

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



26 March 2009

Case document No. 5

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

**RESPONSE FROM INTERIGHTS TO THE
GOVERNMENT'S WRITTEN SUBMISSIONS
ON THE MERITS**

Registered at the Secretariat on 25 March 2009

**COLLECTIVE COMPLAINT 49/2008:
INTERIGHTS RESPONSE TO THE HELLENIC GOVERNMENT**

General comments:

The following comments are in Response to the observations (the ‘Observations’) of the Government of the Hellenic Republic (the ‘Greek Government’) dated 19 December 2008.

The Greek Government, in its Observations has failed to properly address the substantive allegations of the Complainant herein as set out in the complaint dated the 28th of March 2008 (the ‘Complaint’). In particular the Greek Government has failed to have regard to a substantial amount of evidence set out in the Complaint.

The Complainant maintains its allegations. These are further reinforced by a number of subsequent reports issued by authoritative international and regional bodies and experts, together with national Non-Governmental Organisations which are annexed to this response and the conclusions of which are summarised herein.

In particular the Complainant would like to draw the attention of the European Committee of Social Rights (the ‘ECSR’) to the recent report of March 2009 of the UN Independent Expert on Minority Issues to the UN General Assembly, following a visit to Greece in September 2008, wherein she concluded that:

‘Discrimination against Roma exists in Greece as in other European countries. The independent expert visited Roma communities which lacked basic facilities and faced the constant threat of eviction....The independent expert commends government efforts to develop positive policies coordinated at the inter-ministerial level by the Minister for the Interior through the Integrated Action Programme on Roma. However, there are serious problems of implementation at the local level, particularly regarding living conditions and the segregation of Roma in certain public schools. The Government should continue its efforts to ensure that national policies are not subverted or defied by local authorities that are responsive to local prejudices.’¹

[emphasis added]

More specifically she reached the following conclusions and made a number of urgent recommendations to the Greek Government in relation to Roma housing, denial of justice and treatment by local municipalities:

‘Many Roma remain in squalid living conditions ...Roma face severe impediments to their rights to housing and against forced evictions. Their access to public services - from public transportation to clean drinking water – is denied by discriminatory actions by local officials.The European Court of Human Rights has recently issued judgments against Greece in cases where the Court found failures to grant to Roma access to justice as defined by international standards The government must ensure that national policies are not subverted or defied by local

¹ A/HRC/10/11Add.3 (18 February 2009) summary p.2 available at <http://daccessdds.un.org/doc/UNDOC/GEN/G09/111/98/PDF/G0911198.pdf?OpenElement>

*authorities who find it more convenient to be responsive to local prejudices. With respect to international legal obligations including rights of non-discrimination and equality, domestic constitutional arrangements such as decentralized authority or devolution of powers, do not mitigate state responsibility for violations of human rights. The government should consider models which recognize the principle of national government pre-emption of local authority in matters of compelling state interest such as fundamental rights. Alternative models deny funding to non-compliant localities. The European Commission against Racism and Intolerance has recommended sanctions “on municipal councilors who make racist remarks or do not comply with the regulations and decisions that bind them.” The government must display a stern political will that localities have no option other than to comply with positive national policies. National ministries must then effectively monitor implementation on the local level. **The government must take steps immediately to guarantee that universal standards of equality before the law, due process and the right to speedy trials are respected fully with regard to Roma defendants and litigants.***²

[emphasis added]

In its observations, the Greek Government fails to provide any evidence to rebut the serious allegations in the complaint concerning the disproportionate number of forced evictions merely stating that they are justified on the basis of illegal occupation.

No tangible evidence is provided by the Government setting out what it is doing to meet its obligations pursuant to the decision of the ECSR in relation to collective complaint 15/2003. In particular, it fails to provide any information on how it is providing alternative accommodation and adequate infrastructure, such as sanitation, running water and electricity, for both settled and itinerant Roma.

The Government continues to refuse to respond to criticisms expressed by the Council of Europe’s Commissioner on Human Rights by failing to reply to letters he has sent on the issue of the Roma and the use of forced evictions, most recently in December 2007 (Annex A). This attitude on behalf of the Government simply confirms its failure to have due regard to the very serious plight of the Roma.

Where the Government does provide information on the positive measures it has implemented, it makes frequent reference to actions that are either (a) of a general nature with no specific relevance to the Roma or (b) do not concern the alleged abuses against them detailed in the Complaint. For example, in relation to the former, whilst the Greek Government has stated that the Roma have the opportunity to benefit from the general programs of the Workers Housing Organisation (the ‘OEK’), the Government has failed to provide evidence that the Roma have actually done so or that most Roma are not in full time employment and therefore not eligible. In relation to the latter the 2007 European Year of Equal Opportunities for All and the Thrace employment programme concerns the right to work, an issue which is not relevant to the substantive allegations of this Complaint.

In her recent report the UN Independent Expert on Minority Issues made the following assessment:

² Ibid paras 97-99

*'The Government does not consider the Roma a minority within Greece, rather a vulnerable social group consisting of 250,000 to 300,000 persons. It notes that this viewpoint is shared by Roma who consider themselves an integral part of Greek society. Government officials revealed a widely held belief that Roma are responsible for many of the problems that they face. One official noted: "The Greek State would like to integrate Roma fully, but they don't like that a different style of life is imposed on them."*³

[emphasis added] and went on to conclude that the Government's 'interpretation of the term "minorities" is too restrictive to meet current standards.'⁴

Contrary to the stated position of the Greek Government in its Observations at p 4 the Complainant maintains its position that, given the Roma's vulnerable and marginalised situation, being subjected to historic and continuing discrimination, they should be the subject of positive measures as recognized by the ECSR⁵ and enshrined under other international law standards.⁶ Furthermore these positive measures must result in tangible, beneficial outcomes that have regard to the state's obligations. In this case there has been a continued and systemic failure of the Greek Government to meet the housing needs of Roma.

