

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



5 January 2009

Case document No. 4

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

**OBSERVATIONS OF THE GOVERNMENT
ON THE MERITS**

Registered at the Secretariat on 19 December 2008

OBSERVATIONS OF THE HELLENIC GOVERNMENT ON THE MERITS OF THE COLLECTIVE COMPLAINT 49/2008

In accordance with the Decision dated 23rd September 2008 of the European Committee of Social Rights on the admissibility of the collective complaint No. 49/2008, lodged against Greece by the International Non-Governmental Organization “International Centre for Legal Protection of Human Rights” (INTERIGHTS) for violation of article 16 of the European Social Charter, we submit, by means of this memorandum, duly and in due time, our observations on the merits of the allegations claimed by the complainant Organization.

The Hellenic Government refuses entirely the allegations claimed by the Complainant Organization and requests that the above complaint is dismissed as unfounded on the following grounds:

General Comments

The Greek State is making a systematic and integral effort in order to effectively handle the issues of the Roma population social integration. The measures taken, both at legislative and at policies and actions level safeguard the Roma rights in total, which ensue from the ratification of article 16 as well as from all the provisions of the European Social Charter. Such measures are implemented consistently and their positive effect has already began being obvious.

Greece fully respects the decision of the European Committee of Social Rights (ECSR) on the admissibility of the complaint, however given the opportunity we would like to recall our concerns on the fact that as explicitly stated (p.6) by the complainant body, the complaint has been prepared and submitted in cooperation with the Greek Helsinki Monitor (GHM), an NGO of non-recognized status by the Member-State under the ESC collective complaints mechanism. In being, in terms of partiality, confused with the obvious right of the complainant to refer to GHM or to any other NGO resources, it nevertheless is in contrast with the provisions in force.

Likewise, we need to point out that the alleged as “testimony material” provided in the annexes of the complaint consist but a wide synthesis of press releases and NGO’s reports’ abstracts (GHM, etc) which, far from providing with real “trial evidence” or in general evidence, they themselves mean to substantiate the alleged violations, since in their vast majority they are based on:

- **Selective reference to challenging cases, whereas any reference to successful integration cases is made in a diminished manner for the witnessed state-contribution** (e.g. Municipalities of Agia Varvara, Menemeni etc). In that sense, if accepting the alleged argument on **total lack of descent living conditions for the whole of the Roma community** in Greece (p.10-11), we should be easily dragged to the mere conclusion that successful integration procedure of the Roma community in the above mentioned prosperous regions did not, obviously, preceded their settlement but has instead been resulted by their successful exploitation of the state support. On the other hand, if the living conditions of the Roma community in the same regions – of indeed mass concentration of the Roma population – had been a prosperous one in a way that state support was excessive or unnecessary

(provision of housing loans etc) then the argument made by the complainant bodies on total lack of progress or decent living conditions, falls literally into **severe inner conflicts**. In light of these, it is evident that any effort made by the state is assessed in a rather selective and self-dimensioned manner.

- **Misinterpretation of state-will through subjective ascription of civil bodies statements** even when the latter restrict to mere law stipulations (e.g. right to property and protection of such a right). It is worth mentioned that Annex O in whole refers to selected parts of the Greek government statements during the public hearing of the identical collective complaint no.15/2003 regarding the right of all citizens to their property, whereas it avoids carefully any references made to alternative housing (even in cases where unlawful occupation of land serves for a deliberate state-support demand), thus leading to arbitrary conclusions as regards to the alleged state's non-recognition of the right to alternative housing. The same GHM practice of deliberate misinterpretation and conceal of data is witnessed on the recent cases lodged under reference GREE 2954 and GREE 2963 before the UN Human Rights Council (working group on situations) for which the state has been dismissed, case no.1799/2008 before the UN Committee of Civil and Political Rights of the relevant UN Convention (ICCPR, in progress), individual complaint no.5469/2007 before the ECHR (in progress), as well as before domestic law. In all mentioned cases GHM presents as victims of discrimination Roma people who, well before the lodge of the complaints, had been provided with concrete housing support (houses bought on state mortgage loans) by the state and instead asked for state compensation. Likewise, in footnote no.11 of the complaint, reference is made to a Ministry of Interior letter addressing a complaint made by citizens of Nea Tiryntha. However, in terms of deliberately highlighting instances of racism and on the same time diminishing the effort made by administrative bodies, any reference is made on the merits of the complaint (unlawful occupation of their property by Roma). These being said, the witnessed **frequency with which existing legislation, public documents and written statements** by the Greek delegations **are essentially misquoted, even with instances of spite too** whilst cited in the complaint, it **raises serious concerns on deliberate prejudice against any effort made in the vulnerable field of human rights**.
- **Refrain to refer to, or misquotation of official quantitative data on the implementation of housing rehabilitation interventions**, in order to prove, as alleged, their inadequate implementation.

Specifically and in relation with the allegations of the complainant Organization we would like to inform you of the following:

I. Allegation regarding failure in diffusion and implementation of the Decision concerning the Collective Complaint No. 15/2003

The above allegation is unfounded and the information set forth afterwards prove that the Greek Government has taken under consideration the above decision, took care of its diffusion and took the required measures in order to respect it.

