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Case document No. 6

International Centre for the Legal Protection of Human Rights (INTERIGHTS) v. Greece
Complaint No. 49/2008

FURTHER OBSERVATIONS OF THE GOVERNMENT ON THE MERITS

Registered at the Secretariat on 28 August 2009

FURTHER OBSERVATIONS OF THE GREEK GOVERNMENT ON THE MERITS OF THE COLLECTIVE COMPLAINT 49/2008 AND RESPONSE TO THE OBSERVATIONS OF THE INTERNATIONAL CENTRE FOR THE LEGAL PROTECTION OF HUMAN RIGHTS" (INTERIGHTS)

This document is submitted by the Greek Government further to the decision of the European Committee of Social Rights (hereinafter 'the Committee') on admissibility of the Collective Complaint 49/2008 (hereinafter 'the Complaint') by the "International Centre for the Legal Protection of Human Rights" (INTERIGHTS), adopted on 23 September 2008; it supplements previous state submissions and observations and rebuts the response from INTERIGHTS to the written submissions of the Greek Government submitted on 26 March 2009 (hereinafter 'the Response').

The Greek Government denies entirely the allegations made by the Complainant Organization, both in the original text of the complaint and in the additional observations, and requests that the above complaint be dismissed as unfounded on the following grounds:

I. Integrated Action Plan for the Social Integration of Greek Roma-Alleged Failure to provide quantitative data on the progress of actions of the Programme

Contrary to the allegations made by INTERIGHTS in an attempt to refute all efforts made to this day and those currently undertaken by the Greek State for the improvement of the Roma's status in Greek society, and for combating discrimination and social exclusion, we strongly and clearly support the following:

The said process of social integration is comprised, by definition, by a series of long-term social stages and procedures. For this reason and this reason alone, **its results are not always measurable quantitatively and, hence, cannot be easily depicted**, but, **in addition to the measurable quantitative data, they can be portrayed through parallel courses of actions and social processes**. Nevertheless, in both, for example, our review note attached to our original Observations and the Observations themselves we cited specific quantitative and qualitative data, which show that the effort made is monitored and attempted to be depicted not only quantitatively but also qualitatively. Thus, we presented in detail the number of loans

that had been granted at the time of drawing up of our original observations (page 6: **7,482**). We also mentioned the exact number of beneficiaries who had exercised the recognized right (page 6: **5,992**). As regard the accusations made, we concisely and clearly described the changes that occurred during the implementation of our actions, so as to ensure the effectiveness of the Program, both as to the resources provided and the terms of participation in it (pages 5-8). We presented the development of women's participation in the Program (Leaflet on the Integrated Action Plan, pages 3-4), thus proving the effectiveness of the measures undertaken since 2006, taking also into consideration the conclusions of the European Committee of Social Rights. Similarly, we highlighted the priority given to the protection of maternity and children (minor and, in general, dependent children). Hence, **we cannot understand the complainant organization's claim about the avoidance or failure to provide concrete data on the manner in which the State fulfils its obligations and mainly complies with its commitments** and, therefore, about the manner in which the State attempts to comply with the conclusions of the European Committee of Social Rights.

Also, we observe that, while the original Greek Observations and the annexes refer in their entirety to specific actions and their outcome, for the purpose of tackling the problems of the Greek Roma more effectively, however, INTERIGHTS uses the relevant points only in an attempt to prove that they are inaccurate, especially, as regards the description of the financial values of the housing assistance actions. Among others, according to the document of the Ministry of Interior no 33145/04-08-2006 addressed to Greek Helsinki Monitor (as invoked by INTERIGHTS in order to prove its apparently contradictory allegations), until August 2006 the total **budget of the approved housing infrastructure projects** for all the Local Government Organizations of the country amounted to **46.1** million euro, excluding the loans cost (290.2 million euro) and cost of prefabricated houses (6.3 million euro). Out of the amount approved and according to the tender – award of projects, as well as the progress of the works carried out, 24.4 million euro had been spent in total. Therefore, the **total approved budget of the projects** amounted at the time to **52.4 million euro** (projects and prefabricated houses), of which **30.7 million euro** were spent according to the works carried out. Then, the relevant values for the time of submission of the original Greek observations were: total **approved budget of the projects: 80.54 million euro** (excluding the loans) and **budget of the projects spent: 42.20 million euro**. Considering the said amounts we cannot understand how the increase in the approved budget of the projects over the years has been contradictory or untrue, as claimed by INTERIGHTS (page 20). Similarly, the number of

prefabricated houses (1,712 to 557) does not present any inaccuracy, since the number of the 1,712 prefabricated houses concerned the period since 2000, while the 557 houses, which are clearly less as a result of implementation of actions of a permanent nature, concerned the period since 2002. Furthermore, the **increase in the budget of both the approved projects and the expenditure paid** does not require the creation of exclusively new settlements, but is explained by the parallel implementation of projects for the improvement of the living conditions in existing and new settlements. It is worth commenting, at the same time, on the conclusion about Program's failure (page 21) drawn from the contrast between the approved budget of the projects and the actual expenditure. We clarify, thus, that the payment of the projects depends on the progress of their implementation (the opposite would be undesirable and indicative of mismanagement), while the integration of project financing is not activated, unless the necessary maturity procedures (tender, award of tender etc.) related to each project have been successfully completed, as stipulated by the law on award and execution of public works. A detailed reference to the kind of the eligible interventions with specific examples by case was made in the Review Note for the year of 2008, submitted complementarily to the original Greek Observations.

It is, therefore, clear that **the claim made by the complainant Organization about failure to refer to specific quantitative or general data on the manner in which the Greek State tries to fulfil its obligations or even comply with the conclusions of the European Committee of Social Rights, is unfounded and inadequate and attempts to prejudice the opinion of the European Committee of Social Rights**. In this respect and regarding the claim made about the invocation of our aforementioned remark without providing concrete examples (see page 14: '*Allegations such as "a severe intention to bewilder and prejudice the Committee against the State" are not supported by any concrete examples from the original complaint"*), we refer to pages 7 and 9-10 of the original Greek Observations, where detailed and concrete data respond to the comment of the complainant organization in pages 30 and 34 of the complaint ***about the acknowledgement (page 30) and disclosure (page 34) by the national delegation of contradictory data on the results of the Integrated Action Plan***. We also wish to remind that, while pages 5-7 of the Greek Observations refer extensively to the terms of implementation and redevelopment of the housing assistance program (as from the adoption of the Program with emphasis on the time of adoption of the conclusions of the European Committee of Social Rights), within the context of the additional observations of the complainant organization, the tactic of systematically overlooking 'objective data'

continues in corroboration of our initial remark. A more extensive reference to the points of persistent arbitrary interpretation on the part of INTERIGHTS follows below.

Moreover, contrary to the argument by INTERIGHTS (page 5) we consider that **the evaluation of the implemented positive actions**, as identified both by the independent expert of the United Nations and the Human Rights Commissioner of the Council of Europe, **is not restricted to the production of measurable quantitative data nor is it cancelled by the existence of problematic cases, on which the State needs to insist** (which fact, however, was never denied by the Ministry of Interior both in the framework of the meetings that followed the visit of the aforementioned persons and in the context of Collective Complaint 15/2003). The 'non-existent' measurable quantitative results in favour of the benefited persons, according to INTERIGHTS, have been repeatedly announced even in the context of this complaint, but, they are unfortunately fully ignored or even misinterpreted by the complainant organization, and this does not certainly suffice to substantiate their lack. Besides, the undertaking, from the beginning, of positive actions in favour of the Greek Roma and, more specifically, the development of such actions from partial or individual interventions (90s) to integrated interventions in the framework of a national policy on the social integration of the Greek Roma (since 2001), proves, contrary to INTERIGHTS' arguments, the acknowledgement of the need for coordinated action on the part of the State; the continuation of the relevant actions in the long term indicates, in addition to the acknowledgement of the need for continuous improvement and progress in this field, the substantial political will for adoption of the pertinent measures. In the framework of the above, without having ever denied to this day the need for reinforcement of the efforts made, we believe that **the identification of the problem does not suffice as an argument for the conviction of a member state**.

