



8 October 2004

**Collective Complaint No. 15/2003
European Roma Rights Center v. Greece**

Case Document No. 9

**ADDITIONAL INFORMATION FROM
THE EUROPEAN ROMA RIGHTS CENTER (ERRC)
ON THE MERITS**

registered at the Secretariat on 13 September 2004

CENTRE ON
HOUSING RIGHTS
AND EVICTIONS



8 September 2004

Secretariat of the European Social Charter
Directorate General of Human Rights - DGII
Council of Europe
F-67075 Strasbourg Cedex
FRANCE

Attention: Regis Brillat, Executive Secretary



Fax: +33 3 8841 3700

Dear Secretariat,

Complaint No. 15: ERRC v Greece

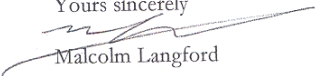
The Centre on Housing Rights and Evictions (COHRE) is an international non-governmental human rights organisation committed to protecting and promoting the right to housing. COHRE has participatory status with the Council of Europe.

COHRE is not currently registered as an organisation entitled to submit collective complaints under Article 1(b) of the Additional Protocol of 1995, and is not an international organisation of trade unions and employers that may be invited to submit observations on certain collective complaints under Article 7(2).

However, COHRE believes it is important to participate in this collective complaint, and wishes to provide the Committee with information and analysis related to housing rights and forced evictions, the central issues in the case. We therefore enclose observations on the above complaint in order to supplement the background information on the case available to the Committee.

If you have any inquiries please do not hesitate to contact us.

Yours sincerely


Malcolm Langford

Senior Legal Officer
Email: mal.langford@cohre.org
Tel: +49 163 820 1133

Address:
83 Rue de Montbrillant
1202 Geneva, Switzerland

Telephone: 41.22.7341028

Fax: 41.22.7338336

E-mail: cohre@cohre.org

COHRE is registered as a Non-Profit Foundation (Stichting No. 4186752) in the Netherlands and has 501 (c) (3) non-profit status in the United States.

COHRE is an NGO in Special Consultative Status with the Economic and Social Council of the United Nations (UN) and with the Organization of American States (OAS).

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CENTRE ON
HOUSING RIGHTS
AND EVICTIONS



Complaint No. 15/2003

By

European Roma Rights Center (ERRC)

v.

Greece

Observations

By

**Centre on Housing Rights and Evictions
(COHRE)**

www.cohre.org

Address:
83 Rue de Montbrillant
1202 Geneva, Switzerland

Telephone: 41.22.7341028

Fax: 41.22.7338336

E-mail: cohre@cohre.org

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1. INTRODUCTION

1.1 Centre on Housing Rights & Evictions (COHRE)

1. These observations are being submitted by the Centre on Housing Rights and Evictions (COHRE), an independent NGO, which is a leading international non-governmental human rights organisation committed to protecting and promoting the right to housing.

2. COHRE has participatory status with the Council of Europe and has undertaken a wide range of advocacy activities in European countries ranging from campaigning for improved laws and policies to defending victims of housing rights violations. The organisation has also participated in discussions at the Council of Europe over standards relating to the right to housing and Roma.

3. Currently, COHRE is not registered as an organisation entitled to submit collective complaints under Article 1(b) of the Additional Protocol of 1995, and is not an international organisation of trade unions and employers that may be invited to submit observations on certain collective complaints under Article 7(2). However, COHRE believes it is important to participate in this collective complaint, and wishes to provide the Committee with information and analysis related to housing rights and forced evictions, the central issues in the case.

1.2 Purpose of Observations

4. The European Roma Rights Centre has catalogued a wide range of acts and omissions by the Government of Greece that would amount to violations of the European Social Charter. The European Trade Union has also made a range of pertinent observations as to the relevant human rights provisions that relate to the complaint.

5. COHRE submits these observations to:

- 5.1 Present in more detail the relevant international and regional jurisprudence on forced evictions and the right to housing and its relation to Article 16.
- 5.2 Reinforce the contention expressed by the ERRC that the amendment of the 1983 Decree, 'Sanitary provision for the organised relocation of wandering nomads' is an inadequate response by the Greek Government.
- 5.3 Raise the concern that forced and discriminatory evictions of Roma may continue in Greece under general laws permitting eviction.
- 5.4 Raise the concern that Greek's current policies to provide Roma access to housing do not meet human rights standards.