More specifically, initially the allegation that the Decision, although it was translated into Greece has not been distributed to the state services engaged in the Roma issues, is not valid. The Directorate of International Relations of the Ministry of Employment

and Social Protection, which has the coordination for the implementation of the European Social Charter in our country, during all the stages of the investigation of the above collective complaint had a continuous communication and was informing of the issues of the complaint the Greek authorities which are competent for the Roma issues.

We would like to remind that during the investigation of the Complaint No. 15/2003 a public hearing was held before the European Committee of Social Rights (ECSR) on 11.10.04, in Strasburg, with the participation also of representatives of the Hellenic government, a fact from which it clearly ensues that the state authorities, which are competent for the Roma issues not only are uninformed of the lodging of a Collective Complaint regarding the Roma but they actively participated in the proceedings and appeared before the European Commission of Social Rights in order to furnish any possible information and clarification and contribute in any way to the work thereof.

We point out that the Directorate of International Relations, by its document with Ref. No. 70488/14.7.2005, with date of sending 19th July 2005, sent the Decision of the Ministers Committee, adopted on 8th June 2005 on the Collective Complaint, to all the Greek authorities who are handling the Roma issues and more specifically the Ministries of the Interior, of Environment, Regional Planning and Public Works, Health and Social Solidarity and Justice (Annex I). It is worth mentioning that reference to the complaint was also made by the Greek press.

It is also worth noting that the issue raised by the Complaint No. 15/2003 was not closed with the completion of the procedure on the collective complaint No. 15/2003. Taking under consideration the negative outcome that ensued in the Conclusions XVIII-1 (2006) of the ECSR and article 10 of the Additional Protocol of 1991, the Greek government continues furnishing information regarding the measures taken thereby on the Roma housing settlement. Further, during the 115th meeting of the Governmental Committee held in Strasburg, on 16-19 April 2007, a representative of the Minister of the Interior participated, who presented all the measures that are underway for the Roma.

According to the arguments made by the complainant NGO's, Greece is accused for not implementing the decision of ECSR on the merits of collective complaint no.15/2003. Even though the decision is widely accessible, still the complainants tend to embellish the decision as such, e.g. domestic remedies (p.3 et al.). To this point we would like to remind what was recalled also during the 22nd meeting of CoE Committee of Experts on Roma and Travellers in Europe (MG-S-ROM), when it was clarified that, as regards the (or if any) assessment made of the latest data provided to the Committee after its decision, the conclusions of the Committee (2006) were based on 2004 data.

It is worth noted also, that INTERIGHTS (p.8) tends to use the "2005" successor decision of the ECSR in order to prove worsening of, or inadequate implementation of programs towards Roma during the last decade (1996-2008), which is aptly laid out later on in the complaint (p.11, 13 et al.) when referring to 1996 as the initiation year of the questioned programs (Integrated Action Plan) and the so-alleged violations.

Also, almost 3 years after the adoption of the 2005 decision INTERIGHTS alleges that any obligation undertaken by the state has not been implemented at all, thus

leaving on purpose no space for a crucial and necessary time-demand for any integration procedure to bring results.

On the same time, by adopting **vague and even conflicting conclusions** while assessing the existing situation, INTERIGHTS refers to **the whole of the Roma community (p.8: 100.000, p.9: 300.000)** from which only few have benefited from the interventions implemented. Bearing in mind though that the Greek gypsy population is estimated between 250.000-300.000, INTERIGHTS tends to claim that **all of them live under extremely poor conditions** leading thus to the assumption that the whole of the Roma population in Greece live in poverty, since all of them lack of individual resources and in such terms, they are in desperate state-need. It would be then interesting to note that among the applications submitted in 2006 (and before) within the housing loans program (documents available upon ECSR' request due to personal data), non-eligible applications were met on the grounds of excessive annual income (e.g. application with a tax invoice of 98.974,45 euro etc), or conceal of existing assets (i.e. housing). Equally, while presenting the existing situation, in particular when distinguishing among settlements and meager houses (p.11), INTERIGHTS makes notice of an extremely high percentage of Roma living in meager houses lacking access to basic water and electricity infrastructures. This, however, is normally met in cases of unlawful building and so in cases where, regardless of the unlawful manner of the act, individual means for living (purchase of land and house construction) are witnessed. In light of these INTERIGHTS seems to accept that the Roma origin by itself may reasonably substantiate for positive discrimination, regardless of the particular living conditions in force, and in such a manner, discriminates against non Roma (of equal living standards).

In any case, **abstaining from the assessment of quantitative data as regards the interventions implemented** (e.g. **increase of mortgage loans from 3.500 initially to 9.000, increase of the loans amount from 44.020 euro initially to 60.000 euro, 7.482 loans granted already, 5.992 families have already disbursed their loans till 31/10/2008** etc) along with the number of the beneficiaries' families may but undermine the measures undertaken.