In view of the above, **we still believe that Greek positions were deliberately misinterpreted and distorted for the ultimate purpose of vitiating the results of the implemented actions and prejudicing the conclusions of the Committee**.

II. Carrying out forced evictions and provision of alternative housing

As regards the forced evictions we remind that, according to the original arguments of INTERIGHTS, the evictions appear as exclusively illegal acts against Roma's right to

property and housing. For this reason, within the context of our original observations we referred to the legislative framework (usucaption), on which the rationale of the relevant demands is based, in the cases that have been reported as illegal forced evictions, giving emphasis, first, to the definition of eviction in relation to their invoked unlawful nature (the notion of eviction involves a legally recognized property right in the area in question, hence, according to the attributed concept of eviction from a third party's area it is typically unfounded) and, second, to the measures that had been taken for finding a solution, regardless of whether these 'evictions' were lawful or not. In addition, taking into consideration the information material of the complaint's sources, through the documents produced by us we tried to highlight the above data by providing concrete examples derived from some of the cases of 'forced evictions', to which the complainant organization refers both in the complaint and its additional observations.

Thus, in our initial observations it has been pointed out that there is an attempt to distort the efforts made for finding alternative means of housing assistance, because all references to relevant measures taken for the different cases have been ignored (pages 7-8); moreover the claim that Roma's right to housing contravenes third parties' right to their property and the legal remedies deriving therefrom has been isolated, since the overwhelming majority of these cases concern encroached areas belonging to third parties. Among others, it should be remarked that INTERIGHTS attributes the intention to justify and legalize the evictions (page 4, Additional Observations) to subparagraph '(…) '*the threat to eviction*' *is hardly perceived as the result of the unlawful occupancy act* (…)', page 9, Greek Observations, contrary to what is literally included in the above sentence, which only serves the purpose of highlighting a number of concepts and acts.

Therefore, it is clarified that **the connection of the definition of eviction with the lawfulness of ownership does not deny in any case, as claimed by INTERIGHTS (page 6), the need for relocation and, hence, the need for finding a solution, nor does it aim at legalizing forced evictions**, at least in the same manner as the attempt to legalize the encroachment of land for acquiring property titles (in detail we refer to page 8 of our original observations). It is no coincidence that, while in its additional observations INTERIGHTS conceals the intention to utilize the usucaption rule, **at the end it agrees that the encroachment of third party's property, whether it belongs to a private individual or the State, is lawfully subject to a displacement order** (page 6) and further argues that there is

need for '*balancing between the property rights and the rights of those in occupation*' (page 6).

In other words, we also notice the following, on the basis of which a further significant misinterpretation of our views is attempted, since:

-it distorts the true facts of the evictions in cases of encroached land, which are restricted only to the existence of a property right or, in the absence thereof, to the encroachment of a third party's property;

-it attributes the said distortion to a deliberate legalization of the evictions on the part of the State in contrast with the remark about encroachment of third party's property, which lacks intention; and

-it does not specify where in our observations the State accepts the evictions, except for the parts that have been obviously misinterpreted.

It is, therefore, reasonable to wonder about the misinterpretation of nonetheless common views as an attempt to legalize and accept the 'evictions' (page 4 '(…) *disproportionate number of forced evictions merely stating that they are justified on the basis of illegal occupation*'), while the admission of the efforts for finding appropriate solutions is further confusing (page 6, footnote 16).

Stressing that the State may not intervene in civil law cases regarding third parties, the provision of alternative housing is pursued. On the other hand, the 'intervention' is limited to the provision of the necessary financial assistance and the adoption of the necessary measures for the creation of a settlement area but does not include the determination of the location of the new settlement. On the occasion, thus, of the specific references to cases of administrative expulsion or eviction from encroached areas, we remind that in the case of Patra the failure to achieve a commonly acceptable solution on the part of the local authorities for the creation of a place of temporary residing (such as in Messinia) does not refute the decision and will of the Ministry of Interior to finance the creation of such a place and does not prove a posteriori the lack of political will. Accordingly, in the case of Votanikos and further to those mentioned in our original observations, the Ministry of Interior decided to finance the Local Union of Municipalities and Communities of the Prefecture of Attiki (TEDKNA) for the preparation of a study for the identification of the most appropriate places for the settlement of Roma living in the Municipality of Athens.

Moreover, we agree, in principle, with the new argument by INTERIGHTS with a view to **achieving a housing assistance solution but not balancing the interests and the withdrawal, without objection, of the right to property of those who are not Roma, provided that this is not at the end widely used as a deliberate attempt to blackmail or prejudice State assistance through the arbitrary encroachment of third party's lands belonging to either natural persons or the State** (page 8 of our original observations). To what extent the 'right to property' can recede on the basis of the argument about the need for '*balancing between the property rights and the rights of those in occupation*' (page 6 of the Additional Observations) is rather subject to a wide interpretation, which, in an attempt to award a positive right, results rather in the violation of existing legal interests (e.g. claiming a property title against an existing one).

In addition, as regards the manner in which the reference to the Municipalities of Aghia Paraskevi, Patra and Messini is made, it should be noted that the **overlooking of the mentioned alternative housing means following a forced expulsion from encroached areas, by persisting in the status prior to house provision, is contrary to the argument of the complainant organization about lack of measures** and, further, contrary to State's non-compliance with the conclusions of the European Committee of Social Rights, since in this manner any measure taken for the resettlement of the Roma from arbitrary encampments is still not acceptable and mainly loses any substantial value and, second, the value-offer of the system of collective complaints is restricted to the identification of the violations but not to the adoption of measures for lifting the violations.

In page 6 of its additional observations INTERIGHTS makes an ambiguous statement about a failed response to those proved in detail within the framework of the complaint. In this context, all data corroborating our arguments are treated as slightly significant or not significant at all as to the points emerging or highlighted (e.g. see the data presented in our documents 214/05-06-2008, 56154 (+52804)/15-09-2008 in connection with cases of 'evictions' and non-provision of alternative housing). For example, regarding specific cases of attempted resettlement we refer to page 8 of the original Greek Observations. Furthermore, the attached documents, characterized as slightly significant or slightly relevant, clearly show the extent to which Roma, who had received housing assistance from the State, were still claiming (through Greek Helsinki Monitor, the NGO in cooperation with which the said

collective complaint was lodged) alternative housing in the cases of eviction referred to as most serious (Chania, Patra).

Then, in the case of the Municipality of Aghia Paraskevi, although it was pointed out that all applications for housing loans were satisfied through the approval of an equal number of loans, which are utilized, as far as the place of settlement is concerned, on the benefited persons' sole initiative and at their discretion, the complainant organization insists on referring to the preceded events[1] in a manner that does not make clear whether the adoption of measures for dealing with the problem is still the point of issue.