New and continuing violations

Since the complaint was submitted there have been new and repeated violations concerning forced evictions, the details of which are also presented in this Response. In particular, there have been further evictions of the Votanikos Roma in February 2009. Some of the evidence can be directly viewed by the ECSR in the form of video footage available on the internet.⁷

Forced Evictions

- *Documented evictions*

In the complaint submitted in March 2008, documented evidence was provided of over 20 forced evictions (documented in Annex E to that complaint) affecting over 300 families since December 2004 (page 13).⁸ The complaint states that the evictions

³ Ibid para 51

⁴ Ibid para 81

⁵ Conclusions XVIII-1-2006, Statement of Interpretation of Article 16, p 11 para 23 available at http://www.coe.int/t/e/human_rights/esc/3_reporting_procedure/2_recent_conclusions/2_by_year/XVII11Vol1_en.pdf

⁶ Article 1(4) of the Convention on the Elimination of all Forms of Racial Discrimination of 1965 declares that: '*Special measures taken for the sole purpose of securing adequate advancement of certain racial or ethnic groups or individuals requiring such protection as may be necessary in order to ensure to such groups or individuals equal enjoyment or exercise of human rights and fundamental freedoms shall not be deemed racial discrimination, provided, however, that such measures do not, as a consequence, lead to the maintenance of separate rights for different racial groups and that they shall not be continued after the objectives for which they were taken have been achieved.*'

⁷ Footage of the February 2009 evictions available at

http://www.youtube.com/watch?v=wXE1k8Us_Os&feature

⁸ "Since the Collective Complaint No 15/2003 decision of December 2004 GHM has recorded over 20 forced evictions carried out against the Roma affecting over 300 families including in Patras

were not carried out in accordance with the law, there was a complete failure to have regard to appropriate procedural safeguards and adequate alternative accommodation was not provided.

Yet in its Observations the Government fails to address any of the detailed evidence, including that related to some of the most serious examples of forced evictions. Instead, the Government refers only to three attachments submitted (one in Greek) that concern only the evictions in Patras and in Chania. These are addressed further below at pp. 6-10 of this Response.

In its observations the Greek Government frequently refers to the illegal nature of the Romani settlements as a legitimate justification for their eviction, from both private and state land. While the Complainant recognises that both private individuals and the state are entitled to launch eviction proceedings,⁹ and has never denied this, property rights must be properly balanced against the rights of those in occupation as emphasised by the ECSR¹⁰ and other international bodies.¹¹ In particular, in upholding the law in relation to illegal settlements the State must ensure that the rights of the Roma under both domestic and international law are not violated.¹²

Consequently, the State is under an obligation not to proceed with any eviction before ensuring that (a) due process is complied with including adequate notice, consultation and the obtaining of a court order¹³ and (b) the Roma in question are provided with alternative accommodation so that they are not rendered homeless¹⁴, an obligation that is recognised not just by the Greek Ombudsman¹⁵ but the Ministry of Interior itself.¹⁶

and the Peloponnese (three evictions affecting approximately 67 families), Chania, Crete (one affecting 12 Roma families), Aghia Paraskevi, Attica (one affecting 12 families), Paiania, Attica (two affecting approximately 15 families) and Votanikos (affecting more than 200 Albanian Roma families). They include 10 forced evictions officially recorded by the police between early 2005 and mid 2006. During 2004 alone according to their own official figures the police carried out a further 60 evictions. Evictions continue to occur on a frequent basis affecting many more Roma families.”

⁹ It should be noted however that the Greek Ombudsman has suggested that even in such cases, and especially when the immediate relocation of Roma is not possible although a relevant initiative has been launched by the authorities, the latter should proceed to ensure that the private landlord does not evict the Roma by compensating him for the damage caused to him by the Roma trespassing on his / her property.

¹⁰ *ERRC v Greece* (15/2003) para 51 and *ERRC v Bulgaria* (31/2005) para 51

¹¹ See in particular UN Committee on Economic, Social and Cultural Rights General Comment 7 on forced evictions (E/1998/22)

¹² *Ibid* General Comment 7 para 14

¹³ *Ibid* General Comment 7 paras 13 and 15

¹⁴ *Ibid* General Comment 7 para 16

¹⁵ See e.g. Ombudsman's letter to the Ministry of Interior regarding the Roma of Votanikos, ref. no. 13986.06.2.3, dated 11 May 2007.

¹⁶ See e.g. reply by the Deputy Minister of Interior to a parliamentary question tabled by Mr. Fotis Kouvelis, ref. no 65290, dated 21 November 2007; in his reply, the Deputy Minister stated that the Ministry of Interior seeks to facilitate the relocation of Roma before or during their eviction.

Secondly, the State's response fails to acknowledge that illegal squatting of state property is widespread in Greece, mainly due to the failure to properly address the housing needs of its citizens.¹⁷

With respect to the evictions in Patras in 2006, the ECSR will recall that the Complainant referred to, and provided a copy of, a letter from the Council of Europe's Commissioner for Human Rights (the 'CHR') to the Greek authorities following his fact-finding visit to the area and the evidence of unlawful evictions he gathered (Annex N to the complaint). To date the Commissioner has never received a reply to the letter. Yet, not only did the Government in its Observations fail to use the opportunity to respond to the CHR's letter, it did not even make any reference to it.