2. INTERNATIONAL LAW

2.1 International Standards

6. The right to adequate housing is one of the most well defined rights under international human rights law beginning with Article 25 of the Universal Declaration of Human Rights.¹ This right was later codified in a range of legally binding international instruments as set out by the ERRC and the ETUC.² The detailed commentary on forced evictions and right to housing by the Committee on Economic, Social and Cultural Rights ('ICESCR Committee') is referred to in the ERRC's collective complaint (under B. 3).

7. COHRE wishes to highlight, however, four additional duties of States identified by the ICESCR Committee in its General Comment No. 7 on Forced Evictions that have particular relevance to this case:

- Authorities or private persons who carry out forced evictions are to be punished where appropriate (paragraph 9).
- Positive steps must be taken to prevent forced evictions through amendment and introduction of legislation:

[I]t is clear that legislation against forced evictions is an essential basis upon which to build a system of effective protection. Such legislation should include measures which (a) provide the greatest possible security of tenure to occupiers of houses and land, (b) conform to the Covenant and (c) are designed to control strictly the circumstances under which evictions may be carried out. The legislation must also apply to all agents acting under the authority of the State or who are accountable to it... States parties should therefore review relevant legislation and policies to ensure that they are compatible with the obligations arising from the right to adequate housing and repeal or amend any legislation or policies that are inconsistent with the requirements of the Covenant. [paragraph 10]

¹ 'Everyone has the right to a standard of living adequate for the health and well-being of himself [or herself] and of his [or her] family, including food, clothing, housing...': G.A. Res. 217A (III), U.N. Doc A/810 at 71 (1948).

² See also a comprehensive list of instruments in Centre on Housing Rights & Evictions, *Legal Resources for Housing Rights: International and National Standards* (COHRE, 2002).

- All individuals have the right to adequate compensation for any property, both personal and real, which is affected (paragraph 13).
- All feasible alternatives to an eviction are to be explored prior to its execution (paragraph 14).

8. The ICESCR Committee's jurisprudence on the positive obligations under the International Covenant on Economic, Social and Cultural Rights ('ICESCR') is also relevant. Although ICESCR is a more flexible instrument than the Charter - since it expressly allows for progressive realisation within maximum available resources whereas the Charter does not³ - the Committee has emphasised that States Parties are required to take the necessary steps in the shortest possible time to realise the right to adequate housing (the definition of adequacy is set out in ERRC' complaint').⁴ According to the Committee, this will require a national strategy that is designed in consultation with target groups, implementation of the strategy and monitoring with special attention given to vulnerable groups.⁵

2.2 Regional and International Case Law

9. The decisions of other regional and international bodies are also relevant. This includes case law generated by courts and committees empowered to enforce civil and political rights.

2.2.1 European Convention on Human Rights

10. A significant number of eviction cases have been considered under Article 8 of the European Convention on Human Rights,⁶ including cases of residents who have no right under domestic law to the land upon which their home is situated. Article 8(1) provides for the right of everyone to respect for their home, privacy and family life.

11. In early jurisprudence, the European Commission on Human Rights defined a home to be place where a person lives on a settled basis; a situation that implies a degree of stability and continuity.⁷ In *Buckley v. the United Kingdom*⁸, the Commission found that an applicant's complaint that she was prevented from living with her family in her caravans on her land fell within the scope of Article 8. In its opinion, the Commission stated that the:

[C]oncept of a home is not limited to those which are lawfully occupied or which have been lawfully established. 'Home' is an autonomous concept which does not depend on classification under domestic law.

12. Although the European Court of Human Rights ('ECHR') reversed the finding of the Commission in *Buckley* that there was a violation of Article 8, the Court did agree that the case

³ Cf. Complaint No. 12/2002, *Autism Europe v France*, paragraph 53 where the Committee noted that when the realisation of a right is 'exceptionally complex and particularly expensive to resolve' a State party may avail themselves of such limitations if they show measurable progress and ensure the enjoyment of the right within a reasonable time.