III. Housing loans programme – Alleged mismanagement and financial corruption during its implementation

As already explained in our original observations[2], **the requirements and criteria of eligibility for the submission of application[3]** for participation in the evaluation procedure of the applications submitted for the granting of housing assistance loans **are exhaustively provided for in articles 2 and 3 of the Joint Ministerial Decision 33165/23-06-2006**

[1] See page 7, Case Document 5 (Response from INTERIGHTS to the Greek Observations on the merits): '(…) in observing that they qualified for housing loans, fails to mention

[2] See Case Document 4 (Observations of the Greek Government on the merits), page 6

[3] According to those expressly stipulated in article 2, Joint Ministerial Decision 33165/23-06-2006: 'Entitled to apply for a housing loan are the Roma who meet the following requirements: (a) they are Greek nationals; (b) they are registered in the municipal rolls of the Local Government Organizations (hereinafter 'OTA') of the country; (c) they, or their spouses, even if they are separated, and any of their unmarried children who have not attained their 18th year of age, do not have a right to full ownership or usufruct or residence or possession of another apartment, house or urban building or they own a house that does not meet their housing needs, according to the corresponding criteria of the Workers' Housing Organization; (d) they have a net family annual income from 3,000 to 12,000 euro, including any welfare allowance. The determined income limits – as to the maximum limit – are increased by 1,600 euro for every dependant'. The supporting documents for submission of the application shall correspond to the above requirements (article 3).

(Official Gazette 780/B), while the points giving process[4] of the candidates' applications is stipulated in article 4(b). It should, therefore, have been clear to date that the conditions, on which transparency or, as claimed by INTERIGHTS, the committed 'fraud'[5] in the context of a Program, depends, strictly derive from the compliance or not with the provisions of the Program and not from its title. **Whether the determination of the target-group is wide or not** (right is not granted solely to residents in encampments but also to those living, in general, in conditions not meeting the requirements of permanent housing) **does not constitute a violation of the Program's terms**; moreover, it cannot certainly substantiate the invoked lack of transparency, mismanagement of the Program and ultimately the commission of punishable acts, such as fraud, for the conviction of a member state, especially when the opposing party has repeatedly failed to produce concrete data for the substantiation of its arguments. In addition, regarding the determination of the range of Program's target group, one should not ignore that **the choice of particular means and aids is an initiative of the member states and is clearly differentiated from the obligation to seek a more specific aim**, which in this case is the housing of those who do not have the necessary means. However, it is still worth wondering why, while the pertinent legislation has been produced, the complainant organization insists on ignoring or misinterpreting it, when it has become clear from other points that its access to Greek texts is sufficient, yet, it thus insists on making ungrounded complaints-arguments.

Already, for example, in the context of our original observations we had proved the groundlessness of the allegation about non-obligation to produce a certificate of permanent

[4] In respect of the evaluation criteria we note in detail: […] Eligible applications for evaluation by the locally competent Local Government Organizations are those meeting the requirements of articles 2 and 3 hereof.

The evaluation of the eligible applications by the Local Government Organizations shall be made on the basis of the following social criteria and the corresponding points system: single-parent family due to widowhood (25 points); disability of the applicant or of a member of his/her family of more than 67% (20 points for every member); family with children (20 + 5 points for every dependant (minor children, first degree ascendants etc.).

5 See Case Document 5, page 16: 'It is the Complainant's case, as set out in its original submissions, that the loans scheme has been subject to mismanagement and on occasion fraud. In this respect there is very strong documented evidence of fraudulent granting of the loans'.

residence, but on the contrary about submission of applications by the interested persons in the place of their permanent residence (page 6). Accordingly, we had pointed out that the granting of a loan did not require the ownership of a plot of land, as it was erroneously claimed by INTERIGHTS in order to prove that the access by the target group to this granted positive right (loans) is, by definition, restricted; this would result in the ineffectiveness of the Program and inaccuracy of this action's offer regarding the issue of housing assistance to the said population group. Thus, the complainant organization's perseverance to the content of the Decision heading is still quite impressive not to mention its reluctance to refer to the articles that **expressly and exhaustively establish the particular terms and conditions for the granting of the said loans**. This results in the creation of dangerous falsifications, which, when used repeatedly, acquire a character of deliberate distortion of the Program and its content[6]. In any case we remind that since 2006 the relevant institutional framework (Joint Ministerial Decisions and circulars or directives) are posted and are accessible by all also on the website of the Ministry of Interior (http://www.ypes.gr/el/ Ministry/Actions/Loans/).

As regards the quantitative results of this program and its actual content we note that according to the data for the period during which our observations were originally submitted, the number of approved loans was **7,482 (through the issuance of an equal number of individual administrative deeds) to an equal number of families throughout the country. It had been also pinpointed that out of the aforementioned beneficiaries, 5,992 families had concluded a loan** with the banks that participate in the program and **had purchased a dwelling or started to erect a house on a lot of land, which was assigned to them by the Municipality where they lived or which was purchased by them with the money from the loan or even before that**. Therefore, the claim and allegation made by INTERIGHTS in page 17 of its observations[7] contains **significant imperfections and substantial arbitrary interpretations** for the following special reasons:

[6] We remind Case Document 4, page 6: 'It is worth noted that the purpose of the loans granted as well as eligibility requirements during the application and the evaluation procedure are exhaustively provided in articles 1, 2 and 3 of the JMD in force (JMD.33165/2006), contrary to those *put by GHM and INTERIGHTS regarding the heading of the decision as such (p.32)*'.

[7] Case Document 5, page 17: *'In relation to the housing loan program, the complainant notes that the Government provides information that, out of the total of 9,000 loans envisaged, only two-thirds of them, 5,992, had been disbursed by the end of the program. It does not explain why the other one-third*

- While it admits that the loans envisaged to be granted are 9,000 in total (Joint Ministerial Decision 33165/23-06-2006, Official Gazette 780/B/2006), **it deliberately conceals and confuses the total number of the benefited persons (7,482) with the number of those families that utilized their loan (5,992)** and, in other words, exercised the positive right granted by the State (page 6, Greek Observations), so as to diminish the existing (**until 31/10/2008**) official data.
- By **distorting this measurable result** (in contrast with the invoked failure by the State to provide measurable, quantitative data that prove the effort made) **it attempts to create an erroneous impression-proof of violation that by the end of the program only two thirds of the envisaged loans have been disbursed** (5,992 out of the total number of the envisaged loans). Therefore, we wish to point out that this allegation contains the following inaccuracies:

- The Program has not expired, since the granting of the total number of 9,000 envisaged loans has not been completed. In addition, the State never declared the end of the Program.
- The ratio of the benefited persons to the total families that had utilized – disbursed their loans is **80.1% and exceeds greatly** – on statistical terms that INTERIGHTS attempts to depict – **the unfortunate ratio of 2/3, as presented.**
- Accordingly, **the ratio of the benefited persons to the total envisaged loans is 83.13%**, which exceeds greatly the 2/3 of beneficiaries, as invoked by INTERIGHTS in order to diminish the progress of the Program.

- It is clear and should be noted that the housing loans Program (as it explicitly derives from the current institutional framework, which has been published in the Official Gazette of the Greek State, and not according to the individual interpretation and erroneous opinion of INTERIGHTS), is a tool of evaluation

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has not been disbursed. Moreover, the Government provides no information as to what use was made of those loans and by whom, despite the documented allegations provided in the complaint that most loans were not given to intended beneficiaries, i.e. to persons who were not Roma living in destitute settlements. This highlights the failure of the Government to properly record and provide transparent evidence of the manner in which the loans were distributed'.

of the housing assistance need and, at the same time, provides the financial aid for the support of the said need within an explicitly defined framework of benefited persons (9,000 benefited persons). In this context, **the specification of the location or the kind of the dwelling to be acquired is nowhere stipulated and does not appear as an obligation, since this is and should be at the discretion of the benefited persons, especially, when there are actions for the support of the target group's private initiative**. We also remind that according to the Council of Europe (CM Rec (2005)4 on improving the housing conditions of Roma and Travellers in Europe) and other International Organizations that are active in this field, the benefited persons must be free to choose their own lifestyle. Hence, the rate of beneficiaries (80.1%) who had started or completed the disbursement for acquisition of a dwelling is significant for proving the progress of the Program.