On the grounds of the ECSR's conclusions on collective complaint 15/2003, in particular regarding the **insufficient number of the houses provided**, we would like to recall of the European Court of Human Rights Ruling in **Chapman vs. UK, (2001):** *"The Court does not... accept the argument that, because statistically the number of Roma is greater than the number of places available on authorised Gypsy sites, the decision not to allow the applicant Gypsy family to occupy land where they wished in order to install their caravan in itself, and without more, constituted a violation.... This would be tantamount to imposing ... as on all the other Contracting States, an obligation ... to make available to the Gypsy community an adequate number of suitably equipped sites"*. Going further, it ruled ...*"While it is clearly desirable that every human being have a place where he or she can live in dignity and which he or she can call home, there are unfortunately in the Contracting States many persons who have no home. Whether the State provides funds to enable everyone to have a home is a matter for political... decision"*. Bearing in mind that the above mentioned court judgment has been taken well into consideration by INTERIGHTS in the annexed comments in order to prove its allegations against Greece (regarding violation of article 8), it becomes obvious that the judgment itself may not be viewed in a selective manner by INTERIGHTS

who, by doing so, turns to annul its own arguments and findings. In any other case, we are allowed to the assumption that every rule has its exceptions too and subsequently, the principle *pacta sunt servanda* (p.8-9) falls into exceptions to the rule too. After all, the witnessed **political will ought to be assessed** - as to the support offered - **in accordance with the resources and funds made available, the results achieved and, in as much, the existing socio-economic circumstances and all these need to be considered in a cumulative manner. Any other one-dimensional perception fails to evaluate essentially the reality, whereas it departs too from any chance to offer to the enforcement of the so-called rules of law in the “sensitive” field of human rights.**

II. On the allegations regarding the mortgage loans program of the Greek Roma

Going further to the merits of the alleged “evidences” regarding the inadequate implementation of the housing policy and its shortage compared to other housing programs implemented in Greece (e.g. Greek Repatriates, earthquake victims), we should mention the following regarding in particular the housing loans program, the provisions of which have been widely misquoted by the complainant NGO.

The mortgage loans program was **initially adopted in 2002** under Joint Decision (JMD) **no.18830/02-05-2002** (Official Gazette 609/B) of the Ministers of Interior, Public Administration & Decentralization and Economy & Finance. When first established, it provided for the **granting of 3.500 mortgage loans to an equal number of families, up to the amount of 44.020 euro each, upon State’s Unreserved Guarantee for the whole of the amount given, financing of 80% of the loans interest rate, free payment period of 24 months and 22 years payment period.** The above mentioned JMD was revoked **in 2003** following JMD **no.13576/31-03-2003** (OG 396/B) with which the **number of the total loans provided increased to 4.500** whereas the amount of the money **increased too, to 60.000 euro. In 2004**, following JMD no. 6035/30-01-2004 (OG 780/B) the **number of the loans increased to 9.000 (for 60.000 euro each)**, whereas though these years, at ease of the beneficiaries, further measures were adopted too regarding required documentation (i.e. issue of certificates etc) and the effective use of the loans. Further, under JMD no.28807/28-05-2004 (OG 812/B) **minimum technical requirements** (i.e. obligation for the local authorities to provide Roma beneficiaries with houses of a minimum net space of 85 sq.m.) were adopted applying in cases of organized town-building held by the local authorities. In **2006**, following the ECSR decision, the legislative framework in force was once more amended (JMD no.33165/23-06-2006, OG 780/B), resulting to the update of the applications submitted (through enabling resubmission rights for those applicants whose application was not successfully qualified till then), and the adoption of **social assessment criteria** for the applications addressing the existing living conditions of the applicants’ families (i.e. families with many members, one-parent families, persons with permanent disabilities, people of low income). There has also been Assessment Committees established at local level (per Municipality) with Roma and social workers participation, whereas stronger requirements on the disbursement of the loans and the houses bought (or constructed) were adopted too. Recently, in 2008 (JMD no.42950/30-07-2008, OG 1575/B), the legal framework in force was modified too for extending the time-limit set for making use of the loans. Additionally, the Ministry of Interior in cooperation with the co-responsible Ministry of Economy and Finance are working on further amendments on the loans’ disbursements, where appropriate.

Similarly, under Decision no.61261/30-11-2004 adopted by the Deputy Minister of Interior, P.A.D., there were set the requirements and the social criteria on free and by full possession assignment by local authorities of municipal and communal assets to their Greek Roma citizens who are participating at state-funded programs. Finally, within the modified Municipal and Communal Code (Law 3463/2006), local authorities bear the primary responsibility for their citizens' social, financial and cultural welfare (article 75).

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).** On these grounds, it should be made clear that the alleged requirement for the **possession of a plot of land has never been an eligibility requirement** by the legal framework in force, whereas the complainant NGOs seem to be in great **confusion as to** the Municipality where the applications were to be submitted at (**place of permanent residence**) and the **alleged requirement on permanent residence certificate** that existed prior to the submission of the complaint (under the provisions of the former JMDs till 2004) and **has been revoked in effect of JMD 33165/2006**, still not taken into proper account by the complainants NGO's. it is noted that the attached JMD in force (33165/2006), as well as its predecessors were made public through the Official Gazette, they were forwarded to all local authorities in Greece (Municipalities, Communities, Regions etc) as well as to the official Roma representative bodies in Greece. Even more, since 2006, all relevant to the legal framework amendments (i.e. JMDs, guidelines etc) are made widely accessible through the Ministry's of Interior website at http://www.ypes.gr/daneia_tsigganwn.htm.