⁴ See para. 2 of Committee on Economic, Social and Cultural Rights, *General Comment No. 3, The nature of state parties obligations* (Art. 2 (1) of the Covenant) (Fifth session, 1990).

⁵ Committee on Economic, Social and Cultural Rights, *General Comment No. 4, The right to adequate housing* (Art. 11 (1) of the Covenant) (Sixth session, 1991) at paras. 12 and 13.

⁶ 4 November 1950, 213 U.N.T.S. 221.

⁷ *Wiggins v United Kingdom* (1978) 13 DR 40. See also *Gillow v United Kingdom* (9063/80) [1986] ECHR 14.

⁸ *Buckley v United Kingdom* 23/1995/529/615.

‘concerns the applicant’s right to respect for her ‘home’.⁹ Moreover, the Court specifically rejected the argument of the Government that only a home *legally established* could come within the protection of Article 8.

13. The ECHR has found violations in other cases. In *Mentes v. Turkey* they held that destruction of housing by Turkish authorities was an unjustified interference with the rights in Article 8.¹⁰ The Government of Turkey was ordered to pay compensation to the petitioners.

14. Most recently, the Court ruled on 27 May 2004, in relation to the eviction of a Traveller family in the United Kingdom, that:

[T]he eviction of the applicant and his family from the local authority site was not attended by the requisite procedural safeguards, namely the requirement to establish proper justification for the serious interference with his rights and consequently cannot be regarded as justified by a “pressing social need” or proportionate to the legitimate aim being pursued. There has, accordingly, been a violation of Article 8 of the Convention.¹¹

The applicants were awarded damages for *non-pecuniary* losses:

Nonetheless, the applicant was denied the opportunity to obtain a ruling on the merits of his claims that the eviction was unreasonable or unjustified. In addition, he suffered non-pecuniary damage through feelings of frustration and injustice. The Court thus concludes that the applicant sustained some non-pecuniary damage which is not sufficiently compensated by the finding of a violation of the Convention. Deciding on an equitable basis, it awards the applicant the sum EUR 14,000. [Paras. 114 and 115.]

15. The right to secure tenure under Article 8 must also be applied without discrimination. In *Larkos v Cyprus*, the Court found that legislation providing a lower level of security of tenure for public tenants in comparison to private tenants did not have a legitimate aim and there were no reasonable and objective criteria for its imposition.¹²

16. The protection of Article 8 also encompasses the right of access and the right of occupation.¹³ In *Velosa Barreto v. Portugal*¹⁴ the Court confirmed that Article 8 does not give a landlord the right to recover possession of a rented house on request and in any circumstances.

17. The Court also ruled in the case of *Akdivar v. Turkey*¹⁵ that evictions may constitute a violation of the right to peaceful enjoyment of possessions.¹⁶ In *Önerildiz v. Turkey*, the court affirmed that the loss of informal housing structures after an avoidable gas explosion was compensable.¹⁷

⁹ *Buckleley v United Kingdom*, (20348/92) [1996] ECHR 39.

¹⁰ *Mentes v Turkey* (23186/94) [1997] ECHR 98.

¹¹ *Connors v United Kingdom*, (European Court of Human Rights, Application no. 66746/01, 27 May 2004) at para. 95.

¹² *Larkos v Cyprus* (29515/95) [1999] ECHR 11.

¹³ *Wiggins v United Kingdom*, 13 DR 40 (1978).

¹⁴ *Velosa Barreto v Portugal* (18072/91) [1995] ECHR 49 (21 November 1995).

¹⁵ *Akdivar v Turkey* (21893/93) [1996] ECHR 35. See also *Cyprus v. Turkey* (25781/94) [2001] ECHR 327.

¹⁶ Article 1 of Protocol 1 to the European Convention on Human Rights, First Protocol to the [European] Convention for the Protection of Human Rights and Fundamental Freedoms, 213 UNTS 262.

¹⁷ *Önerildiz v. Turkey* (48939/99) [2002] ECHR 491.