- Similarly, it should be clear that the said amount granted of 60,000€ with the absolute and unreserved guarantee by the Greek State (exclusively national funds) on favourable terms of repayment, is still a significant financial aid for the access by the target group to a dwelling. Thus, although it would be absolutely desirable that the amount granted can cover the entire cost of purchase of first home, the fact that it amounts now to just 60,000€ may not corroborate, as claimed by INTERIGHTS, the lack of State measures or full failure to take measures for provision of alternative housing.
- It is pointed out that, according to those provided for by law[8], the relevant amount is disbursed in parts according to the progress of the works carried out, as certified by an engineer of the Bank, or in one instalment in case of purchase of a turnkey home, upon production of the titles of the immovable (building licence, certificate of entry in the Mortgage Registry, etc.), of the conveyance of the ownership and following an inspection and verification of the commercial value of the immovable to be acquired. Hence, the disbursement never precedes the acquisition of dwelling or the commencement of the construction works (including the purchase of the plot of land for the erection of a house thereon).

[8] In detail see footnote 13 hereinafter.

- Furthermore, the issue of fulfilment of the benefited persons' obligations regarding the payment of loan instalments (given that the loan and, hence, the dwelling is guaranteed by the Greek State) is unrelated to the argument put forward about the failure to acquire a dwelling despite the disbursement of the relevant fund or despite the failure to pay the instalments for loan repayment.
- At the same point of its observations, INTERIGHTS, in order to prove the lack of transparency during the granting of these loans and generally their mismanagement, invokes 'facts' corroborating this. It is noted that, except for actually general statements, it does not produce specific data on the basis of which the case could be investigated, at first, within the context of the domestically envisaged legal remedies. At the same time, it disputes our earlier express commitment for production, upon request by the European Committee of Social Rights, of detailed data of the loans granted (page 10 of the Greek Observations) and, on such basis, it claims that no information has been given on the use of the loans or on the individuals who used the loans[9].
- As regards INTERIGHTS' certainty about 'mismanagement of loans' and 'on occasion fraud' (pages 16-17), how will or can it prove the non-existence of the Roma origin or, if the fraud details are known for a long time, why have they not been submitted to the competent authorities for further action as stipulated by the law, but instead, sometimes in a blackmailing manner and other times in a misleading manner, they remain in the records of collaborating NGOs[10]? Why are they kept and not disclosed widely so that their validity can be verified, thus enabling the adoption of the relevant suppression measures? It is worth mentioning that to date neither Greek Helsinki Monitor nor any other body or person (including the persons whose statements are allegedly included as evidence) has provided concrete data enabling the identification of 'non-beneficiaries' or cases of mismanagement of public funds, both on the part of benefited persons and on the part of state bodies and persons.

[9] See Case Document 5, page 17.

[10] If indeed, according to footnote 41 (Case Document 5, page 16), Greek Helsinki Monitor has relevant data, why, on the basis of discretion, were they not produced and made widely available? Similar questions arise about the lawfulness of this act and, virtually, of the concealment of the relevant data.

- Regarding the **said case of criminal investigation forwarded to the Public Administration Inspectorate**, within the framework of the ongoing public prosecutor's intervention we wish to point out that the findings of the Inspectorate conclude that there is no way of objective certification of the Roma origin as well as express general proposals, which, however, do not ascertain that the violations invoked were committed[11.] Yet, in the context of the report by the Ministry of Interior to the Public Administration Inspectorate, it is worth noting that no concrete data were produced by Greek Helsinki Monitor on cases of 'non-beneficiaries' or 'broken' loans.
- Then, in respect of the **mentioned abstract of a speech delivered by the Deputy Minister of Interior before the Parliament**, we wish to stress that further to the relevant findings already since June 2004, the Ministry of Interior modified the existing institutional framework so as to further more effectively the achievement of the Program's targets and ensure the avoidance of similar cases. In relation, therefore, to those mentioned in the said abstract we refer to the following in order to remind those already pointed out in our original observations[1212], which prove in a tangible manner the measures taken for a more effective implementation of the Program's terms.

- The **aim** of the loans granted (article 1, Joint Ministerial Decision 33165/23-06-2006) is expressly specified.
- The loan amount is reserved and determined according to the **market value** of the building-immovable to be purchased, which shall be certified by an engineer of the bank and not by a private engineer chosen by the beneficiary, as was the case in the past (article 5§5, Joint Ministerial Decision 33165/23-06-2006)[13].

11 In the records of the Ministry of Interior, available upon request by the European Committee of Social Rights.

[12] See Case Document 4, pages 5-6.

[13] The loans shall be granted regardless of the objective value of the immovable and up to its commercial value, against which the first mortgage prenotation will be registered. The commercial value of the immovable shall be certified by an engineer of the bank on the basis of the corresponding comparative data.

The loan amount shall be granted in full in case of purchase of a dwelling. If the dwelling needs improvements and the price of the purchase contract is less than the loan amount, the improvement expenditure shall be covered by the part of the loan amount exceeding the purchase amount. This

- **The disbursement rate of the relevant amount is modified** by the introduction of stricter limits of money depending on the particular method of loan utilization (article 5§5)[14].

- Further to the updating of the information on candidates' applications, **social criteria** of applications' **evaluation** (article 4(b), Joint Ministerial Decision 33165/23-06-2006)[15] were adopted. It is, however, noted that the evaluation criteria, on the basis of which points are given to the applications for the determination of the candidates' classification order in relation to the total number of applications submitted to the Municipality of its domicile, should not be confused with the criteria of applications' eligibility, which certainly determine the right to submit an application[16].

- In 2005 the particulars of the applicants were updated and a new database was created for a safer cross-checking of the particulars of the candidates and of

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amount shall be paid upon onsite inspection, assessment, report and certification of the works by the engineer appointed by the bank.

For the construction of a dwelling on beneficiary's own plot of land, the loan amount shall be paid in three installments. The first installment of 30% shall be paid upon signing of the loan contract. The second installment of 40% shall be paid upon written certification by the engineer of the bank according to the progress of the works, and the third one of 30% shall be paid upon written statement by the engineer of the bank that it is the final stage of construction, whose completion will ensure all conditions for its immediate use by the borrower. Similarly, the loan shall be disbursed in case of completion of the dwelling, as long as the onsite inspection, assessment, report and certification of the works by the engineer of the bank show that it is the final stage of the dwelling construction.

In case of purchase of a plot of land for the construction of a dwelling, 40% of the loan may be used for the purchase of a plot of land. In such cases the remaining amount of the loan shall be paid in two equal installments of which the first, of 30%, shall be paid upon issuance of the relevant town planning permit. The second installment of 30% shall be paid upon a written certification by the engineer of the bank that it is the final stage of the dwelling construction and its completion will ensure all conditions for its immediate use by the borrower. In such cases the loan contract concerns purchase of a plot of land and erection of a dwelling thereon.

[14] Op.cit. footnote 13
[15] Op.cit. footnote 4.
16 Op.cit. footnote 3.

their family members for the avoidance of approvals to members of the same family, etc.

- In 2004 the minimum technical requirements were adopted for the cases of loan utilization in the framework of organized housing construction programs by the Local Government Organizations (article 5, Joint Ministerial Decision 28807/28-05-2004)[17].
- The above have been repeatedly disclosed, emerge from the official Decisions of the Minister of Interior and Minister of Economy and Finance, have been published in the Official Gazette of the Greek Government; inter alia, we mention document 33145/04-08-2006 of the Ministry of Interior included in the records of Helsinki Monitor, which is referred to by INTERIGHTS[1818].

- In the same context it is worth mentioning that the result of the applications evaluation procedure is approved by decision of the Municipal Councils of the appropriate Local Government Organizations and, hence, announced for the information of the persons concerned, while the citizens can have access to every public document from which they can draw a legal interest. It should therefore be clear that the results of the Program are not 'secret', are subject to control as to their lawfulness according to the provisions of the Municipalities and Communities Code and, as regards the designation of the beneficiaries, representatives of Roma shall participate in the competent Evaluation Committees both according to the revised evaluation procedure (article 4(a)§1) and according to the previous system. Detailed data had been mentioned in the original Greek Observations as well as in the document 33145/04-08-2006 issued by the Ministry of Interior to Greek Helsinki Monitor.