In relation to the evictions of the Roma of Aghia Paraskevi (pp. 21-23 of the complaint), the Government, in observing that they qualified for housing loans, fails to mention that (a) these Roma were ultimately relocated by the municipality hundreds of kilometres away on the island of Euboea (on the grounds that this is where their ancestors came from); (b) the real reason for this inappropriate relocation was due to the cancellation of the initial resettlement in nearby Spata by the local municipality allegedly on racial grounds and (c) that the State has to date not taken any action against the Spatan municipality.¹⁸

The UN Independent Expert on Minority Issues concluded in her March 2009 report in relation to Spata:

*'Despite positive initiatives at the national level, problems of local government implementation continue. Some commentators noted that government credit lines that could benefit the Roma exist but are not taken up by municipalities. Reportedly the Roma bought land close to Spata but the Municipality "revolted" and did not allow the settlement, allegedly arguing that there should not be a Roma settlement on the road to the airport. One commentator noted: "Mayors lose votes by helping Roma ... they don't want to give them the conditions that would"'*¹⁹

The Government's observations in relation to the relocation of Roma in Votanikos (Athens), most of whom have been evicted in the interim (see below), fails to adequately address the real reasons for their eviction. The facts of the multiple evictions at Votanikos are set out in the recent complaint submitted to the European

¹⁷ According to recent local press reports, the Ministry of Finance is even contemplating selling to non Roma squatters approximately 2 million stremmata (a land measurement unit equivalent to 1,000 square meters), with discounts for those squatters who have either built family homes or have multi-member families. In the same vein, the Prefect of Thessaloniki recently proposed to the Minister for the Environment, Town Planning and Public Works, to regularize approximately 1,000,000 illegal structures (usually extensions to already existing houses) throughout Greece. This, according to the Prefect, is in response to the large numbers of people who cannot afford to pay the 30-40,000 euros fines imposed on them by the Town Planning authorities, "only because they had a single room built [without building permit] in order to shelter their children"(See reports in *Eleftheros Typos*, Athens based daily newspaper, issue of 3 March 2009, available at <http://www.e-tipos.com/newsitem?id=78372> and *Eleftherotypia*, Athens based daily newspaper, issue of 3 February 2009, available at http://www.enet.gr/online/online_text/c=112.id=92818860)

¹⁸ Information on file with GHM.

¹⁹ Supra n1. para 72

Court of Human Rights entitled *Demir Ibishi & Ors v Greece*²⁰ by GHM²¹ and which reinforces and elaborates on the complaint's original submissions (Annex B).

In addition, the ECSR can view direct TV footage by (a) the BBC of the results of the first Votanikos Roma eviction in 2007²² and (b) Skai TV²³ of the most recent eviction in February 2009. In relation to the latter the local TV company were actually invited to film the event by the evicting Mayor of Tavros. Additional material, including extensive references to the case, can also be observed and downloaded from an internet blog site.²⁴

On 3 March 2009, the Council of Europe Commissioner for Human Rights, Thomas Hammarberg, released a letter sent on 19 December 2007 to the Greek authorities on the Roma housing situation in general and the Votanikos Roma evictions in particular (see letter at Annex A). As with previous correspondence, the Greek authorities have never responded.

The Government also briefly challenges the Complainant's evidence that evictions occurred at the Attiki Odos settlement, very near to Athens airport (p. 19 of the complaint), arguing that "*the tents remain till today.*" The Complainant would like to note that, as stated in the complaint, the two 2007 evictions actually concerned two other settlements very near to but not the still existing one referred to by the Government. However, the fact that the Government makes reference to the existing destitute settlement (as seen by all incoming passengers upon leaving Athens Airport)²⁵ without any further comment is indicative of not just its continued failure to provide adequate housing to Roma, but its disregard of the documented evidence presented in the complaint, as well as its overall neglect of the issue.

Finally, the Complainant notes that even though 10 of the 20 evictions occurring after December 2004 reported in the complaint were actually recorded by the Hellenic Police in its data for the period 2005 to mid-2006, the State did not comment on any of them in its observations. Yet according to the Police's own data provided upon request to the GHM they assisted in 140 cases of evictions between mid-2006 and mid-2008 (Annex C): nine during the second half of 2006, 80 in 2007 (the highest number of police-assisted evictions in a single year between 1996-2008 – see also Annex G to the complaint) and 51 in the first half of 2008.

With respect to allegations of police abuse, the Government states that under the Greek Police Strategic and Business Plan Actions, the priorities for during police action are *'personality respect and protection, of human dignity and in general of*

²⁰ Application no. 47236/07

²¹ Lodged on 29 October 2007. Statement of facts available at <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=847297&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>). The complaint has been communicated to Greece, with a reference to the decision of the President of the Chamber to give priority to the application under Rule 41, and with questions on possible violations of Articles 3, 8, 13 and 14 of the Convention.

²² Footage available at <http://www.youtube.com/watch?v=qNSXXHwUmzw&feature=related>

²³ Footage available at http://www.youtube.com/watch?v=wXE1k8Us_Os&feature

²⁴ See post by the blogger Devious Diva at <http://deviousdiva.com/2009/02/27/breaking-news-roma/>.

²⁵ Footage of settlement available at <http://www.youtube.com/watch?v=BAxMU4RBRoY>.

human rights protection for all, regardless of racial or ethnic origin (sic) and ‘*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.*’ Yet it does not contradict the direct evidence of actual police abuse in the complaint.

- *Replies to three attachments on evictions and housing of Roma in Greece*

In its Observations the Greek Government provides three specific attachments concerning the allegations of unlawful evictions.

a. *Attachment Doc Ref no 60973(2007)*

This seven page document is in Greek and relates to the *Tzamalīs and others v. Greece* case before the European Court of Human Rights (‘ECtHR’) (application number 5469/2007) (see Annex D detailing ECtHR’s Statement of Facts and Questions to the Parties). The questions of the ECtHR relate only to the eviction of the applicants from their home in July 2006, without any resettlement to another home, the investigation of the related complaints, and the possible presence of racial motives.

In the document in Greek submitted by the Government, there is information about whether the four applicants ever applied for a housing loan, with the municipality of Megara where they had lived before they moved to Kladissos, Chania (Crete) in late 2005. The Government claims –without the provision of any documents as attachments- that one of the four applicants, Emmanouli Tzamalīs, had received a loan of 60,000 euros of which he withdrew 45,000 euros in June 2005 to purchase a plot of land in Megara along with another loan recipient who had also withdrawn 45,000 euros. According to the Government, neither loan recipient paid to the bank any installments since, nor is there any information if any home was ever built thereon. The other three applicants did not receive any loans (two did not apply and one did not qualify). Then, the Government provides information on the IAP and the housing loans program. Otherwise, there is nothing in the document that addresses the facts in the statement or the questions of the ECtHR. Hence, the Government, in its Observations and accompanying material submitted to the ECSR effectively does not offer any information on the actual eviction of Roma in Kladissos, Chania, in July 2006.

