move their place of residence. [...]

²³ General Comment No 7, E/1998/22, annex IV, 16th Session, para. 9; General Comment No 4, para. 8.

²⁴ General Comment No 7, para. 4.

²⁵ General Comment No 4, para. 18.

²⁶ Commission on Human Rights, Resolution 1993/77a.

of living, the right to security of the home, the right to security of the person, the right to security of tenure and the right to equality of treatment.²⁷

In addition, the CESCR emphasized that special attention should be accorded to vulnerable individuals or groups, *inter alia*, ethnic and other minorities, since often these individuals and groups suffer disproportionately from the practice of forced evictions.²⁸ Furthermore, evictions should not result in individuals being rendered homeless or vulnerable to violations of other human rights. Where those affected are unable to provide for themselves, authorities must take all appropriate measures, to the maximum of their available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available.²⁹

The CESCR General Comment on forced evictions recommended a number of procedural protections in relation to forced evictions. They include: (a) an opportunity for genuine consultation with those affected; (b) adequate and reasonable notice for all affected persons prior to the scheduled date of eviction; (c) information on the proposed evictions, and, where applicable, on the alternative purpose for which the land or housing is to be used, should be made available in reasonable time to all those affected; (d) especially where groups of people are involved, government officials or their representatives should be present during an eviction; (e) all persons carrying out the eviction should be properly identified; (f) evictions should not take place in particularly bad weather or at night unless the affected persons consent otherwise; (g) the provision of legal remedies; and (h) the provision, where possible, of legal aid to persons who require it in order to seek redress from the courts.³⁰

With particular reference to housing rights violations affecting Roma, the United Nations Committee on the Elimination of Racial Discrimination, in its General Recommendation No 27 on “Discrimination Against Roma”, has called on states: “[t]o act firmly against any discriminatory practices affecting Roma, mainly by local

²⁷ Sub-Commission Resolution 1998/9 on Forced Evictions, E/CN.4/SUB.2/RES/1998/9. Furthermore, international bodies have ruled that in certain instances forced evictions and the destruction of property can amount to cruel and inhuman or degrading treatment. For example, in the case of *Selçuk and Asker v. Turkey*, the European Court of Human Rights ruled that the destruction of houses and the eviction of those living in them constituted a form of ill-treatment in violation of Article 3 of the European Convention on Human Rights (Judgement of 24 April 1998, Appls Nos 00023184/94 and 00023185/94). Similarly, in a recent case, the United Nations Committee against Torture (CAT) ruled that, under certain circumstances, destruction of property may amount to cruel and inhuman or degrading treatment in violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (See Committee against Torture, Communication No 161/2000: Yugoslavia. 02/12/2002. CAT/C/29/D/161/2000 (Jurisprudence)). The case is particularly noteworthy for the purposes of this collective complaint, insofar as the victims were Romani.

²⁸ General Comment No 7, para. 11.

²⁹ General Comment No 7, para. 17.

³⁰ General Comment No 7, para. 15.

authorities and private owners, with regard to taking up residence and access to housing; to act firmly against local measures denying residence to and unlawful expulsion of Roma, and to refrain from placing Roma in camps outside populated areas that are isolated and without access to health care and other facilities.”³¹

In continuing the practice of forced evictions, Greek authorities are not only in violation of international human rights law, but also outside the scope of relevant domestic constitutional provisions. For instance, Article 21(4) of the Greek Constitution states that “[t]he provision of homes to those who are homeless or live in inadequate housing condition shall be the subject of special care of the State”. Similarly, Article 9 of the Greek Constitution proclaims the inviolability of a person’s home and private and family life.

Due to the indivisibility of human rights, forced evictions frequently trigger violations of other human rights. Hence, the practice of forced evictions may also result in violations of civil and political rights – *inter alia*, the right to life, the right to security of the person, the right to non-interference with privacy, family and home, and the right to peaceful enjoyment of possessions. It is imperative that individuals are protected by law against unjust evictions from their homes and/or land, and that legal redress be made available for victims of illegal forced evictions. When forced evictions are unavoidable, the Greek authorities must ensure that suitable alternative housing solutions are provided. In cases of justifiable evictions, it is incumbent upon State authorities that these evictions be carried out in a manner according to relevant law and that legal remedies and recourses be made available to those affected. Prior to carrying out forced evictions, all possible alternatives must be discussed with the affected persons in order to prevent the use of force. Legal remedies must be provided to those subjected to the threat of forced eviction.