17 […] In case the full ownership of a land is assigned by a Local Government Organization, the assignment of the approved loans shall be compulsorily made to the assigning Local Government Organization, as long as it has decided to carry out an organized housing construction on the assigned land. In this case, the dwellings erected by the Local Government Organizations must, according to the pertinent building provisions, have a minimum net space of 85 square meters each […].

18 Case Document 5, p.20.

- It should also be mentioned that INTERIGHTS deals with the dwelling finding and acquisition procedure in a manner that does not correspond to the actual needs of the procedure (**the time parameter which is an aspect of the dwelling acquisition procedure has been largely ignored**), while **the personal responsibility aspect of the benefited person** has been overlooked under the guise of lack of understanding or knowledge; however, this responsibility seems to be restored immediately upon performance of non-advantageous transactions or by the parallel submissions of applications with different identity particulars.
- In consideration of the above and mainly the persistence of the complainant organization in claiming that there is a complete lack of measurable quantitative data, we note that **the approvals are now 7,772** (in relation to 7,482 approvals that had been granted in the period of drafting of our original observations), **issued to an equal number of families of Greek Roma and, accordingly, the beneficiary families that have started the disbursement of the loan amount are now 6,327 (absorption rate of 81.41%)**.

- Moreover, regarding the reference to the quantitative data of the Program for housing loans to Greek Roma we wish to point out that to date, among the cases reported to the Ministry of Interior, 12 beneficiaries of housing assistance could not utilize such a loan due to a previous loan they had received from the Workers' Housing Organization for acquisition of first home. It must be clarified that in those cases the said beneficiaries were replaced by others. In order to prevent further arbitrary conclusions we have to note that:
- the inability to use loans simultaneous lies in the obligation of first prenotation of the dwelling due to the guarantee by the Greek State by which the loan is granted, and this does not allow a previous first prenotation or mortgage for beneficiaries' safeguarding reasons, further to their defaulting borrowing behaviour.
- The said loans granted may not repay previous or future loans, however, a supplementary financing may be given by other private Programs at the discretion of the benefited persons.

Therefore, in contrast with the allegation of INTERIGHTS about **reference to general actions that do not specifically benefit the Roma** (page 4, Additional Observations), it is clear that, in addition to the positive measures that have been exclusively adopted for the benefit of the Roma, the latter **can participate also in other welfare State Programs on the same terms with the other Greek nationals, which, in our opinion, is and should be the long-term target of every social integration action**.

It is noted that detailed data on the persons who benefited from the Program can be available to the Committee upon its request, as already stressed in the first stage of our observations (page 9), while we need not comment further on that **the reference to a specific number of beneficiaries requires the previous issuance of a pertinent personal administrative deed** (page 9, Additional Observations, Tzamalis Case), hence, every related reference to specific percentages is final and definite as to the recognized positive right.

More specifically, regarding the **programs of the Workers' Housing Organization (OEK)**, we remind that the Workers' Housing Organization, being a body financed by workers' and employers' contributions, is obliged, according to the law, to address retributively its assistance exclusively and only to its beneficiaries, that is, the workers from whose salaries contributions are deducted in favour of the Workers' Housing Organization, as well as to the pensioners who paid contributions in favour of the Workers' Housing Organization during their vocational life.

The Workers' Housing Organization does not make any discrimination among its beneficiaries. Therefore, the Roma who qualify as beneficiaries of the Workers' Housing Organization are treated equally with the other beneficiaries, are included in the programs on the same terms and receive the same benefits.

The remark included in the additional observations of the complainant organization INTERIGHTS (page 4, Additional Observations), that, as long as the Roma do not have a permanent occupation, they cannot be beneficiaries of the Workers' Housing Organization, does not correspond to reality. In order to participate in a program, the beneficiaries must have completed a number of days of work depending on their family composition, as well as a minimum number of days within the last three years (120 in total, of which the beneficiaries can purchase up to 70, so as to complete this number). Therefore, the Roma who work

periodically or for various employers can complete the required number of work days and benefit from the programs of the Workers' Housing Organization. However, if they do not provide any dependent work at all or have not obtained any work stamps for their employment, that is, they do not pay contributions in favour of the Workers' Housing Organization, they cannot receive any assistance nor can they have a favourable treatment in order that they obtain assistance, since they are not beneficiaries, because this would upset the contributory principle, as stipulated by the law, in relation to the other beneficiaries.

As already mentioned, many Roma have received housing assistance through programs of the Workers' Housing Organization, in particular, through the special program for multi-member families, for which many multi-member Roma families apply.

There are no available statistical data on the number of the Roma included in the various programs, simply because the registration and maintenance by the Workers' Housing Organization of data on racial origin, religious beliefs or other particular characteristics are considered acts of discrimination and infringement on the personal data privacy.

It is worth mentioning that the 'Leader of the Roma', Mr. Halilopoulos, as a beneficiary of the Workers' Housing Organization had first received an apartment in Faliro and then, in exchange, received upon his request a bigger apartment in the settlement of Kamatero.

Moreover, we should stress again that there is no issue of evicting beneficiary Roma from dwellings of the Workers' Housing Organization, even if they fail to repay the dwellings or in case of disputes with the other residents, thanks to the Organization's social sensitivity towards the beneficiaries, whose income does not enable them to timely fulfil their financial obligations to the Workers' Housing Organization and, on the other hand, due to Organization's policy to pursue population mixing within its settlements and avoid social segregation.

Finally, as regards the arbitrary occupation by Roma of lands owned by the Workers' Housing Organization, we should mention that the Workers' Housing Organization does not raise an issue of their expulsion, unless there is a decision and plan for the construction of a settlement on that land, which is intended for the housing of beneficiaries of the Workers' Housing Organization there – possibly including some Roma.

IV. Alleged lack of effective legal remedies

The Complainant did not take into consideration the relevant documented responses of Greece on the merits. It adopts, without having investigated, the arguments and allegations by the Roma (Greek Helsinki Monitor) by stating that in Greece there is denial of justice in Roma related cases: this is not true. The legal remedies stipulated by Greek law for cases of citizens affected by actions of the Administration, are intended for and exercised by all citizens being within the Greek territory, regardless of their racial, social, etc. origin. The hearing of the legal remedies falls within the exclusive competence of Greek Courts and the Government does not interfere in any manner in the administration of Justice.

The complainant admits that there are cases where court judgements were delivered, which were favourable for Roma's right to housing, such as in the case of Riganokampos, Patra, as well as judgement 312/2005 delivered by the Magistrate Court of Patra (page 9, Additional Observations, case 5, in Greek).

In most cases, the legal remedies are submitted and their procedure is monitored by attorneys at law, who apparently know the legal procedure and advise their principals in respect of their interests. In case the persons appealing to justice are low income citizens, then free legal assistance and aid, including the support by an attorney at law, are provided.

The claim that the rights of the Roma are violated because the **trials concerning them last long** – for many years – is not correct.

Hellenic Republic has been brought before the European Court of Human Rights and in some cases it has been convicted for the long duration of trials and also for violation of article 6, European Convention for the Protection of Human Rights and Fundamental Freedoms, regarding fair trial. However, this is an issue that concerns European legal orders, which face the problem of Courts overburdening; there are steady efforts to improve and expedite pending trials hearing procedures. This problem affects all citizens living within the Greek territory and not only the Roma.