Following, with regard to the (bewildered though) results of the program described above, it is noted that up to date it has led to the issuing of **7.482 individual administrative decisions** (available upon request) in effect of which **an equal number (7.482) of Greek Roma families throughout Greece have been nominated with the right to a mortgage loan up to 60.000 euro (each)**. Among these loans, 31 have already been granted to citizens and/or permanent residents of the **Aspropyrgos Municipality** (instead of 28 referred in p.32), whereas 27 more loans are under the evaluation procedure (**a total of 58 beneficiary families**). Likewise, **63 loans** are granted to citizens and/or residents of the **Chalandri Municipality** (instead of 45 referred in p.32), **21 families** were nominated in Marousi (instead of none, p.32), **257 loans** are granted to citizens of the **Ano Liosia Municipality** with 22 more loans under the evaluation procedure (**total of 279 families**), **84 loans** have been granted to citizens and/or residents of the **Patras Municipality**, **194 loans** to citizens of **Nea Alikarnassos** for the whole number of the settlement residents e.t.c.

Among the total number of beneficiary families with a copy of their loan certificate (7.482), **5.992 families have already contracted with a bank and proceeded to the purchase of a house or the construction of a house at a plot of land assigned by the Municipality of their residence** (e.g. Municipality of Serres, Axios, Didimoticho, Nea Ionia, etc) or **bought upon the loan's funds or even prior to the loan upon their own resources**. Bearing in mind that about 80% of the loans granted are already disbursed, the alleged constant inability to make use of the loans does not seem to be reasonable enough. Also, the alleged nomination of non-Roma tends to be

in conflict with the right of Roma to self-determine themselves as members of the Roma population, which on the same time, eliminates the implementation of any Roma origin legal certification measures. To this end, the applications were submitted directly to the candidates' Municipality of permanent residence (principle of proximity to the citizens and knowledge of local matters/subsidiary) instead of the Ministry of Interior.

Furthermore, regarding the results achieved within the context of organized town-building held by local authorities under the Integrated Action Plan for the social integration of Greek Roma (IAP) (i.e. construction of basic water, electricity, sewerage and road infrastructures, purchase of plots of land for assigning them to the Roma population or the construction of settlements etc), a total of 92 Municipalities have engaged in the program so far. In particular, the projects approved so far amounts to **80,54** million euro (national budget), whereas, till September 2008 the total budget allocated following the works processed amounts to **42,20 million euro**. A detailed analysis of the interventions held by the state under the housing filed, or the socio-medical centers operating throughout the country etc, is provided in the attached updated report titled "IAP Updated Report 2008".

On the grounds of these particularly described so far, it becomes obvious that **the alleged evident data on the state's failure** to implement the IAP interventions (p.11 et al.; Annex Q: disposal of 90% of the IAP budget till early 2006, provision of 4.000 houses which have never been build, 2026 prefabricated houses, 185 permanent houses, establishment of 16 socio-medical centers etc) and their subsequent comparison to other housing rehabilitation programs in Greece (Greek repatriates or earthquake' victims) **abstain from those officially provided and witnessed** whereas it is worth noted that in the complaint allegations to follow (p.34 et al.) GHM falls into conflict with those already described by INTERIGHTS regarding the IAP quantitative assessment. Additionally, contrary to the fact that **the IAP is in progress** and further funds for the implementation of its interventions are investigated, it is obvious that **it is nevertheless viewed in an accomplished to its achievements manner**.

III. On the allegation regarding the legal remedies

Subsequently, according to the predecessor decision of the ECSR, INTERIGHTS alleges the state's failure to provide with the necessary domestic remedies (p.23 et al.) while implementing its commitments. It is worth noted, however, that according to domestic law, the **necessary legal remedies derive from the administrative action or lack of obliged action in question, as such**. What is important to note though, is the will of the parties at stake to make use of all domestic means provided such as the right to free legal defense for those of low income. GHM's heavy domestic complaint activity is the mere evident for the provision indeed of such remedies. **The selective, however, reference to them, depending on the particular outcome of the rulings may not substantiate the alleged lack of legal remedies by the state**. For instance, the assessment of adequate domestic remedies is proceeded by INTERIGHTS on the basis of the positive towards Roma outcome, whereas for any other case, they tend to ignore the merits of the case as well as the right to property and its protection. Whatever the case may be, **the obligation for the provision of domestic legal remedies may not be confused neither with the choice to resort to them, nor with the outcome of the cases or the racial origin of those who resort to them**.

At the same time, in an effort to convey an impression on the existence of different legal systems depending on the origin of the parties at stake, INTERIGHTS falls into inner conflicts (p.18-19 et al.), since in such a legal system none Roma case would have resulted to the suspension of protocols of administrative removal or the annulment of their enforcement. It is thus worth highlighted that INTERIGHTS tends to make **unreasonable use of the itinerant way of living in order to demand the right not to be evicted even for those who, following their application, they have been adequately housed by the state** (p.16-21: see cases GREE 2954-GREE 2963 and 1799/2008, p.23: see merits of the Tzamalis case 5469/2007) and on the same time **imposes a demand for the prevail of Roma origin over the right of anybody else to his property** (by abstaining to resort too to existing legal remedies for the protection of property that has been unlawfully occupied, p.8 et al.). Another conflicting issue of the allegations made is witnessed in pages 18-19 regarding lack of a prosecutor's presence during the enforcement of protocols of administrative removal, whilst a few lines below notices of the perpetrators refusal to obey to the orders of the prosecutor in the field, or even later in page 19, when referring to the destruction of unlawful tents aside the Attiki Highway (where the tents remain till today). It should be also noted that during a field visit of the regional authorities in charge at the Makriyianni settlement, Roma people referred to instances of financial motives offered by an NGO (as stated) in order for the latter to file complaints.