4. Missing legal standards

The rights at issue in this complaint – the right to housing and the right to freedom from discrimination – are both in a period of expanding strength, breadth and depth in Europe. Greece has not kept pace with these developments, either in law or practice.

The Council of Europe has emphasised the importance of the right to adequate housing by including Article 31 in the Revised European Social Charter, which renders explicit the importance of adequate housing in the European social and economic rights *acquis*.³² Greece has not yet accepted Article 31 or indeed ratified any of the articles of the Revised Social Charter, although it has signed the Revised Charter and thereby evinced a willingness to undertake the commitments provided thereunder.

³¹ United Nations Committee on the Elimination of Discrimination, “Discrimination Against Roma”: CERD General Recommendation 27, 16/08/2000, para. 31.

³² Article 31 of the Revised Social Charter states: “With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: 1. to promote access to housing of an adequate standard; 2. to prevent and reduce homelessness with a view to its gradual elimination; to make the price of housing accessible to those without adequate resources.”

As to the non-discrimination right, in February 1998, the Council of Europe's Framework Convention for the Protection of National Minorities entered into effect. This instrument provides a range of legal protections to persons belonging to national minorities, including the following provisions:

“Every person belonging to a national minority shall have the right freely to choose to be treated or not to be treated as such and no disadvantage shall result from this choice or from the exercise of the rights which are connected to that choice.” (Article 3.1)

“The Parties undertake to guarantee to persons belonging to national minorities the right of equality before the law and of equal protection of the law. In this respect, any discrimination based on belonging to a national minority shall be prohibited.” (Article 4.1)

“The Parties undertake to take appropriate measures to protect persons who may be subject to threats or acts of discrimination, hostility or violence as a result of their ethnic, cultural, linguistic or religious identity.” (Article 6.1)

To date, however, Greece has signed but not yet ratified the Framework Convention for the Protection of National Minorities.

Similarly, when opened for signature on 4 November 2000, 25 countries – including Greece – signed Protocol 12 to the European Convention on Human Rights. Since that date, a further two states have signed the Protocol. Once it has secured 10 ratifications and thereby enters into force, Protocol 12 will provide blanket protection against discrimination “on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status” in the enjoyment of any right set forth by law. Protocol 12 significantly expands the existing protections available under the European Convention on Human Rights. Although a number of countries have now signed Protocol 12, Greece is not yet among them.

In addition, in July 2000, the European Council of the European Union adopted Directive 2000/43/EC “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin”. The Directive provides detailed minimum standards on law banning racial discrimination, and sets a deadline for current Member States of the European Union of 2003 for transposition of the provisions of the Directive into domestic law. The Directive includes a ban on discrimination “in access to and supply of goods and services which are available to the public, including housing.”³³ To date, Greece has not yet transposed the provisions of the Directive into its domestic legal order.³⁴

Finally, Greece has to date not yet made the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination

³³ European Council of the European Union Directive 2000/43/EC, Article 3(1)(h).

³⁴ For an analysis of deficiencies in existing Greek domestic law, please see ERRC/GHM Country Report 2003, pp. 178-184.

and thus has not yet recognised the competence of the United Nations Committee on the Elimination of Racial Discrimination to hear individual complaints.

5. Conclusion

The European Roma Rights Center is aware of and welcomes Greece's commitment to social rights as expressed by its ratification of the 1961 European Social Charter, of the 1995 Second Additional Protocol to the European Social Charter, as well as of other international instruments guaranteeing social and economic rights. The European Roma Rights Center further recognises the efforts of the Greek government in adopting, to date, two policy documents specifically aiming at the social integration of Greek Roma.³⁵

However, in light of:

- The existence of racially discriminatory housing policies pursued by the Greek government; of other unremedied violations of the right to adequate housing taking place in areas under Greek jurisdiction; as well as of widespread racial discrimination against Roma in the realisation of social rights in Greece;
- The Greek government's failure to date to ratify the Revised European Social Charter, to ratify the Framework Convention for the Protection of National Minorities, to ratify Protocol 12 to the European Convention on Human Rights, to transpose the requirements of European Council of the European Union Directive 2000/43/EC into Greece's domestic legal order, and thereby to keep pace with an expanding human rights *acquis* in Europe;
- The existence nevertheless of sufficient commitments under the 1961 European Social Charter, of related norms included in Greece's domestic legal order, and of freely undertaken international legal commitments in the field of anti-discrimination and the right to adequate housing,