18. In some circumstances, evictions may rise to the level of cruel and degrading treatment or punishment, as banned under Article 3 of the Convention.¹⁸

19. The ECHR has also developed within its Article 8 jurisprudence, the concept of ‘positive obligations,’ under which a Contracting State must not only restrict its own interferences to what is compatible with the rights, but may also be required to protect the enjoyment of those rights and secure the respect for those rights in its domestic law.¹⁹

2.2.3 Convention Against Torture

20. In another forum, the Committee Against Torture held in *Džemajl v Yugoslavia* that evictions can violate the Convention Against Torture: ‘burning and destruction of houses constitute, in the circumstances, acts of cruel, inhuman or degrading treatment of punishment’.²⁰ The Committee also faulted the failure of the State to provide redress and compensation, undertake a proper investigation and prosecute those responsible.

2.2.3 African Charter on Human and Peoples’ Rights

21. The African Commission on Human and Peoples’ Rights (African Commission) in *SERAC v Nigeria* - a case that dealt, *inter alia*, with forced evictions and housing destruction by both the Government of Nigeria and private security forces of Shell Petroleum Development Corporations – found that Nigeria had violated the right to adequate housing.²¹ The right to housing was implied from the right to property, right to protection of the best attainable state of physical and mental health and the right to protection of the family. In reaching its conclusion, the Commission drew, ‘inspiration from the definition of the term ‘forced evictions’ by the [United Nations] Committee on Economic, Social and Cultural Rights’.

2.3 Article 16 of the European Social Charter

22. It is against this significant foundation of international law that Article 16 of the European Social Charter (‘ESC’) must be evaluated as it relates to the substance of the complaint. Significantly, the duty of Contracting parties in Article 16 to ‘promote the economic, legal and social protection of family life’ in the ESC will require the Government of Greece to respect, protect and fulfil *key* elements of the right to housing.

23. The relationship between the right to adequate housing and Article 16 has already been recognised by the Committee. In its Conclusions XII-1(p. 30), the Committee ‘stressed the need to consider family welfare in terms of the right to receive adequate housing and essential services (such as heating and electricity), these being necessary for the welfare and stability of families’.²² This conclusion is similar to the one that was reached by the ICESCR Committee: ‘The human right to adequate housing, which is thus derived from the right to an adequate standard of living, is of central importance for the enjoyment of all economic, social and cultural rights’.²³

¹⁸ *Selcuk and Asker v. Turkey* (23184/94) [1998] ECHR 36.

¹⁹ See for example, *Botta v Italy* (1998) EHHR 241 (1998); *López Ostra v. Spain* (1995) 20 EHHR 277 and *Öner Yildiz v. Turkey* (48939/99) [2002] ECHR 491.

²⁰ *Džemajl v. Yugoslavia*, Communication No. 161/2000, CAT/C/29/161/2000, decision can be accessed at www.unhcr.ch (select Documents, Treaty Body Database, CERD, and Jurisprudence).

²¹ African Commission on Human and Peoples’ Rights, Decision 155/96 (27 May 2002).

²² Quoted in Lenia Samuel, *Fundamental Social Rights: Case Law of the European Social Charter*, Council of Europe, 1997, at p.352.

²³ See Committee on Economic, Social and Cultural Rights (CESCR). General Comment 4: The right to adequate housing (Art. 11.1 of the Covenant). December 13, 1991, paragraph 1.

24. It is to be noted that forced evictions are incompatible with the obligation of Greece to promote protection of family life. Forced evictions deprive families of their homes; living places that are central to family life. Livelihoods of the economically active members of families are threatened, disrupted or destroyed when children and other members of the family are prevented from accessing education, health and community services. Access to water, sanitation and energy is often severed. The prohibition on forced eviction should be read by the Committee to be a core aspect of Article 16.

25. The right to housing in Article 16 must also be guaranteed without discrimination. The Committee has previously recognised that the right to non-discrimination as an implicit component of the Articles of the ESC.²⁴ Since the Charter rights are to apply to all persons in the metropolitan territory of the member state – Article 34(1) and the first two paragraphs of the Appendix to the ESC – it is clear that the State cannot act in a discriminatory manner. The preamble also 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’.