As regards the **complaints and allegations for discrimination, racist attitude and treatment by the prosecuting functionaries**, we wish to point out that the Greek judges and

public prosecutors, according to article 87 of the Constitution, enjoy functional and personal independence and, in the discharge of their duties, are subject only to the Constitution and the laws; they have disciplinary responsibility according to article 91 of the Constitution and the provisions of the Code of Courts By-law and Status of Judicial Functionaries (Law 1756/1988, as currently in force), and penal responsibility for their punishable acts or omissions, while action for mistrial may be brought against them according to article 99 of the Constitution and the provisions of Law 693/1977 'on hearing actions for mistrial'. Therefore, any specific complaint must be lodged with audit bodies for investigation.

In the context of the Special Procedures of the UN Human Rights Council, the Ministry of Justice had been requested to respond to alleged statements by the former Head of the Public Prosecutor's Office of the Appeal Court of Patra, against the Roma of the region at a radio station. By its document the Ministry of Justice asked the opinion of the said Public Prosecutor who, by his relevant document, denied the charges imputed to him.

V. Attached documents

Furthermore, concerning the questions by the complainant organization about the relation between the documents attached to our original observations, we wish to note the following:

Those dealt with in the said documents are based on and refer to the most serious cases of forced evictions, as INTERIGHTS describes them (Chania, Patra) in the context of this complaint, hence, we consider the content of the pertinent documents absolutely related to those elaborated in the additional observations and earlier in the context of the complaint.

When referring to such cases we stressed that, as regards the demand for an alternative housing due to –as invoked – a forced eviction in respect of the persons specifically mentioned, it was proved that **prior to the complaint** (and to the eviction) **a right to housing assistance had been granted**. In this regard, we attach an abstract[19] of the document of the

[19] *[…] Equally in terms of* ***unnecessary duplication or manipulation of similar settlement mechanisms*** *on lodging individual or collective complaints at international level, it is worth noted that whilst bringing the complaint before the HRC,* ***the GHM (representative body) in as much as the plaintiffs, missed to inform the Committee on crucial facts regarding the merits of the alleged***

Ministry of Interior 56154(+52804)/15-09-2008, which is indicative of the inaccuracy and omissions of the supportive sources, on the basis of which the evidencing of the violations under consideration (Greek Helsinki Monitor) is attempted. For the same issue, we wish to underline that the entitlement to invoke rights in the name of children requires the indispensable previous recognition of the children, in the name of whom privileges are claimed. Any other argument about father's deprivation of the right to defend his children constitutes a personal interpretation of INTERIGHTS, which for obvious reasons we do not share or understand.

Similarly, in the case of the **Application no. 5469/2007 'Tzamalis and others against Greece'** before the European Court of Human Rights it was again ascertained that compensation was demanded despite a housing assistance given prior to the eviction. It is still unclear how this is connected – according to INTERIGHTS – with the investigation of possible racist motives (page 9), while we wish to remind that the relevant response by the Ministry of Interior refers to the particulars of the housing loan granted in the name of the above-mentioned person (page 2, Decision of the General Secretary of the Ministry of Interior, Public Administration and Decentralization ref. no 13359/26.02.2004). More specifically, the complainant organization mentions that regarding the application, the Greek

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violation of the right to housing or even the provision of adequate measures by the state, *since on the grounds of the Housing Loans' Program implemented by the State for Greek Gypsies* ***GEORGOPOULOU Chrysafo and her family members*** *(children and spouse regardless of wedlock e.t.c.)* ***have been awarded with the right to a housing loan subsidised by the State****. A copy of the official document signed by the Deputy Minister of Interior (ref.no. 60656/31-10-2007) conferring the particular right is attached to this end. It should be also stressed that the relevant housing certificate was forwarded to the Municipality of Patras (where the alleged victim applied for the loan) under ref. no.* ***61800/05-11-2007*** *of the Ministry of Interior and was copied to GEORGOPOULOU Chrysafo on 20 November 2007 under ref. no.* ***13/50/20-11-2007 Patras' proof of acknowledgement signed by the beneficiary too[19].*** *With regard to the documents mentioned, it is evident that* ***the alleged victim was fully aware of the State's definite housing support*** *–contrary to the compensation demand made due to continuous state inability to provide her with alternative housing- well in advance* ***to omit*** *as witnessed on purpose* ***any relevant reference*** *that would result in withdrawing possible compensation demands by the State, since the latter had already provided her and her family (children and out of wedlock husband) with a housing loan. […].*

Government claims, without attaching any document, that Mr. Emmanouil TZAMALIS had received a loan amounting to 60,000 euro … However, in page 15 of Greek Government's observations dated 10-02-2009 before the European Court of Human Rights on the said application, the Government refers to document 60973 +59937/20-11-2008 of the Department of Development Programs, General Directorate of Development Programs and International Organizations, Ministry of Interior, sent to the European Court of Human Rights as Annex 1, which describes in detail the loan procedure for Mr. Emmanouil TZAMALIS. Hence, the relevant dispute is deemed substantially unfounded and deliberately misleading.

Moreover, it is not true, what is mentioned in page 9, that there is no document that examines the facts mentioned in the statement or the questions of the European Court of Human Rights. The Government drew up, for the above case, two long texts of observations (dated 14-11-2008 and 10-02-2009), whereby it fully replied to the questions of the European Court of Human Rights. It also gave every possible information about the conditions of withdrawal and, in no case, eviction of the Roma from the area of Kladissos, given that their activities in such area of Crete involved itinerant trade and, therefore, they resided temporarily in Kladissos and never permanently.

Further, what is mentioned in page 10 about **Communication 1799/2008** before the Human Rights Committee is inaccurate, that is, regarding the expulsion of the family of Antonis and Chrysafo GEORGOPOULOS from the Roma encampment at the place called Riganokampos, Patra. It is untruly claimed that the Government in fact has admitted the illegal expulsion of the applicants from Riganokampos, Patra. Page 21 of Government's Observations dated 13-01-2009 mentions that not only did the national authorities not expel the applicants from their houses but offered them the possibility of housing rehabilitation by the granting to the second applicant of a housing loan amounting to 60,000 euro, so as to be used either for the purchase of first home or of a plot of land for the erection of a first home thereon, or for the construction or completion of an existing first home. Document 56154/15-09-2008 of the General Secretary of the General Directorate of Development Programs, Ministry of Interior, was produced as Annex 10, in order to corroborate such claims.

Therefore, on the basis of the document of the Ministry of Interior **214/05-06-2008**, INTERIGHTS expresses arguments, which are not sufficiently documented. First, the Committee considered the information produced by the competent national authorities as

sufficient, without a need to take further measures[20]. Second, due to the special reference made in this regard (page 12), it is obvious that INTERIGHTS is aware of the cases of Greek Helsinki Monitor, in cooperation with which it submitted this complaint. Third, drawing conclusions about the lawfulness of the loans granted overall and, more specifically, in Patra, on the basis of the number of families that at a certain time appeared to be in the encampment (it is stressed that Ms. Chrysafo GEORGOPOULOU in case 1799/2008 appeared as a resident in the encampment under the threat of eviction, while she had been recognized as a beneficiary of housing assistance) is a priori arbitrary, because it insists on ignoring the formal requirements for the nomination of the housing assistance beneficiaries, and nothing proves that the access to an encampment is restricted to permanent residents-citizens. It must be, however, pointed out, for the record, that this particular attempt to compare the number of approved loans to the total number of loan applications, in a simplified and unfortunate attempt to 'apply the rule of law to the facts' in order to prove the mismanagement of the Program, had been already used by Greek Helsinki Monitor, however, Ministry of Interior's claim was sufficiently documented in the context of investigation of the relevant case[21].