The European Roma Rights Center urges the Greek government to:

- Without delay, repeal the racist decision of the Minister of Internal Affairs and the Minister of Health No A5/696/25.4-11.5.83, entitled "Sanitary Provision for the Organised Relocation of Wandering Nomads", published in the Official Gazette B' 243.
- Enact and implement comprehensive policies aiming at curbing and preventing residential and other racial segregation of Roma in Greece.
- Use all appropriate means to protect and promote the right to housing and guarantee protection against forced evictions. Ensure that evictions do not result in

³⁵ For a summary of the 1996 and 2001 Greek government policies on Roma, accompanying loan programmes, and issues related to the implementation of these policies and programmes, see ERRC/GHM Country Report 2003, pp. 184-202.

individuals being rendered homeless or vulnerable to other human rights abuses. Guarantee security of tenure to Romani occupants of houses and land, ensuring, *inter alia*, a general protection from forced evictions. Guarantee due process in line with international standards related to forced evictions. Guarantee non-discrimination against Roma in processes related to forced evictions. Guarantee adequate pecuniary and non-pecuniary civil compensation as well as comprehensive criminal and administrative redress in cases of illegal forced evictions. Make available adequate alternative housing, resettlement or access to productive land where those affected by evictions are unable to provide for themselves.

- Bring to justice public officials responsible for forced evictions of Roma in breach of Greek and international law.
- In order for many Roma – especially those presently living in Romani settlements – to be set on an equal footing with other Greek citizens in the area of housing rights:
 - Order local authorities to provide, without delay, adequate potable water, electricity, waste removal, public transport, road provisions and other public infrastructure to those Romani settlements which presently lack one or more of the above;
 - In the interest of empowering Roma to take control of their own housing fate, provide an executive “amnesty” for the so-called “illegal” Romani settlements currently existing on state-owned land, granting title to land and property to persons factually resident on a particular plot, and establishing a “year zero” for the purposes of zoning and future regulation.
- Without delay,
 - Sign and ratify all substantive articles of the Revised European Social Charter without reservations.
 - Ratify Protocol 12 to the European Convention on Human Rights.
 - Ratify the Council of Europe’s Framework Convention on the Protection of National Minorities, expressly recognising Roma as a national minority.
 - Sign and ratify the European Charter for Regional and Minority Languages, expressly recognising Romani as a minority language in Greece.
 - Adopt comprehensive anti-discrimination legislation in conformity with current European and international standards, in particular European Council of the European Union Directive 2000/43/EC “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin” and General Policy Recommendation No 7 of the European Commission against Racism and Intolerance. Establish an effective enforcement body and guarantee its administrative independence; provide resources adequate to enable its effectiveness in accordance with General Policy Recommendation No 2 of the European Commission against Racism and Intolerance.
 - Make the declaration under Article 14 of the International Convention on the Elimination of All Forms of Racial Discrimination, recognising the

competence of the Committee on the Elimination of Racial Discrimination to hear individual complaints.

- Ensure that adequate legal assistance is available to victims of discrimination and human rights abuse by providing free legal services to indigents and members of weak groups, including Roma.
- Conduct systematic monitoring of access of Roma and other minorities to social and economic rights -- the right to adequate housing in particular -- and establish a mechanism for collecting and publishing disaggregated data in these fields, in a form readily comprehensible to the wider public.
- Conduct public information campaigns on human rights and remedies available to victims of human rights abuse, including such public information campaigns in the Romani language.
- At the highest levels, speak out against racial discrimination against Roma and others, and make clear that racism will not be tolerated.

The European Roma Rights Center respectfully requests that the European Committee of Social Rights view with the utmost gravity the facts presented in this collective complaint and the documentation appended herewith, and find Greece in violation of Article 16 of the 1961 European Social Charter in light of the non-discrimination clause of the Preamble of the 1961 Charter.

On behalf of the European Roma Rights Center,

Claude Cahn
Programmes Director

Appendix 1 (attached):

Letter from the Secretariat General of the Council of Europe to Mr Claude Cahn, European Roma Rights Center, 14 June 2002

Appendix 2 (attached):

European Roma Rights Center and Greek Helsinki Monitor, *Cleaning Operations: Excluding Roma in Greece*, Country Reports Series No. 12, April 2003