26. One of the non-exhaustive requirements in Article 16 is to provide family housing. The Government of Greece is therefore bound to fulfil this right by providing adequate access to affordable and appropriate housing with sufficient services. The location of the housing should not lead to segregation. The Committee has previously emphasised that ‘implementation of the Charter requires States parties to take not merely legal action but also practical action to give full effect to the rights recognised in the Charter’.²⁵

27. It should also be noted that the Government of Greece signed the Revised European Social Charter on 3 May 1996 and is obliged not to defeat the object or the purpose of the treaty.²⁶ Even if Greece does not select in Part II the right to protection from poverty and social exclusion (Article 30) and the right to housing (Article 31), it will be legally obliged under Part I to make these rights the ‘aim of their policy’. Retrogressive measures such as forced evictions would defeat the object and purpose of the Revised Social Charter as reflected in Articles 16, 30 and 31 of Part I.

3. COMPLIANCE BY GREECE

28. The numerous forced evictions of Roma by, or with the acquiescence, of Greece authorities, contrary to Article 16 of the ESC, are documented in the submissions of the European Roma Rights Center in this collective complaint as well as in many other authoritative reports concerning abuses of the housing rights of Roma.²⁷ The documentation show that Roma frequently face abusive police actions and destruction of property during evictions;²⁸ that in a number of instances, the purpose and/or effect of forced evictions was to relocate Roma to

²⁴ See Complaint No. 6/1999, *Syndicat national des Professions du tourisme v France*, paragraph 24.

²⁵ Complaint No. 12/2002, *Autism Europe v France*, paragraph 53.

²⁶ See Article 18 of the Vienna Convention on the Law of Treaties, ratified by the Government of Greece on 30 October 1974.

²⁷ See also National Commission for Human Rights, ‘Ekthesi 2001,’ January, 2002; European Roma Rights Center/ Greek Helsinki Monitor, *Cleaning Operations: Excluding Roma in Greece*, Country Reports Series No. 12, April, 2003; Human Rights Watch, *World Report 2002: Greece*, Human Rights Watch, World Report, 2001: Greece (“[i]llegal evictions and police abuse against Roma continued unabated”); Greek Helsinki Monitor, ‘Parallel Report on Greece’s Compliance with the UN Convention on Economic, Cultural and Social Rights, September 2002’; Council of Europe European Commission Against Racism and Intolerance, CRI (2000) 32, *Second Report on Greece*, adopted on December 10, 1999 and made public on June 27, 2000.

²⁸ Human Rights Watch, *World Report 2002: Greece*, Human Rights Watch, World Report, 2001

racially segregated areas;²⁹ and legal remedies and appropriate alternative accommodation have not been available to the victims.

29. In the response of the Government of Greece to the Collective Complaint, the Contracting Party to the Charter has not responded adequately to the illegal pattern and practice of forced evictions and lack of appropriate resettlement plans. Nor has it made any showing that the laws and policies of the Government of Greece comply with the applicable international laws (see further section III(C) below). COHRE wishes to highlight three particular areas.

3.1 Continuing Concerns over Relocation Decree

30. The willingness of the Government of Greece to take some steps to address the racial discrimination contained in 1983 Ministerial Decree entitled 'Sanitary provision for the organised relocation of wandering nomads' [1983 Decree]³⁰ is welcome. Some of the most obnoxious provisions of the law – that expressly provided for the forcible eviction of Roma – have been removed in the amendment of July 2003.

31. COHRE nevertheless retains serious concerns over the law and its legacy. First, there are no indications that Greek authorities have acted to design and implement policies aimed at alleviating the suffering caused to countless Roma during the approximately 20 years in which the 1983 Decree was in force. Actions should include a thorough investigation of forced evictions carried out under the Decree as well as compensation or other remedies provided to those individuals and communities whose right to housing has been violated.

32. Second, the amendments to the law do not adequately address many of the problems that are the basis of the complaint by the ERRC in this case. For example, the new law does not apply to groups such as farmers in agricultural areas, cattle breeders in the summer or winter grasslands, and travellers in general.³¹ It seems that the law will only apply to Roma.³² This is particularly troubling given the history of application of the 1983 Decree that was applied in a blatantly discriminatory manner.