Furthermore, in February 2009, GHM was served with Chania Prosecutor’s Decree 31/09 that partly archives the related criminal complaint (because the related alleged crimes of threat and damage of property were time-barred) but also, more importantly, refers to the decision to press charges against police officers and local administration officials for violations concerning the eviction and the threats of evictions (violation of the security of home, breach of duty, etc.). Moreover, the Chania Prosecutor ordered that a copy of the file be sent to the Athens Prosecutor for him to investigate alleged wrongdoing of the Headquarters of the Hellenic Police and the Greek Ombudsman.

b. *Attachment Doc Ref no 56154 08 (EN)*²⁶

This document refers to Communication 1799/2008 before the UN Human Rights Committee (the ‘HRC’) concerning the double eviction of a Roma family in Riganokampos, Patras (Antonis and Chrysafo Georgopoulos with their seven children) in August-September 2006.

It provides detailed information on the family situation of the authors in an attempt to challenge the right of the father to represent his children since he has not legally recognized them; a totally irrelevant point as the children are represented in that case by their mother. It then provides some argument about the non-exhaustion of domestic remedies and information that the authors were awarded the possibility to get a housing loan, more than one year after the double eviction. This document was ignored by the Legal Council of State, which on 22 October 2008 submitted Observations on admissibility to the HRC (see Annex E).

In this document, the Government in effect acknowledges the illegal eviction of the authors -and the other Roma families in Riganokampos, Patras, merely suggesting that they should have used domestic court procedures against the municipality responsible for the eviction. In particular, the Government argues that, after Decision 312/05 of the Magistrate Court of Patras, *“According to this court’s decision the authors had a legal right to occupy public property owned by the State (Real Estate Agency) until the local authorities find another area for the authors to relocate So, after the demolition of the authors shed in Riganokampos settlement the authors as legal occupiers of the plot of land in that area had a legal right to raise an action of possession against the Municipality of Patras as a third person, intruding their legal occupation, asking them to stop the intrusion in the future and proceed to the reparation of the damage caused either by paying an amount of a monetary sum for the erection of a new shed (according to article 914 of the Civil Code) or by helping the authors proceed to their resettlement in a different local area.”*

Firstly, the Government does not offer any examples of such remedies being effective²⁷ in cases where the claimants do not have legal title to the land –the fact that in the Riganokampos case the domestic courts recognized that they would lawfully be allowed to stay on the plot of land does not constitute in itself the conferral of any kind of property deed to the authors; as the Government agreed, the plot of land continues to belong to the Greek state. Moreover, under international law it is incumbent on the respondent government claiming non-exhaustion to adduce

²⁶ Although this document is referred to in the State’s Observations on the merits of that case submitted on 19 January 2009 to the HRC as Annex 10, it was not in effect attached to the Observations where Annex 10 was the updated report on the IAP and the housing loans program also submitted to the ECSR. In any case, this document was written on 15 September 2008 to meet –as it is said atop page 1– the urgent deadline of 17 September 2008 that related to the admissibility (and not the merits) of the case.

²⁷ See GHM report *“Greece: Generalized denial of justice for Roma”* (Annex G). This report on ineffective remedies before courts resorted to by or on behalf of Roma was submitted to the country’s top Supreme Court judicial officials on 13 August 2008. Without even a rudimentary investigation, the Supreme Court Prosecutor filed it as unfounded on 4 September 2008 and the Supreme Court’s Inspection did likewise on 13 December 2008.

concrete evidence that there exist remedies accessible and effective in practice, regard having being had to the situation of the authors' personal circumstances and the legal and political context in which the remedies would operate.²⁸ Furthermore, the Government does not offer any examples where such legal procedures have produced favorable results for claimants finding themselves in situation identical or similar to that of the authors.²⁹

Nor has the Government challenged the statements of the Commissioner for Human Rights (the 'CHR') Thomas Hammarberg, who began his keynote speech to the Second Plenary Assembly of the European Roma and Travelers' Forum Opening Ceremony on 6 November 2006, with a reference to the plight of the authors of this communication³⁰:

“Where shall I put my children to bed tonight?’ This question was asked by a desperate mother of six whom I met in Patras one day in the end of September. She told me that her simple shack had been bulldozed away that very morning and now she did not know where she and her family could go. The family is Roma.”

Nor has the Government either in its Observations or at any other time sought to challenge or even respond to the information on evictions included in the CHR's letter to the Greek authorities after his visit to Patras, where he witnessed first hand the eviction of the authors of the communication and of other Roma in both the Riganokampos and Makrygianni Roma settlements.

The aforementioned facts are also confirmed by first hand testimonies given under oath of four leading Greek citizens who accompanied the CHR on his visit, Mr. Nikos Tsoukalis, the current MP from Patras (Achaia) of the opposition party Synaspismos, who is also a lawyer; Angeliki Triantafyllou, the local socialist party (PASOK) leader; Miranta Polyhrou-Tsoukali, a member of the Patras Bar Association and Christos

²⁸ Among the many authorities, see the European Court of Human Rights' judgment in the case of *Stawomir Musiał v. Poland*, appl. no. 28300/06, judgment of 20 January 2009, § 72: *“In the area of the exhaustion of domestic remedies there is a distribution of the burden of proof. It is incumbent on the Government claiming non-exhaustion to satisfy the Court that the remedy was an effective one available in theory and practice at the relevant time, that is to say, that it was accessible, was capable of providing redress in respect of the applicant's complaints and offered reasonable prospects of success. However, once this burden has been satisfied it falls to the applicant to establish that the remedy advanced by the Government was in fact exhausted or was for some reason inadequate and ineffective in the particular circumstances of the case or that there existed special circumstances absolving him or her from the requirement (ibid., § 68). In addition, Article 35 § 1 must be applied with some degree of flexibility and without excessive formalism. This means amongst other things that it must take realistic account not only of the existence of formal remedies in the legal system of the Contracting Party concerned but also of the general legal and political context in which they operate as well as the personal circumstances of the applicants (ibid., § 69).”*