Further details for the above mentioned cases of "forced evictions" are presented in the attached documents. Additionally it is noted that in Agia Paraskevi (p.18) the total of the applicants (28) qualified successfully (2007) for an equal number of housing loans, whereas for the case of Votanikos (non nationals Roma) the Ministry of Interior has expressed its will to fund the necessary study regarding the establishment of a settlement for temporary housing. For the time being, the Municipality of Athens in cooperation with the Local Association of Attica Municipalities and Communities (TEDKNA) are examining the submission of an adequate technical proposal. To this end too, the Secretary General of the Attica Region established the Committee provided by the JMD no.23641/2003 ("sanitary provision"). Also, in May 2008, the Municipality of Athens proceeded to the clearing of the existing settlement (115-117, Orfeos str.) from waste disposals along with the presence of a prosecutor due to the individual nature of the land and further, in June 2006, having informed the residents of the settlement, proceeded in cooperation with the Ministry of Health & Social Solidarity and the Center on the Prevention of Diseases (KELPNO), with children vaccinations.

IV. On the allegation regarding the lack of alternative housing

To make a further point, we would like to notice of the allegation made by INTERIGHTS regarding the **unlawful occupation of individual property resulted by lack of sufficient alternative housing** (p.26 et al. Annexed comments), since all allegations refer to demands made after occupying exclusively land possessed by non-Roma or public bodies, contrary to an equal ability of unlawful settlement at land owned by Roma. Bearing in mind then of the **potential right to positive prescription** which –against those claimed by GHM and INTERIGHTS- in terms of safeguarding the right to property is explicitly imposed (by law) to particular requirements rather than exceptions resulted by racial origin, it becomes possible that any such unlawful occupation of land may consciously lead to potential property titles in the future. In practice, it is true that arbitrary settlement in a public, municipal or private property

may under explicit circumstances lead to the ownership of the occupied land by making use of the rule on extraordinary positive prescription. The rule requires for **effective, undisrupted exercise of ownership of the property in question for a continuous period of 20 years** (article 1045 of the Civil Code) **on the precondition that this (period) was successfully completed till 2/11/1968** (when L.D.31/1968 on municipal property protection went into force) **or for, in good faith exercise of ownership of the property in question for 30 years** (according to Byzantium-Roman Law). These being said, any possible argument on lack of will for obtaining possession of the unlawfully occupied land - which would allow for the application of the rule on positive prescription - would be but a groundless and objective argument (we may endanger to predict that anyone who tries to gain ownership based on positive prescription would not by default admit his will to occupy the land in question). In any case, **any proof to the contrary requires resort to domestic law which may not be replaced by the alleged belief of lack of adequate remedies**. On the same time, the deliberate argument on unlawful occupation of land due to lack of sufficient housing may successfully contribute to **forced state-support based on racial origin, still regardless of existing housing needs**. To bring up an indicative example, we note of the recent cases lodged by GHM (5469/2007 and 1799/2008) on behalf of Roma who have been successfully nominated with a right to mortgage loans by the state budget, although this was carefully withheld by GHM.

In general, it is worth noted that INTERIGHTS, while commenting on the enforcement of protocols of administrative removal (p.26-27) from unlawfully occupied land, it lays great emphasis on the Roma origin (and not on the act as such) in order to argument in a delicate manner on the existence-exercise of different legal remedies, whereas any right to property –except for Roma property and possessions- is suppressed. Suffice it to mention that for different domestic remedies to exist, the plaintiffs need at least to prove adequately similar cases of unlawful occupation of land belonging to Roma, where the right to property was not indeed protected by the same provisions in force. In that sense, **the protocols of administrative removal are transformed to forced evictions and the threat to eviction is hardly perceived as the result of the unlawful occupancy act.**

Further on, regarding the **“admissions and reveals made by the national delegation”** during the OSCE/ODIHR Annual Meeting on the implementation of the OSCE Human Dimension (p.30,34), it should be stressed that those officially stated do not consist confessions but **mere report on the programs’ results**. The relevant statements are attached, as reported during the meeting and posted through the official conference website. To mention some of those stated (beyond those referring to 187 permanent houses built upon local authorities organized town-building and mortgage loans) we note of the following annually stated data:

- **2005: granting of 5.416 loans,**
- **2006: granting of 5.754 loans (and 4.987 disbursals),**
- **2007: granting of 6.179 loans (and 5.416 disbursals)**
- **2008: granting of 7.331 loans (and 5.896 disbursals)**

Earlier, during the examination of the 3rd periodic report of Greece under the UN International Convention on Economic and Social Rights (6th, 7th and 8th meetings, held on 28 and 29 April 2004 in Geneva, see E/C.12/2004/SR.6, 7 and 8) the Greek delegation reported the granting of **4.796 housing loans**. Therefore, **the ease with which INTERIGHTS (and GHM) allege the reveal of inaccurate, deceitful or**

conflicting data by the State, forms a severe intention to bewilder and prejudice the Committee against the State based on personal estimates and subjective assessments (content of the complaint and its resources) rather than objective data.

For those mentioned so far all relevant Administrative Decisions on the nomination of mortgage loans beneficiaries as well as the data on the loans disbursed by the banks will be made available upon ECSR request (beneficiaries' data, data on the houses bought, data on individual disbursements and total amount spent already, time of disbursements, beneficiaries' debt etc).

