



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

11 March 2019

**Case Document No. 3**

**International Commission of Jurists (ICJ) v. Greece**  
Complaint No. 173/2018

**RESPONSE FROM THE INTERNATIONAL COMMISSION OF  
JURISTS TO THE GOVERNMENT'S OBSERVATIONS ON  
ADMISSIBILITY**

Registered at the Secretariat on 28 February 2019



## **Response by the International Commission of Jurists (ICJ) and European Council for Refugees and Exiles to the Observations of the Greek Government on the Admissibility of Collective Complaint 173/2018**

### **General Remarks**

1. Further to the letter dated 5 February 2019 and pursuant to the President's invitation under Rule 29(3) of the Rules of the European Committee of Social Rights, the International Commission of Jurists (hereinafter ICJ) and European Council for Refugees and Exiles (hereinafter ECRE) hereby submit its response to the 31 January 2019 Observations of the Greek Government on the admissibility of the collective complaint 173/2018.
2. As a preliminary remark, the ICJ and ECRE wish to note that notwithstanding references to the admissibility stage of the collective complaint in the Government's Observations, said Observations appear to solely relate to the applicants request for immediate measures. As such, the ICJ and ECRE will limit its responses to addressing the information provided by the Government in respect of immediate measures. Since the Government's Observations do not raise any objections as to the admissibility of the complaint, the ICJ and ECRE respectfully invite the Committee to declare the complaint admissible.
3. In addition, the Government in paragraphs 2 and 3 of its Observations notes that immediate measures are "inextricably linked" to the discussion on the merits of the complaint. Indeed, the ICJ and ECRE agree that immediate measures are inherently linked to the merits of the applicant's complaint in that they are required to ensure the effective respect of rights protected under the European Social Charter.<sup>1</sup> The ICJ and ECRE reiterate their position that the Government of Greece has not ensured the effective respect of Articles 31(1), 31(2), 16, 17, 7(10), 11(1), 11(3) and 13 of the revised European Social Charter and the Government's Observations have failed to substantially counter or otherwise meaningfully address this submission. The ongoing violation of the aforementioned Articles in respect of migrant children in Greece necessitates the adoption of immediate measures listed in the applicants' collective complaint. Without such immediate measures, the serious and irreparable harm which migrant children are subjected to on the Greek mainland and North Eastern Aegean islands will continue indefinitely.

### **Immediate measures**

4. According to Rule 36 of the Rules of the European Committee of Social Rights, the Committee may indicate immediate measures in order to avoid the risk of a serious irreparable injury. Where a request originates from a complainant organisation the

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<sup>1</sup> Decision on immediate measures: Conference of European Churches (CEC) v. the Netherlands, Complaint No. 90/2013, 25 October 2013, para 1.

request must be precise, must identify the measures needed, the reasons for the measures and the potential consequences of no measures being granted. Where a State contests the request for immediate measures submitted by a complainant organisation, argumentation must be advanced, *inter alia*, that there is no tangible situation in which the persons concerned clearly face a risk of a serious irreparable injury.<sup>2</sup>

5. The ICJ and ECRE have demonstrated in their collective complaint, with the support of a significant number of reputable sources, that specific immediate measures are needed to eliminate the risk of serious irreparable injury to the lives and integrity of migrant children in Greece. Without such measures the injuries that migrant children have already sustained will continue to materialise due to the tangible environment that they survive in in Greece. In response, the Government confines its Observations to the legislation and policy in place and even concedes that implementation is “ongoing” and has not yet been finalised. There is an entire absence in the Observations as to how legislation and/or policies are applied in practice and no information is given on the actual situation of migrant children on the Greek mainland and North Eastern Aegean islands. The Government has, therefore, not contested that a tangible situation giving rise to serious irreparable injury exists for migrant children in Greece. Rather, the Government’s Observations confirm that unaccompanied minors are placed in areas (police stations and protective custody) which have previously been found by the Committee to violate rights under the Charter.<sup>3</sup>
6. In view of the above, ICJ and ECRE maintain that the requirements of Rule 36 have been met in this complaint. As clearly outlined by the complaint, migrant children presently face threats to their lives and security due to the material conditions of destitution and poverty that they are left in in Greece. The Government’s observations do not refute the current environment and the risk of serious irreparable injury to children that arises because of it. Moreover, they do nothing to cast doubt on the the applicant’s submissions that the immediate measures requested in the complaint are necessary to alleviate the current violations to children’s protection and dignity.
7. The ICJ and ECRE, therefore, deem the complaint, including the request for immediate measures, valid, and respectfully ask the Committee to urgently grant the requested immediate measures.

## Costs

8. The ICJ and ECRE submit that whilst a specific provision in the Additional Protocol to the Charter does not provide for expenses incurred in connection with complaints, the Committee has held that where a violation of the Charter has been found, the defending State should meet at least some of the costs incurred.<sup>4</sup> In the light of the Greek

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<sup>2</sup> Decision on immediate measures: Association for the Protection of all Children (APPROACH) Ltd v. Belgium, Complaint No. 98/2013, 2 December 2013.

<sup>3</sup> European Committee for Home-Based Priority Action for the Child and the Family (EUROCEF) v. France, Complaint No. 114/2015, 24 January 2018 para 101.

<sup>4</sup> Confédération française de l'Encadrement CFE-CGC v. France, Complaint No. 16/2003, 12 October 2004 para 75; European Roma Rights Centre v. Greece, Collective Complaint No. 15/2003, 8 December 2004, para 54.

Government's violation of Articles 31(1), 31(2), 16, 17, 7(10), 11(1), 11(3) and 13 of the Charter, ICJ and ECRE deem the request for costs to be admissible.