Thus, the reasoning that there are about 20 families in the said encampment cannot alone prove the mismanagement of the Program's approvals. Moreover, we wish to remind the tendency for misinterpretation of Ministry of Interior's statements and references and we wonder why INTERIGHTS perceives the statement about the Decision to finance the local authorities for the construction of the infrastructures for the temporary residing of itinerant Roma in Patra, as untrue; it uses as a corroborating argument a part of the relevant references by the Ministry. Inter alia, we cite below the entire relevant Greek reference in order to prove the attempted distortion of its content, making clear, at the same time, that **there was no**

[20] G/SO 215/1/4.7.08.

[21] In this regard, we remind: *[…] we should not omit the fact that* ***each application doesn't always stand for independent families*** *since, according to the controls they are subject to by the Office, it has been often proved that contrary to those legally provided, more than one applications have been submitted by the same members of the same family (either to the same or different municipalities on the same time by -unlawfully- providing multiple ID's or/and certificates of marital status), as well as by all adult members of the same family (both spouses etc), sometimes even contrary to the fact that they have been granted with a housing loan (from the same project) in the past […].*

attempt to ignore important information as to the outcome of the case, while the construction of the said settlement was in no case announced (we mentioned the failure to achieve a solution on the part of the Committee established at a local level to this end); however, **on the contrary, the measures taken until that moment were pointed out, regardless of whether this was for the benefit of the Greek side**. In proof whereof, we cite a part of the document submitted within the context of the original Greek observations: '*[…] On the same time, it was stressed that central administration remains supportive to the measures the parties are going to come up with, on the precondition that these will be born in full consensus by all parties concerned, which are the local authorities in charge and the gypsies residing at the area (i.e. renewal of the Ministry's commitment for the granting of the total amount of 320.000€ for the construction of the necessary development infrastructures for the establishment of the above mentioned settlement for the temporary residing of itinerary population). It is worth noted, also, that the Committee established to this end at regional level did not yield the results expected since the proposals raised were not met in consensus by the parties concerned […]*'.

In the framework of our same document also, we would like to clarify that the National Commission for Human Rights, which was established as a counselling State body, draws up and **submits on an annual basis a Report to the Prime Minister, the President of the Republic, the Greek Parliament and the leaders of the Parties represented in the Greek and European Parliaments[22] and not UN**, as erroneously stated by INTERIGHTS (page 12). The meeting held at the end of 2007 that apparently contributed to the final text of its proposals in 2009 on Roma issues dealt, inter alia, with the living conditions of the Roma in Patra, which fact is not refuted by the formation of a working group on issues concerning the Roma in general[23].

[22] Article 5, Chapter A: 'National Commission for Human Rights', Law 2667/1998 (Official Gazette 281/A/1998) regarding the 'Establishment of the National Commission for Human Rights and National Bioethics Commission'.

[23] See page 24, Preface to the National Report 2007: *[…] Besides, the National Commission for Human Rights convened in 2007 two meetings with the wide participation of bodies that are either active (NGOs, collective associations of Roma citizens, university professors, etc.) or involved directly (public administration and self-administration, independent authorities, etc.) in the management of Roma issues […].*

VI. Partial legislative framework

The **Sanitary Provision G.P./23641** (Official Gazette B' 973/15-07-2003) regarding the 'organized settlement of itinerant persons', according to which 'no one is allowed, even temporarily, to settle near archaeological sites, beaches, landscapes of natural beauty, or in areas where a settlement may cause damage to public health (springs supplying drinking water, etc).', is intended for the protection of itinerant persons' health and Public Health in general, as well as for the protection of those areas threatened by an uncontrolled settlement of itinerant persons, and does not discriminate the Greek Roma from the itinerant persons.

In Pages 12-13 of the Observations of the Complainant Organisation, it is mentioned inaccurately that the Sanitary Regulation of 2003 introduces discriminations against the Roma. However, this Regulation introduces provisions regulating and prohibiting the uncontrolled settlement of itinerant persons and not only of Roma at any area without the permission by the Authorities. Furthermore, the Regulation introduces minimum infrastructure terms for the satisfaction of the basic living needs at places of organized settlement, such as supply of drinking water, sewerage system, public garbage cans and waste disposal means, electricity services, etc.

In addition, the Ministry of Health and Social Solidarity implements measures and actions with a view to providing social protection to persons or groups suffering from social exclusion, so as to ensure conditions of equal participation by everybody in social life, thus, pursuing the maintenance of social cohesion.

The institutional framework governing social protection programs for the financially weak persons is the Legislative Order 57/1973 'on taking social protection measures for the financially weak persons'. The bodies to implement these programs are the Welfare Directorates of the Prefectural Self-administrations of the country, while the beneficiaries are financially weak citizens, provided that they meet the requirements provided for by the law. More specifically: Greek Roma are entitled to:

1. free medical and hospital care at the Hospitals of the National Health System, provided that they are financially weak and uninsured, in accordance with Joint Ministerial Decision 139491/30-11-2006;
2. allowances for multi-member families – child protection, disability, etc.;

3. extra financial support, in case of emergency due to special problems or poverty;
4. financial support to families stricken by a natural disaster for the coverage of their immediate living needs, as well as for the repair of main home or replacement of the household effects.

Moreover, we would like to remind you the actions by the Medicosocial Centres and Mobile Health Units, and the Program 'Protection, Promotion and Psychosocial Support of the Greek Roma' (Observations of the Greek Government on the merits, pages 15-16), which are included in the actions for combating exclusion of the socially vulnerable population groups[24].

The Ministry of Health and Social Solidarity implements the Program 'Actions for the support of persons threatened with exclusion or excluded from the labour market' in the framework of the actions of the Social Supportive Services Network at a local level, Operational Program 'Health-Welfare' 2000-2006, including the Greek Roma.

Persons benefited, by target unit (throughout the country, 2003-2006)

	2003	**2004**	**2005**	**2006**	**TOTAL**
Roma	908	1,080	617	86	2,691

Concerning the Votanikos area, the Ministry of Health and Social Solidarity, in cooperation with the Hellenic Centre for Infectious Diseases Control and the Municipality of Athens, arranged 4(four) visits of the Mobile Site to the Roma camp on 15 March 2008, 13 June 2008, 19 May 2009 and 16 July 2009, during which 260 children were vaccinated.

VII. Additional Comments - Observations

Regarding INTERIGHTS' statement in footnote 41[2525], it should be clarified that, according to the law on the lodging of complaints, this requires the **production of specific evidence on the alleged violations and not simply the invocation of existence of irrefutable proofs**. In

[24] Detailed data are included in the Annex.

[25] As it mentioned, the nonetheless irrefutable proofs of fraud and mismanagement of the housing assistance Program are kept in the records of Greek Helsinki Monitor '*Information on file with GHM*'.

addition, we remind that the burden of proof, through the production of and reference to specific evidence, lies with the complainant, while, whether the said evidence constitutes irrefutable proofs is examined according to the corresponding procedural system. **All other cases constitute an infringement and abuse of the legal aids and remedies provided and, in this case, of the collective complaints system of the European Social Charter**.

Accordingly, in the same context of unjustified falsification of circumstances and evidence, we should underline that the said wide, arbitrary building attitude in Greece (page 7, Additional Observations of INTERIGHTS, and footnote 17) does not constitute encroachment of third party's property, but concerns solely and exclusively an unlawful erection of a building on a plot of land, whose ownership has been identified, since the building conditions of the said construction are not met in accordance with the town-planning provisions in force. Hence, the correlation of this argument is outside the scope of this complaint.

At the same time, by the invocation of the conclusions and recommendations by the National Commission for Human Rights (page 15) it is mentioned that the relevant report is subsequent to the examination of the complaint. Yet, many of the remarks made are common views shared by our Agency. For example, the holistic consideration of the issue of Roma's integration is an identified target of the State since the end of 90s, when we adopted the Integrated Action Plan[26] Similarly, regarding the recommendation for external evaluation of the Integrated Action Plan, we note that this had already been assigned at the time of preparation of the report of the National Commission for Human Rights and has been completed[27].