33. It is even more problematic since there is a legal framework for the resettlement of other categories of people, such as victims of earthquakes,³³ but no policy that provides for adequate resettlement of the Roma. The amended law continues to penalise people for the failure of the government to provide or ensure adequate housing, allowing the continuation of discriminatory application of criminal penalties and prosecution. In February 2004, the World Organisation Against Torture (OMCT) denounced the continued failure of the Greek authorities to honour their commitment to Roma settlement in Spata which was resettled.³⁴

²⁹ See European Roma Rights Center/ Greek Helsinki Monitor, *Cleaning Operations: Excluding Roma in Greece*, Country Reports Series No. 12, April, 2003.

³⁰ Article 1 of the 1983 Ministerial Decree states: "[t]he unchecked, without permit, encampment of wandering nomads (*Athinganoi*, etc.) in whatever region is prohibited." According to Article 3(3), "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.)." "Athinganoi" is the term used for Roma in Greek for administrative purposes.

³¹ Official Gazette 973/B/15-07-2003, Amendment of the A5/696/25.4.83 Sanitary Provision respecting the organized settlement of itinerant persons [2003 Amendment], at Article 6, section 3 (attached to Observations of the Hellenic Government).

³² Even the title of the amended law continues to be problematic. It is labeled 'Sanitary Provision respecting the organised settlement of itinerant persons.' *Id.*

³³ The law providing for the creation of encampments for persons suffering from natural disasters is discussed in the Observations of the Hellenic Government at p. 9.

³⁴ World Organisation against Torture (OMCT), 'Greece: A History of Failed Promises to the Roma,' Press Release, February 18, 2004, available at www.omct.org.

3.2 Threats to Roma under General Eviction Laws

34. COHRE remains concerned that forced evictions of Roma will also occur under other Greek legislative and administrative provisions. Greek legislation and law that permits evictions is not consistent with international legal standards on forced evictions.

3.2.1 Laws Permitting Evictions in Greece

35. Roma in Greece are potentially affected by three different types of law:

- 35.1 If the land upon which Roma are residing is owned by the State, a protocol for administrative eviction is to be drawn up and enforced by a court bailiff.
- 35.2 If a municipality owns the land, then the relevant Mayor draws up a similar protocol and serves it to the occupant; the latter having 30 days in which to challenge the protocol. However, it appears that municipalities can also initiate civil actions for evictions that can be more quickly enforced.³⁵
- 35.3 If the land is privately owned - and there is no dispute over ownership - the private owner must simply apply for an interim measure for possession over the property. A State official, the court bailiff, carries out enforcement of the order.

3.2.2 Inconsistency with European Social Charter

36. These laws on their face do not conform to the guarantees implicit in Article 16 of the European Social Charter:

- That there must be sufficient justification for any eviction in accordance with the provisions of international human rights instruments. The threshold for justifying an eviction is particularly high where the government has failed to design and implement a reasonable and effective housing programs for the most marginalised sections of the population and such groups have been forced to adopt self-help measures.
- That the threatened residents must be provided with adequate procedural protections, particularly access to adequate information, opportunity for consultation on alternatives to eviction, reasonable notice and access to legal remedies and legal.
- That persons who are evicted will not be rendered homeless and will be provided with adequate alternative accommodation that that does not disrupt livelihoods of the evictees and their access to essential services, education and health care.

37. Secondly, the systematic practice of forced evictions of Roma provokes the concern that these general laws are, and will be, more likely to be used against Roma, on account of their race and poverty. This concern is amplified by evidence of prejudicial attitudes of some government officials towards Roma as set out in the collective complaint of the ERRC. While evictions in some case are unavoidable, the evidence suggests that authorities are more likely to proceed to eviction of Roma residents, and less likely to devise appropriate alternative solutions to conflicts over land use or to provide adequate resettlement, in comparison to similar situations involving non-Roma.

³⁵ Articles 1094 or 1108 of the Greek Civil Code. Municipalities can also file an application for interim measures: Articles 987 or 989 of the Greek Civil Code.