In the same confusing manner, INTERIGHTS proceeds to a quantitative commentary of the overall interventions implemented in the field of housing, based on the brochure (attached) prepared for the initiation of the IAP in 2002 whereas, it keeps neglecting any other data presented during the examination of national reports, official statements and any other relevant material. For instance, when the brochure in question came out it referred to a total number of 3.500 loans to be granted, whereas since 2004 has increased to 9.000. Likewise, although the amount of each loan was initially set to 44.020 euro, this has increased (since 2004) to 60.000 euro. Additionally, if taking into account the number of the loans disbursed, the total amount disbursed and the money disbursed for infrastructure works, one would easily realize that the overall amount of funds spent exceeds by far the initial amount predicted.

It is also important to note that the permanent settlement referred to in Messinia (p.31) has been successfully completed (the inauguration 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.

Concluding, as regards the Greek Police action, it is noted that within the framework of the Program 2008-2010, on Greek Police Strategic and Business Plan Actions, the GP Headquarters has laid within its priorities during police action the issue of individuals personality respect and protection, of human dignity and in general of human rights protection for all, regardless of racial or ethnic origin, religious beliefs, disabilities, age or sexual orientation. On these grounds, the GP Headquarters place great importance on the protection of Roma's civil rights with view to combating any form of discriminatory behavior against them.

Finally, further data regarding the regions of Patras and Kladissos in Chania as well as the initial comments made on the misinterpretation of the sanitary provision and other discrimination related issues against Roma are presented in the attached documents under ref.no. 214/05-06-08 and 56154(+52804)/15-09-2008.

V. General Housing Policy-Housing Assistance provided by the Worker's Housing Organization (OEK)

Apart from the housing programs addressed especially to Roma, they can participate in the general programs of the Workers' Housing Organization (OEK). This is the main body for implementing housing policy. OEK is financed by the contributions of the employees and of their employers and therefore, it addresses retributively its contribution exclusively and only to its beneficiaries, i.e. the employees from whose salaries contributions are deducted in favour of OEK, as well as to the pensioners, who, during the period of their vocational life were contributing in favour of the Organization. Consequently its programs do not cover the entire population of the country.

Among its beneficiaries OEK does not make any discrimination because of racial, religious, ethnic, age or any other characteristics. All those who fulfill the capacity of the beneficiary have absolutely equal opportunities to gain access to housing. Thus, those of the Roma who fulfill the capacity of OEK beneficiary receive equal treatment with the other beneficiaries, are incorporated into the programs under the same terms and have the same benefits.

Especially for the Roma we should mention that as they present a high percentage of many children families, due to their cultural differences that are in favour of having many children, the insurance conditions required for them are reduced in relation to those of the other categories of beneficiaries (800 working days for beneficiaries having 5-9 children and 700 one for 10 children and up). This way, many Roma families receive housing assistance within the frameworks of the special programs for many children families, in the form of interest-free loans from OEK funds or assignment of a house that the Organization disposes of or purchases and which is also paid in full interest-free.

Further, in the cases of such special programs, despite the fact that many beneficiaries, among them and many ROMA, do not meet their obligation for paying off of their house to OEK, because of the fixed social sensitivity of the Organization, OEK does not proceed with removal of the beneficiaries from the house that was assigned to them. Consequently, the Organization does not set out not even individual proceedings for the removal of houses that have been assigned or purchased from loans.

We should also mention that OEK has constructed a settlement especially for the Roma, in Sofades, Karditsa, implementing the institutional framework that gives it the possibility to act as settlements construction agent also for non-beneficiaries thereof, in cooperation however always with other agents of the public or private sector and taking as an exchange money or land. In this specific case OEK proceeded in cooperation with the State and the Municipality of Sofades to the construction of a settlement at the limits of the Municipality, where Roma from an existing old camp were re-established, in order to improve their living conditions. OEK undertook, as an agent with experience of many years in organized structure settlements, the design and construction of this model settlement, respecting the cultural peculiarities of the Roma race and creating an environment of high housing quality, aesthetics and

functionality and it took as an exchange for this project thereof public lands of equal value in other areas for the housing of its own settlements.

VI. On the allegation regarding violation of equality of access to infrastructures and services-Discrimination

a. Legislation

During the examination of the Complaint 15/2003, the Greek representatives had informed the Committee that a new law for the incorporation into the Greek law of Directives 2000/43/EC “implementing the principle of equal treatment of persons irrespective of racial or ethnic origin”, and 2000/78/EC “regarding equal treatment of persons irrespective of religious or other convictions, disability, age or sexual orientation, in the sector of employment and occupation” had been conducted and was to be submitted to the parliament. In the meantime Law 3304/2005 (16 A’) was adopted and the above mentioned directives were incorporated in the greek legislation. (Please refer to Annex).