In the same spirit, as regards the settlement constructed in **Messini** at the place called Birbita, we refer to page 9 of our original Observations and more specifically: '***the permanent settlement*** *referred to in Messinia (p.31) has been successfully completed (the inauguration*

[26] The Integrated Action Plan incorporates the basic conclusion of the social dialogue at the end of 90s, as formulated and proposed by the representation organs of the Greek Roma. On the other hand, it was based on the need of adoption of an integrated national policy for the social integration of the Greek Roma, so that actions at a national level be undertaken, which will however be implemented and targeted at a local level, depending on the particular problems and needs.

[27] http://www.euromanet.eu/newsroom/archive/greek_peer_review__integrated_programme_for_the_social_inclusion_of_the_roma_.html

was held on 01/12/2008, presence of the Deputy Minister of Interior). The settlement provides for 66 prefabricated houses, entertainment center, medical center and hygiene facilities, whereas the necessary electricity, water and sewerage services are completed too. On the same time, the local authorities in charge are elaborating the extension of the settlement with the construction of more houses'. Thus, it is clear that the characterization of the above as inaccurate argument (page 22, Additional Observations: '*Hence the Government's argument in page 10 of its Observations that it is a permanent settlement is inaccurate*') is not based on reliable information on the settlement under consideration, since **the permanent character of the settlement does not exclude the temporary hosting of Roma families from Messini area until they obtain a permanent dwelling. Moreover, the Ministry of Interior never attempted to attribute a character of permanent residing to the said settlement**. By adding the relevant comment to the tangible examples of attempt by INTERIGHTS to prejudice Commission's opinion, we find that, in addition to the confusion attempted regarding the reference by the Ministry to the said settlement, there is another attempt to diminish the value of this action by focusing on the time of project construction, problems that appeared but which, as mentioned by INTERIGHTS, were tackled, etc. The inaccuracy of this argument does not need any further comment.

According also to the arguments by INTERIGHTS, the percentage of the Roma who still choose the nomadic lifestyle '*is being reduced more and more, hence, any other contrary generalization creates only a false stereotype of a nomadic population*' (page 25, Additional Observations). As we do not understand and we do not comment further on the reason why it is a stereotype to consider the Roma population as nomadic (e.g. Travellers), we would simply like to oppose the above view to INTERIGHTS' argument about the failure to create an adequate number of places of temporary residing throughout Greece and, further, about Greece's non-compliance with the conclusions of the Committee. In this regard, we remind, as we did in the context of the collective complaint 15/2003, that all requests and recommendations forwarded to the Ministry of Interior in the framework of housing actions financing, whether temporary or permanent, concern the creation of permanent residing infrastructures.

In respect of the **citation of parts of the report** of the UN independent expert, it should be noted that the Greek State has never denied the existence of problems during the nonetheless persistent implementation of positive actions in favour of the Greek Roma. There are many

factors contributing to these problems but in no case should they be interpreted as indifference by the State vis-à-vis a social issue. On the contrary they should be considered as evidence of the State's ongoing commitment in combating social exclusion and promoting the social integration of the Greek Roma.

On this occasion, we would also like to point out that, first, the **right to 'self-determination' and of 'belonging' to a group**, is not subject to a selective interpretation, hence, it cannot be disputed according to the person that mentions it. In other words, the reference by the member states to the 'fact' of self-determination does not succumb to the invocation of the right to self-determination when positive rights on the part of the group are being invoked. Second, the recognition of positive rights (further rights and privileges due to recognition of the existence of special conditions that make the enjoyment of civil and political rights difficult or more difficult in comparison with other population groups), does not require the self-determination of a group as minority. Hence, the interpretation, whether broad or not, of minority groups is not connected with the content of this complaint and may not constitute, after the lodging of the complaint, an argument of proof of country's non-compliance with the conclusion of the European Committee of Social Rights, given that in this case the Greek Roma have declared expressly and categorically their relation to the Greek State and Hellenism[28].

Irrespective of any view about a narrow or broad interpretation of the definition of minorities, the Greek State has proved in the course of years that it has adopted and implemented certain actions with clear results. Besides, the report by the independent expert acknowledges, by referring to successful examples of actions and Municipalities, that, despite the problems, progress has been achieved. Inter alia, we note that **the exact wording of the subparagraph of paragraph 50 of the Report, unlike what INTERIGHTS included in its additional observations, reads as follows** (paragraph 50): '*Discrimination against Roma is experienced in Greece as in other European countries, **although some Roma are relatively well***

[28] In this regard, we underline a part of their Declaration of Self-determination, announced at the 3rd Panhellenic Conference of the Panhellenic Federation of Greek Roma Associations (POSER) in Thessaloniki (28/04/2001), which reads as follows: '*We, the Greek Gypsies, declare categorically and in every direction that we are an indissolubly united part of Hellenism and any other type of reasoning and approach by whomsoever expressed will meet with our opposition*'.

integrated into society'*[…]*. Furthermore, in paragraph 59 we note: '*The Municipality of St. Varvara,* ***provides a positive example of integration of the Roma community into mainstream society****. Approximately 8-10 percent of the population are* ***Roma, who play an active role in the community****. Municipal representatives described the relative success of Roma in the community and higher than usual Roma success in education, including some university entrants. Roma managed to open numerous small businesses.* ***Local authorities, including Roma, described a high level of social integration while acknowledging some problems****. The* ***Roma live in all parts of the town, rather than in isolated communities. Community intermediaries play an important role*** *and the Roma do not require specialized services. Roma representatives acknowledged that they had not always felt comfortable but* ***described an enlightened neighborhood that is an example to others***'[29].

In addition, regarding the reference by INTERIGHTS to the document issued by Hellenic Police of Western Attiki (page 24, footnote 64), we wish to mention that the fact that a Regional Agency of the Hellenic Police kept data of offenders containing a racial, ethnic or other reference, is an isolated act and does not in any case reflect the overall policy and action of all Regional Agencies of Hellenic Police, to which clear orders and guidelines have been repeatedly given.

Within the above context, a priority of the Headquarters of Hellenic Police is the issue of respect for human rights and combating of every racist treatment towards the vulnerable group of Roma citizens. In the correspondence, written announcements and oral statements by Agencies of Hellenic Police, as long as the specification of the members of the vulnerable group of Roma is necessary, the term used is the international term Rom or Roma. Disdaining terms, are not permitted.

Finally, in cases of arrests of Roma by the Hellenic Police, the social group and racial or ethnic origin is not disclosed within the context of protection of personal data. Besides, the '*Code of Ethics of the Policemen*' includes rules on the respect for human rights and protection of vulnerable persons and social groups (article 5, paragraphs 3 and 4).

[29] http://daccessdds.un.org/doc/UNDOC/GEN/G09/111/98/ PDF/G0911198.pdf?OpenElement

Conclusions

Therefore, we wish to note that **all arguments made by INTERIGHTS are based on an attempt for quantitative evaluation of the actions of the Integrated Action Plan for the social integration of the Greek Roma and, apart from the allegation about mismanagement and consequential financial corruption during implementation of the relevant actions, they can only prove that the implementation of the Program continues. With the exception of confirmation of the allegation about mismanagement through the production of certain evidence, the quantitative results of the Program cannot substantiate a ground for Country's conviction for lack of political will and, consequently, failure to adopt measures.**

For the reasons specified above as well as in its previous observations, the Greek Government requests the Committee to acknowledge and decide that **the claims of the Applicant are unfounded in principle and that there is no violation by Greece of article 16 and of the clause of the European Social Charter on avoidance of discrimination**, given that all requirements of the Convention have been fulfilled.

THE SECRETARY GENERAL
OF THE MINISTRY OF EMPLOYMENT
AND SOCIAL PROTECTION

DIMITRIOS KONTOS