²⁹ See in this respect, *Lukenda v. Slovenia*, appl. no. 23032/02, judgment rendered final on 6 January 2006, at § 56: *“The Court reiterates that it has previously dismissed the Government's plea of non-exhaustion of domestic remedies concerning the effectiveness of an action in tort because of a lack of any examples (see Predojević and Others (dec.), nos. 43445/98, 49740/99, 49747/99 and 54217/00, 9 December 2004).”*

³⁰ See whole speech at the CHR website <https://wcd.coe.int/ViewDoc.jsp?id=1059655&BackColorInternet=99B5AD&BackColorIntranet=FABF45&BackColorLogged=FFC679>):

Stavropoulos, a member of the Central Committee of Synaspismos. Relevant extracts from their evidence given during an ongoing criminal investigation of allegations about evictions of Roma in July-September 2006 are contained in Annex F to this Response.

c. *Attachment Doc Ref no 214 5-6-2008*

The Complainant was not aware that Greece had been investigated by the Committee on Situations of the UN Human Rights Council on Roma evictions, since this is a confidential procedure which is only commenced after the competent UN offices consider related NGO allegations sufficiently credible. However, the document submitted by Greece as part of its Observations contains three significant pieces of evidence.

Firstly, the document provides the crucial information that despite evictions, subsidized rent to some families, and recognition of some families as potential beneficiaries for housing loans, in April 2008, there were still 21 families living in Riganokampos, Patras, as many as in 2004. Secondly and at the same time, the document provides information that in Patras 84 housing loans applications were approved. This confirms the allegation in the complaint that most loans are granted to non-beneficiaries, i.e. not exclusively to Roma families living in destitute settlements. The Government does not provide any information, let alone credible evidence, as to how many of those loans were approved for families residing at the time of the application in the Riganokampos and Makrigianni Patras destitute settlements as opposed to (semi-)integrated neighbourhoods.

Thirdly, this document confirms that no settlement “*for itinerary [sic] population (regardless of nationality and thus for Albanian Roma too)*” was ever created in Patras. On the contrary it states that “*up to date the effort made by the local and regional administration in charge didn’t manage the desirable results*” [sic] and “*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.*” As for the “*similar meeting [that] took place also, late 2007, upon initiative of the National Committee [sic] of Human Rights, where all parties concerned participated equally, such as Roma representatives, NGO’s and representatives from central and local government*” that concerned a consultation convened by the NCHR in preparation of its report³¹ that was submitted in February 2009 to the UN and not any effort to create any settlement anywhere, as alleged by the Government.

- *Discriminatory legislative framework*

In its Observations the Government neither denies that the discriminatory legislative framework as described in the Complaint, namely Sanitary Regulation 2003, is still in place nor does it seek to counter how it discriminates against Roma. Instead, it discusses how discrimination is outlawed under various statutes. Yet the Government fails to show how it is implementing this non discrimination legislation and in

³¹ See http://cm.greekhelsinki.gr/uploads/2009_files/nchr_on_roma_2009_to_un.pdf

particular, taking any practical action to provide equality of treatment to the Roma by, for example, repealing or amending Regulation 2003.

In particular, no information is provided on how Law 3304/2005 is being implemented, whether any cases have been brought under it and what have been the outcomes

- *Failure to accurately monitor and record forced evictions*

The Government does not provide any evidence to rebut the claim that it is failing to accurately monitor and record forced evictions as it is required to do under international law.³² This is reinforced by its inability to directly address the specific cases of evictions raised in the complaint.

Lack of effective remedies

Despite the denials of the Government, the Complainant maintains that there is ample evidence that Roma continue to be routinely denied justice in Greece, as documented in the recent report published by GHM on 1 September 2008 (Annex G). As detailed therein, on 13 August 2008 GHM wrote to the Prosecutor and the President of the Supreme Court (with a copy to the Minister of Justice) listing 39 recent litigation cases on behalf of or against Roma, the majority concerning housing and evictions. The cases demonstrate that those brought against Roma (often resulting from abusive actions of prosecutors³³) are investigated promptly (and usually end with no further action or acquittal). In contrast, those cases concerning allegations of serious violations of Roma rights may last for several years and rarely lead to indictments let alone convictions. Yet, this is despite the fact that when some of these latter cases are subsequently submitted to the European Court of Human Rights or the UN Human Rights Committee there are favourable rulings for the Roma. In her March 2009 report the UN Independent Expert on Minority Issues concluded after her September 2008 visit:

*'Endemic problems were identified regarding access to justice for Roma by legal and human rights groups including, police brutality, discriminatory and racist attitudes and treatment by prosecutors, and excessive delays in dealing with cases brought by Roma. Increasing numbers of cases have reached the European Court of Human Rights due to the failure of domestic remedies.'*³⁴

Failure to provide alternative accommodation

³² See CESCR General Comment 7 para 19.

³³ GHM, on behalf of the Roma it represents, requested in 2008 that Greece's Chief Prosecutor remove case files from those currently in charge of them and assign them to one or more top level prosecutors with no prior involvement in order to facilitate a prompt, impartial and effective investigation or trial. GHM also asked for judicial officials responsible for this denial of justice to be sanctioned. Without even a rudimentary investigation, the Supreme Court Prosecutor filed it as unfounded on 4 September 2008 (Annex L) and the Supreme Court did likewise on 13 December 2008 (Annex M).

³⁴ *Supra* n.1 para 65

In its observations the Government fails to demonstrate that it has provided sufficient alternative accommodation to the Roma either in the specific cases of the forced evictions described or more generally, whether this is new homes in the case of settled Roma or temporary camping sites for itinerant communities. This is despite the fact that, as the complaint documented and subsequent reports confirm, the Roma continue to be in desperate need of adequate housing and shelter.