Pursuant to the provisions of the above law, the direct or indirect discrimination of persons, in the public and private sector, because of racial or ethnic origin, is prohibited. More specifically the prohibition of discriminations as defined in article 8 of L. 3304/2005, is applied:

- a) in the terms of access to employment and occupation, the terms of selection and appointment as well as vocational development inclusive,
- b) the access to all kinds and levels of vocational orientation, vocational training, further education and vocational re-orientation, the acquisition of practical vocational experience inclusive,
- c) the terms and conditions of employment and occupation, those concerning dismissals and fees inclusive,
- d) the capacity of the member and the participation in organizations of employees or employers or in any professional organization, the advantages arising from participation therein included.
- e) in the social protection, social insurance and medical treatment inclusive,
- f) the social benefits,
- g) education, and
- h) the access to disposal and rendering of goods and services, which are available to the public, **housing included.**

As regards the implementation of L. 3304/2005 and in accordance with the provisions of art. 19, the following are appointed as competent agents for the promotion of the principle of equal treatment:

- For the cases that this is violated by the public services, the Ombudsman;
- For the cases that this is violated in the sector of employment and occupation, the Labour Inspection Corps (SEPE).
- For the cases that this is violated by physical persons or legal entities in the rendering of services and in the sale of goods, the Equal Treatment Committee of the Ministry of Justice.

By adopting the above mentioned legislation, it is obvious that in Greece any racial discrimination is prohibited. Furthermore the necessary legal base for the effective protection of every person, who considers himself as a victim of discrimination due to

race is being offered, because on the one hand the principle of equal treatment is established, the behaviour that may constitute a discrimination (direct or indirect), the scope of application, the judicial protection of the persons affected by discrimination and the provided sanctions for the offenders are clearly defined, and on the other, the establishment of bodies which will be entrusted with the application of the said principle, is provided.

The Ministry of Employment and Social Protection recognizing the importance of diffusion and information on the new provisions against discrimination informed the public on this new legislation. In particular, in the framework of the Community Program 2000-2006 against Discrimination the ministry carried out actions such as one day meetings, informative campaigns, and publication of relevant brochures. The aim of these actions was to raise awareness of the public as well as of the bodies involved about discrimination (public services, social partners, etc.). More specifically:

- a) On the 16th and 17th of April 2007, the opening conference of the European Year of Equal Opportunities for All (2007) took place in Athens, with the participation of the Ministry of Employment and Social Protection and the Ministry of the Interior, as well as of representatives of the social partners (G.S.E.E – General Confederation of Greek Workers, S.E.V - Federation of Enterprises and Industries, etc.), the local self-government agencies and non-governmental organizations.
- b) On the 5th of September 2007, a one-day seminar to furnish Labour Inspectors of Northern Greece with information about issues of interpretation and application of Act 3304/2005 was held in Thessaloniki. Labour Inspectors, representatives of the local bodies, representatives of the Greek Ombudsman, the social partners, the academics and of non-governmental organizations attended the seminar.
- c) On the 15th and 16th of October 2007, a two-day information campaign took place in Athens regarding discrimination. More specifically, 5 info kiosks were set up in central locations of the city where relevant printed material was distributed.

b. Actions for the social inclusion of Roma

b.1. Programs against Discriminations

Within the frameworks of the declaration by the EU of the year 2007 as European Year of Equal Opportunities for All, the Ministry of Employment and Social Protection was appointed as Executive Agent, responsible for the design and implementation of the national strategy as well as for the selection of the actions that were recommended for financing by the Ministry of Employment and Social Protection. By the Decision No. 200822/17.10.2006 of the Minister of Employment and Social Protection the implementation of the relevant project was assigned to the Directorate of Social Protection. For the better coordination of all the actions to be implemented a Project Management Group was established, in the ministry of employment and social protection, comprising of executives of the Directorate of Social Protection and of the Special Management Services of the European Social Fund.

One of the actions implemented within the frameworks of “2007, European Year of Equal Opportunities for All” and concerned the sector of racial or ethnic origin was the one carried out by the Municipality of Agia Varvara in cooperation with National

Centre for Social Research and the Municipal Enterprise of the Municipality of Egaleo, entitled “Promotion of equality and social integration routes”.

Also, the Ministry of Employment and Social Protection, within the frameworks of the Limited Invitation VP/2008/005 of the Social Program Progress filed a recommendation for the implementation of a project entitled “Actions for the promotion of the principle of equal treatment”. The object of the project, comprising of three actions, is the promotion of the principle of equal treatment, as such is described in the national action plan for the fighting of discriminations as well as in our national legal framework. One of the actions has Roma as target group and is entitled “Roma: Aspects of Discriminations and Political Interventions”.

The action focuses on the education of key persons coming from the most downgraded minority communities and the Roma communities in the Prefectures of Thrace and East Macedonia for their showing off as “representatives-intermediaries”. The role thereof shall be the promotion of the principle of equal treatment on the basis of the community and national legislative framework for the fighting of discriminations.

More specifically, the objects of the action are (a) the removal of the stereotypes and of the obstacles faced by the Roma of the region of East Macedonia and Thrace in the access to employment and (b) the incorporation of the gender dimension and the wider sensitization of the local communities and more specifically of the youth. The said action is expected to contribute to the promotion of the principle of equal treatment. Through the education of intermediaries we expect to gain multiple benefits in the issue of fighting of discriminations. It is further expected the estimation of the problems and obstacles that Roma are facing in the specific region, the evaluation of the special problems faced by women that belong to the said social group and the information and sensitization of the local society. The action shall be implemented in cooperation with Democritus University of Thrace.

Also, we would like to inform you that the Ministry of Employment and Social Protection implements actions for Roma, in order to facilitate their entrance into the labour market. Particularly we implement subsidy employment programs, training programs and professional orientation programs. The common element among them is the effort to adapt these programs to the real needs of the beneficiaries. We would like to refer to a special program for Roma which is going to be implemented shortly and concerns the subsidy of 500 Roma for starting up their own businesses. We would like to stress that this program was designed with the active participation of Roma in order to become more effective.