38. The Committee in Complaint No. 6/1999, *Syndicat national des Professions du tourisme v France* has made it clear that 'all forms of discrimination must be abolished in respect of the rights in the Charter.³⁶ This requires more than the simple prohibition of direct forms of discrimination. It requires positive measures to ensure that the Roma do not suffer from 'indirect' or systemic patterns of discrimination – in this case the differential and unjustifiable use of the general legal framework on evictions to the detriment of Roma – and to remedy the disadvantage that has resulted from years of systemic discrimination.

39. In its response to the Complaint in this case, the Greek government refers to a proposed law on anti-discrimination law in Greece. However, there are many problems with the draft law, as discussed in the *Response by the European Roma Rights Center* at pages 3-4. Moreover, a recent report confirms the problems of discrimination in Greece: see Hellenic Republic National Commission for Human Rights, *Major Issues of Racial Discrimination in Greece—Proposals on the Modernisation of Greek Legislation and Practice* (29 March 2004).

3.3 Ameliorating Housing Poverty and Segregation of Roma

40. Due to the factors described in the ERRC's complaint, Roma face segregation and social exclusion.³⁷ They frequently live in informal housing settlements without access to public services such as electricity, heating and potable water, sewage and solid waste removal, or inclusion on urban grids for the purposes of public services such as public transportation or provision of adequate schooling.³⁸

41. The Government of Greece is under an obligation to take all necessary steps to promote the better access to housing for Roma and to end segregation. The recent concluding observations of the ICESCR Committee state:

The Committee urges the State party to take measures towards providing for all Roma, including itinerant and non-Greek Roma, adequate and affordable housing with legal security of tenure, access to safe drinking water, adequate sanitation, electricity and other essential services, and meeting their specific cultural needs.³⁹

42. The European Commission against Racism and Intolerance has also voiced its concern in relation to the housing situation of the Roma: in its third report on Greece, it stated that

ECRI noted with concern that since the adoption of its second report on Greece, the situation of the Roma in Greece has remained fundamentally

³⁶ The Committee points out that Article 1 para. 2 of the revised Charter requires those states which have accepted it to protect effectively the right of workers to earn their living in an occupation freely entered upon. This obligation requires *inter alia* the elimination of all forms of discrimination in employment whatever is the legal nature of the professional relationship.³⁹ (paragraph 24).

³⁷ The Committee on the Elimination of Racial Discrimination (CERD), which monitors States' compliance with the ICERD stated, in its General Comment 19 on racial segregation and apartheid, that racial segregation can "arise without any initiative or direct involvement by the public authorities. It invites States parties to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports." CERD. General Comment 19: Racial segregation and apartheid (Art. 3). August 18, 1995, ¶ 4.

³⁸ See for example, United States Department of State Country Reports on Human Rights Practices: Greece 2003 (February 25, 2004).

³⁹ See Concluding Observations of the Committee on Economic, Social and Cultural Rights: Greece, Unedited Version E/C.12/1/Add.97, 14 May 2004, paragraph 42, available at www.ohchr.org/tbnu/cescr/Greece.pdf.

unchanged and that overall they face the same difficulties - including discrimination- in respect of housing, employment education and access to public services. As concerns housing in particular, there still remain numerous Roma camps removed from all infrastructure in which the Roma live under unacceptable conditions. This is true, for example, of the Aspropyrgos camp near Athens.⁴⁰

43. The Government of Greece has adopted an Integrated Action Plan for the Social Integration of Greek Roma. However, the Plan is yet to be fully implemented. Further there are serious concerns as to whether there is adequate participation of Roma and there are any mechanisms of accountability to ensure the plan is implemented at the local level.

4. RECOMMENDATIONS

44. COHRE endorses the remedies proposed by the ERRC – as contained in its Collective Complaint dated 4 April 2003 and its response to the Government of Greece dated 10 February.