Allegations such as “a severe intention to bewilder and prejudice the Committee against the State” [p 10] are not supported by any concrete examples from the original complaint.

Overreliance on a flawed loans scheme

The majority of the Government’s response concerns the measures it has taken in relation to implementation of the IAP and loans scheme (launched in 2001 to cover the period 2002-2008). As stated in the original complaint, the complainant does not question the aims of the IAP but its implementation. The full implementation of both the settlements and the loans programs would have allowed 14,000³⁵ housing units to be constructed, acquired or improved, together with 60 camping sites for itinerant Roma. The result should have been that no Roma would be left in sub-standard housing anywhere in Greece and that consequently no need for any forced evictions to be carried out.

However, this did not happen. Instead, to date the majority of the destitute settlements described in the GHM et al October 2006 report (Annex A to complaint) continue to exist, providing incontestable evidence of the failure of the housing programs. This is supported by a negative evaluation of the IAP, prior to its imminent conclusion, by Greece’s own Ombudsman when he wrote in a letter to the Ministry of Interior on 11 May 2007 (Annex H - in Greek):

“From the launch of the IAP in 2002 until today, when the program should be drawing to its completion, and in light of the examination of complaints, the drafting of studies and the in situ visits he has carried out, the Greek Ombudsman cannot conclude that the living conditions of the gypsies in our country has improved significantly.”

Similarly, in the most recent evaluation since the submission of the complaint, the National Commission for Human Rights (NCHR), in its 15 January 2009 report on Roma co-signed by the Deputy Ombudsman for Human Rights (Annex I - in English), after reviewing the State’s plans for “*construction of integrated settlements or/and purchase of tracts of land for organized town building held by local government organizations*” as part of its “*measures for the residential rehabilitation of Roma*” (see pages 6ff of “*Integrated Action Plan for the Social Integration of Greek Gypsies - Updated Report 2008*”) concluded that:

“The results of this part of the actions on housing seems rather modest (some 230 dwellings have been constructed in total), according to the figures quoted in the Ministry’s note.”

³⁵ 9,000 through loans; 4,000 built in 100 new organized settlements and 1,100-1,200 existing homes improved.

Furthermore, in a general evaluation of the various housing programs, the NCHR and the Ombudsman concluded that the local authorities had failed to address Roma's housing due in large part for racial reasons:

“ It is no coincidence that, among the actions on housing which have been designed, the loans programme has advanced furthest (indeed, it is almost completed), in spite of the fact that it applies only to one type of settlement, is costly, and prone to mismanagement. The rest of the actions face the negative stance of the local authorities and communities. The municipalities are very reluctant to attempt any form of registering the Roma residing in and/or passing through their areas; they invoke the fact that any record based on 'racial' criteria is prohibited by law. However, a municipality ought to know the number of, those among its citizens, who are in need of protection and support so that the appropriate action to be planned. This action should not be based on racial criteria, but on the premise of citizens' equality regarding access to the services provided by the municipality and by other state structures.”

Consequently, the NCHR and the Ombudsman made the following recommendations:

*“1. The Commission underlines the **urgency** for taking measures and shaping comprehensive policies in a **holistic manner**. Conditions in the field leave no room for further negligence, inertia, or ineffective interventions.³⁶*

*2. The Greek State needs to change the way in which it apprehends and responds to the repeated recommendations of all domestic and international bodies dealing with Roma. **Execution of the judgments** of the European Court for Human Rights and **compliance with the observations** of other jurisdictional organs **are an obligation, and not an option**.*

*7. As regards the IAP, an **independent external evaluation** of its implementation so far is a precondition for any future improvement. A **comprehensive study of housing programmes by Region / Municipality** needs to be developed prior to the new phase of the IAP. The study should take into account the distribution of the Roma population by region and their actual housing and educational needs. Central co-ordination is essential, as is the collaboration of the Roma themselves.*

*8. The next phase of the housing programme should include **identification and distribution of tasks and responsibilities of all public authorities involved in the management**.³⁷ **Effective inter-ministerial - and inter-institutional - co-ordination of actions** is also needed.”*

³⁶ “Attention should be drawn, by way of indication, to the calls (20/11/2008) by senior UN officials to a number of European countries, including Greece, to undertake "urgent actions for the elimination of inadmissible conditions of poverty, marginalisation and exclusion experienced by the Roma in Europe": 'UN experts urge European wide action to lift conditions of exclusion and stop violence against Roma', www.unric.org.”

³⁷ “This role has been undertaken by the Ombudsman, in determining, for example, the positive obligation of a municipality, ensured by the intervention of the Region, to find a suitable site for re-

[emphasis added]

Further recent criticisms, particularly in relation to the negative attitudes and lack of cooperation of local municipalities, have also been made by the ODIHR of the OSCE in its September 2008 report “*Implementation of the Action Plan on Improving the Situation of Roma and Sinti Within the OSCE Area - Status Report 2008*”³⁸, following a visit by its Contact Point for Roma and Sinti Issues coordinator to Greece in early 2008:

*“There are some indications that, even if significant funds are assigned to specific policies, the results may be disappointing due to a lack of interest or political will on the part of local authorities, a wish to get rid of the Roma, mismanagement or misuse of funds, and a lack of capacity — including human and institutional resources — to develop and implement effective projects (See the example of Greece and its programme of housing loans for Roma in Section 2, Part III, “Housing and Living Conditions”).... Examples from different countries suggest that the housing situation of Roma, instead of improving, is declining. (e.g. Greece, the Czech Republic, Slovakia, Bulgaria, Romania, the Russian Federation, Spain, Turkey, the United Kingdom). Roma are being pushed to the margins of society, which leads to residential segregation.”*³⁹

In her March 2009 report, the UN Independent Expert on Minority Issues identified the following failings of the loan scheme:

*‘Problems with the housing programme identified by civil society, include: loans can be divisive for communities in which many living in similar conditions apply but only few are successful. No benefits from the scheme accrue to existing Roma settlements and wider communities since grants are generally family based. Given the extent of funding, major settlement rehabilitation could have been foreseen with benefits to whole communities, including purchase of land and provision of numerous low cost housing units. Since most Roma lack regular income families may be unable to repay loans with negative implications for the whole Roma community. Allegations suggest that a high proportion of loans go to well integrated, relatively prosperous Roma.’*⁴⁰

The purpose of the loans was to assist “... Greek Gypsies who live in settlements around the country, in tents, sheds of other buildings that do not meet the minimum requirements of a house.” 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.⁴¹ It is clear that loans were given indiscriminately to persons

settlement before the expulsion of Roma from the place where they are living. The improvement of the living conditions of the Roma living in the municipality is part of the obligation of the local government organisations to show special social care for their citizens in need (see, inter alia, Articles 24, 261, 249, 262 of the Code of Municipalities and Communes).”

³⁸ Available at http://www.osce.org/publications/odihhr/2008/09/33130_1186_en.pdf

³⁹ Ibid ref p.18

⁴⁰ Supra n.1 para 69

⁴¹ Information on file with GHM.

who declared they were Roma even if, and mostly when, they did not live in destitute settlements.

Following complaints filed by GHM, there are currently four pending criminal investigations regarding the implementation of the loans scheme (see Annex J: nos. 14 –Athens-, 25 –Thessaloniki-, 37 –Patras- and 38 –Patras), of which one (no. 14) was sent on 15 January 2009 by the Athens Chief First Instance Prosecutor to the Special Secretary at the Agency of Public Administration Inspectors and Controllers (SEEDD) at the Ministry of Interior to be joined with the latter’s related investigation.

The Government in its Observations confirms that each housing loan is for 60,000 euros. While this may be sufficient for smaller Roma families in provincial towns, it is totally inadequate for large families living in the country’s main urban centres to enable them to purchase adequate housing. Furthermore, the loans are effectively of little benefit for those extremely poor Roma who struggle daily to make a living and hence are not in a position to take out loans when they will never be in a position to meet the repayments.

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 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.

The Complainant reiterates that based on the supporting documentation supplied by successful candidates for loans, there was no evidence that any of the applicants was a resident of a destitute settlement. Instead, the scheme was implemented to permit anyone who claimed to be or indeed was a Roma, but lived in an integrated community, to apply and obtain the loan as long as s/he met the other criteria. Consequently, as GHM analysis has showed, the highest number of applicants for and beneficiaries of loans came from the fully integrated Aghia Varvara and Menemeni municipalities where there is clear evidence that there are no destitute settlements.

Moreover, further corruption has been confirmed by the current Deputy Minister of Interior Athanassios Nakos when he stated in Parliament on 25 January 2006:⁴²

“In accordance to which criteria were loans granted to the gypsies, when various kings, emperors and presidents came over and selectively obtained loans, to the extent that there was a system whereby individuals – and they have been found and we have their names- had obtained four loans, because they had submitted applications in four different municipalities? And what happened to the money given under the loans, the 60,000 euros, when they [the Gypsies – beneficiaries of the loans] would go and buy -without any

⁴² Minutes of the Parliamentary Session of 25 January 2006, translated by GHM from in Greek original available at <http://www.parliament.gr/ergasies/showfile.asp?file=end060125.txt>

control, without the political leadership of the Ministry showing any interest-houses that cost 15,000, without an assessment by a civil engineer? They would declare that the house cost 60,000, the money was spent without meeting the purpose they were given out for, and had other repercussions as well. Such purchases skyrocketed the price of land in those areas where there were no objective value assessment system, thereby creating a problem of explosive proportions for the local real estate market.”

Similar allegations about the misuse of loans were made by many recipients during a conference on Roma in **Greece**, held in Evosmos (Greater Thessaloniki) on 17-18 April 2008, by Vasilis Katsaras Mayor of Sofades⁴³:

*“(…) In my opinion, the integration of the Gypsies was never dealt with in a coordinated, systematic and organized way by the state. Despite the fact that substantial funding has been allocated in the areas of housing, health, welfare, education, employment, training (either through EU program or from national funds) (...) the results are very poor and not those expected (...) It is about time to deal with this in a practical, coordinated and organized manner. We should find out the weaknesses and try to answer the questions: (...) **Why most housing loans for Gypsies have evaporated in consumer products needs? The estimation by the Mayor of Triakala Mr. Michalis Tamiolos that 70% of the housing loans were used for the construction of homes is very optimistic. Unfortunately, there are areas where what happened was exactly the opposite: 70% of the loans evaporated in consumer products needs and only 30% went for houses. Why was not there even a rudimentary control?**”⁴⁴
[emphasis added]*

In addition, references to the widespread misuse of loans was made by several speakers in a conference organized by the National Center for Social Solidarity (EKKA) of the Ministry of Health and Social Solidarity in Thessaloniki on 2-3 October 2008.⁴⁵ The representative of the Intermunicipal Network ROM Lefteris Konsantinidis said (p. 80-1):

*“All of us who have worked with the loans have noticed that (...) some families have found a home and have settled there, but it is very well known that the majority either ‘broke’ the loans, either do not repay the loans to the banks, and as a result the Minister of Finance (...) does not want to approve more loans so as to increase them to 15,000. (...) The Gypsies themselves today (...) turn against the Gypsies who are involved in associations dealing with the state, as they believe that they do so only to gain personal benefit, to receive money so as to implement projects, but as it is said among them they just pocket the money; there is therefore no credibility. **In general, the program on housing, with the exception of a few municipalities where there was interest, has not been adequately implemented.(...) The state has***

⁴³ It should be noted that Sofades is one of the four municipalities mentioned by the State where adequate houses were built by the authorities in the early 2000s (82 houses, the largest project in Greece with two-story homes that are pictured in the State provided report on the IAP.