Concluding, as regards the Greek Police action, it is noted that within the framework of the Program 2008-2010, on Greek Police Strategic and Business Plan Actions, the GP Headquarters has laid within its priorities during police action the issue of individuals personality respect and protection, of human dignity and in general of human rights protection for all, regardless of racial or ethnic origin, religious beliefs, disabilities, age or sexual orientation. On these grounds, the GP Headquarters place great importance on the protection of Roma’s civil rights with view to combating any form of discriminatory behavior against them.

b.2. Medical-Social Centers – Mobile Units

Within the frameworks of the Integrated Action Plan for the social integration of the Greek Roma, the Ministry of Health and Social Solidarity established Medical-Social Centers at their organized settlements and makes visits to the camps of the moving ones by its Mobile Units.

The Medical-Social Centers are incorporated into the actions for fighting the exclusion of the socially vulnerable population groups. The establishment and operation thereof has been approved within the framework of the Regional Operational Programs (PEP) of the C' Community Support Framework and are jointly financed by the European Social Fund (ESF). The institutional framework that governs the operation of the Centers is defined by the Common Ministerial Decision of the Ministries of Health and Social Solidarity, Labour and Social Security, Economy and Finance, Interior-Public Administration and Decentralization¹.

The object of the action is the operation of structures that will offer medical and social care. Through the Medical-Social Centers it will be promoted the primary health care and the social protection of the Greek Roma with their social integration as ulterior target. The above target should be achieved by the exploitation of the services and the benefits of the National Health System and of the Social care, as well as by the familiarization of the target group with the public services of the state. The Diseases Control and Prevention Centre (KE.EL.P.NO), a Legal Entity of Private Law of the Ministry of Health and Social Solidarity, is responsible for the scientific supervision on topics of Public Health. The Ministry of Health and Social Solidarity shall have the responsibility for the operation and the adequacy of the Centers. Control and observance shall be carried out by the Health Region (H.R.) each time.

The Medical-Social Centers are mainly housed at facilities assigned by the Municipalities inside the settlements limits. The personnel that staff them includes a Doctor, a Social Worker, a Health Visitor, a Gym Instructor or a Special Pedagogist, Intermediary from the target group. Already 30 Medical-Social Centers are operating around the country. The main levels of action of the MSC concern the writing down of the population, the civil-municipal settlement of the population, health promotion actions, employment, education, collective representation of the inhabitants, as well as housing. A basic also target of the Centers are the cooperation with local or not agents for the possibility of publication of the actions as well as the possibility of the Center networking with other services. Sensitization meetings are also organized:

1. of the Roma on topics of hygiene-family planning,

¹ (KYA 110309/13.02.06 (GG 196/i. B'/13.2.2006) "Amendment and replacement of the Common Ministerial Decision No. 113956/02.10.02 (GG 1295/i. B'/04.10.2002), which defines the "System for Management and Evaluation of Observance, Control and Implementation Procedure of the Action "Health Protection-Promotion and Social Incorporation of the Greek Roma", jointly financed by the European Social Fund (ESF) within the frameworks of the Regional Operational Programs (PEP) pursuant to the C' Community Support Framework".

2. of the local society and of the Public and Social agents (schools, parishes, cultural centers et al.) Finally the Centers may be connected between them via the forum <http://www.esfhellas.gr/forum/default.asp>, where the executives have the possibility to exchange views by electronic networking.

Since April 2004², the program “Protection, Promotion and Psychosocial Support of the Greek Roma” is implemented, through which visits by Mobile Units to the camps of the moving Greek Roma are carried out in order to perform clinical examinations and vaccination of children. The above Program is implemented with the responsibility of the Ministry of Health and Social Solidarity and with the participation of the Prefectures’ Health Directorates, the Medical Districts and the Diseases Control and Prevention Center. The aim of the interventions pursuant to the Ministerial Decision is the clinical examination and the vaccination of children as well as the handling of the social problems and the writing down of the living conditions of the Greek ROM at local level. The vaccines used are those indicated by the Directorate of Public Health of the Ministry pursuant to the national vaccination program. These are the D.T.P. – D.T. adults type – Sabin – Hib – Hepatitis B’ for children. Until today vaccinations have been performed in almost all the camps. The repeating dosages are usually organized by the local agents (Health Centers, Prefectures etc.) in cooperation with the Ministry and the Directorate of Social Relief and Solidarity which has the coordination of the program and the Directorate of Public Health which supplies the vaccines. In every intervention the children’s health booklets are updated or new ones are opened for the newborns or for children that have lost them. Further record is kept by the Prefectures and the Diseases Control and Prevention Centers.

Conclusions

For all the abovementioned reasons and given the above data concerning programmes-actions and measures of the Hellenic Government dealing with the housing of Greek Roma, we request the acknowledgement of the fact that there is no issue of violation by Greece of article 16 of the European Social Charter in conjunction with the non-discrimination clause of its Preamble and to declare the complaint lodged by the international NGO “European Roma Rights Center” against Greece unfounded.

**THE SECRETARY GENERAL OF
THE MINISTRY OF
EMPLOYMENT AND SOCIAL
PROTECTION**

DIMITRIOS KONTOS

² Pursuant to P2a/GP 33667/23.3.05, completion of the Ministerial Decision No. P2a/G.P. oik 115284/10.11.04,