45. In addition, COHRE urges that the Government of Greece must:

1. Provide adequate reparation for Roma who suffered loss during the period that the 1983 Ministerial Decree, entitled 'Sanitary provision for the organised relocation of wandering nomads', was used by public authorities to forcibly evict Roma.
2. Develop in a participatory manner a clear plan of action and provide institutional mechanisms for ameliorating the socio-economic effects of years of systemic discrimination against the Roma, including an effective mechanism for monitoring and enforcing the implementation of the plan.
3. Consider repealing the 2003 Decree, the Amendment of the A5/696/25.4.83 Sanitary Provision respecting the organised settlement of itinerant persons or other provisions. If the Decree is maintained then, at a minimum, the safeguards proposed by the ERRC in its Response of 10 February 2004 must be adopted together with a further revision of the law to ensure the following safeguards:
 - (a) Evictions only proceed where there is a justifiable reason for doing so, in accordance with international human rights law.
 - (b) Security of tenure is guaranteed to Roma occupants of houses and land, ensuring, *inter alia*, a general protection from forced evictions;
 - (c) Evictions conducted for discriminatory reasons or carried out in a discriminatory fashion are prohibited.
 - (d) Due process in accordance with international standards is guaranteed in relation to any forced eviction, including (i) opportunity for genuine consultation; (ii) adequate and reasonable notice; (iii) full disclosure of information concerning the eviction, including purpose for which land or housing will be used; (iv) presence of government officials during eviction; (v) proper identification of those carrying out eviction; (vi) evictions not to proceed in bad weather; (viii) provision of legal remedies; adequate pecuniary and non-pecuniary civil compensation as well as comprehensive criminal and administrative redress in cases of forced evictions; and (ix) provision of legal aid where possible for those seeking redress in courts.

⁴⁰ See European Commission against Racism and Intolerance, *Third Report on Greece*, adopted on 5 December 2003, made public on 8 June 2004, paragraph 67. The report is available at www.coe.int/T/E/human_rights/Ecri/1-ECRI/2-Country-by-country_approach/Greece/Greece_CBC_3.asp#TopOfPage

- (e) Evictions do not result in individuals being rendered homeless or vulnerable to other human rights abuses;
- (f) Adequate alternative housing, resettlement or access to productive land is made available to those affected by evictions who are unable to provide for themselves.

4. Amend all other laws in Greece that permit eviction to ensure that:

- (g) Evictions only proceed where there is a justifiable reason for doing so, in accordance with international human rights law.
- (h) Security of tenure is guaranteed to Roma occupants of houses and land, ensuring, *inter alia*, a general protection from forced evictions;
- (i) Evictions conducted for discriminatory reasons or carried out in a discriminatory fashion are prohibited.
- (j) Due process in accordance with international standards is guaranteed in relation to any forced eviction, including (i) opportunity for genuine consultation; (ii) adequate and reasonable notice; (iii) full disclosure of information concerning the eviction, including purpose for which land or housing will be used; (iv) presence of government officials during eviction; (v) proper identification of those carrying out eviction; (vi) evictions not to proceed in bad weather; (viii) provision of legal remedies; adequate pecuniary and non-pecuniary civil compensation as well as comprehensive criminal and administrative redress in cases of forced evictions; and (ix) provision of legal aid where possible for those seeking redress in courts.
- (k) Evictions do not result in individuals being rendered homeless or vulnerable to other human rights abuses;
- (l) Adequate alternative housing, resettlement or access to productive land is made available to those affected by evictions who are unable to provide for themselves.

5. Consider establishing a centralised body office with adequate Roma representation in order to ensure forced evictions are not arbitrarily or indiscriminately applied to Roma and, where applied, accommodate the unique circumstances and historical disadvantage of Roma communities.

6. Consider establishing a centralised body to ensure the implementation of housing programs designed to benefit the Roma. The body should allow for adequate Roma representation and be given sufficient enforcement powers to carry out its duties.

7. Consider the appointment of a human rights commission office or special ombudsperson with enforcement powers to review any actions taken with respect to Roma, to make recommendations for alternative or follow-up measures designed to ameliorate conditions of disadvantage resulting from systemic discrimination and to assist in the development of programs for alleviating disadvantaged status of Roma communities.

5. CONCLUSION

For the foregoing reasons, COHRE respectfully requests that the European Committee on Social Rights determines that the Government of Greece is in violation of Article 16 of the European Social Charter and recommends that the Greek government be required to implement the provisions outlined in Section 4 above.

Respectfully Submitted,



Malcolm Langford, Senior Legal Officer
Centre on Housing Rights and Evictions
83 Rue de Montbrillant 1202 Geneva, Switzerland