⁴⁴ http://www.sofades.gr/default.asp?id=137&mnu=135&LangID=Greek_Iso:

⁴⁵ Conference proceedings available at http://www.ekka.org.gr/praktika_thess_ekka.pdf

launched a general program that gives the loan to all Gypsies and we have today phenomena of violence or threat of violence in areas considered among the best for Gypsies, where problems have been solved, like Aghia Varvara, exactly because people believe that this story is about getting 60,000 euros in any way they can and will not give anything. Then they have the people who will 'break' the loan meaning that from the 60,000 euros they will put 45,000 euros in their pockets. This is the whole philosophy and there is complete absence of any morality.” [emphasis added]

He was followed by Annoula Maga, representing the Panhellenic Creative Cultural Romani Women Association, based in the Dendropotamos district of Menemeni (pages 83-85):

*“On the major problem of the Roma, I will agree with Mr. Konsantinidis who was so truthful in what he said. (...) **There are families that have urgent housing needs but live in settlements.** (...) **The state gives a loan for 60,000 euros. A person who cannot sign, cannot even say his name, how does the state give him the loan? The state must have been next to those getting the loans.** (...) **The state bears the responsibility for the housing problem. Illiterate person got the loans and then there were cunning persons who “broke’ these loans but the recipients have not received the money from those cunning persons.**” [emphasis added]*

The final speaker was the representative of the “Alexander the Great Rom Federation” of associations in Macedonia Panayote Sampanis (page 86):

*“I agree with Mrs Manga and Mr Konsantinidis that Gypsies put 45,000 euros in their pockets and with the rest they pretend they buy a home. What is said is correct, as **there should have been preconditions that whoever gets a loan must use it to get a home and live in it.**” [emphasis added]*

The Complainant reserves the right to provide further documented detailed arguments if the Government makes available upon request to the ECSR, as promised in its Observations, comprehensive information on all the loans granted by it.

- *Failure to meet housing settlements targets*

The information provided by the Government in its Observations confirms the Complainant’s critical review of the IAP and of the housing loan program.

Firstly, out of the 100 new settlements planned by the IAP in 2001, Greece reported in 2009 that only four had been constructed with 187 houses, while 557 prefabricated homes were given for the establishment of organized settlements:

*“vii. **Construction of permanent settlements:** (...) Settlements have been established at several municipalities of Greece such as Didimoticho (54 houses), Sofades (84 houses), Serres (25 houses) and Menemeni (24 houses)... **Construction of infrastructures for prefabricated houses for the establishment of temporary settlements.** Since 2002, 557 prefabricated houses have been given for the establishment of organized settlements at the Municipalities of Serres,*

Echedoros, Agrinio, Nafpaktos, Tichero, Chrysoupoli, Mitilene, Parelion, Triikkaion, Nea Ionai, Vrachneikon, Amaliadas and Xylokaastro, whereas more are under the way.”

It is particularly significant that in its 2004 Observations on complaint 15/2003, Greece had reported to the ECSR that the very same four new settlements with 185 houses had already been constructed, while 1712 prefabricated houses had been given for the establishment of organized settlements:

“a. Construction of settlements in 53 Municipalities (Didimotiho, Sofades, Serres, Menemeni⁴⁶, Agrinio, Naupaktos, Tyxero, Chrisoupoli, Mytilene, Parelion, Triikkaion, Komotini, Nea Ionia Magnhsias etc). The following infrastructures have been constructed up to now:

- i. 185 houses within the context of integrated permanent settlements,*
- ii. 1712 prefabricated houses (for the rehabilitation of about 6000 people)”*

Consequently, it can be concluded that since the first collective complaint was reviewed by the ECSR five years ago, very few if any new houses for Roma have been constructed whilst the figure for the number of prefabricated houses in 2004 is incorrect - 1712 in 2004 compared to an actual figure of 557 in 2009.

A similar conclusion can be drawn from the figures presented by the Government on the funds disbursed for the implementation of the infrastructure work. In its 2009 Observations, the Government stated:

“Following the proposals submitted by local government organizations, the Ministry of Interior has allocated since 2002 from the national budget, the amount of 80,54 million euro to 92 municipalities on infrastructure works held by the local authorities, whereas payments amount at the time to 42,20 million euro according to the works proceeded already.”

Yet, previously, in a Ref. no. 33145/4 August 2006 Ministry of Interior letter to GHM (Annex K – in Greek), it was stated that 24,4 million euros had been disbursed for infrastructure work, acquisition of land, relocation, improvements of settlements while the prefabricated homes constructed between 2002-5 amounted to 6,3 million euros: a total expenditure of 30,7 million euros.

In its 2004 Observations to the 15/2003 complaint, the Government had stated:

“Up to date a total of 29.4 million euros have been granted for the financing of development infrastructures.”

Therefore, based on its own figures, the State has disbursed 29.4 million euros for infrastructure works in 2004; by 2006 the corresponding sum was 30.7 million euros and finally, five years later, it had disbursed a total of 42.2 million euros, a difference of nearly 13 million euros from 2004. Yet, given there is no evidence of any new

⁴⁶ Houses constructed: 52, 84, 25 and 24 in Didimoticho, Sofades, Serres and Menemeni respectively.

settlements being constructed it remains unclear what the 13 million euros between 2004 and 2008 was spent on.

In addition, it should be noted that although the central government had approved projects with a total budget of 80,5 million euros, only just over half of that sum was actually spent. This failure is even greater when one takes into account the fact that, following the conclusion of the IAP in 2008, the State reports that only 42.2 million euros were spent on housing infrastructure, whereas the initial budget in the IAP was 176 million euros. The failure of the Greek Government to account for the significant disparity between the amount it claims to have spent and the amount approved for projects under the IAP suggests a failure to progressively realise housing rights, in accordance with its obligations under the Charter.

- *New camp site at Messinia*

The Government in its Observations does refer to the recently inaugurated (on 1 December 2008 and after numerous postponements) organized settlement near Kalamata in the Prefecture of Messinia. However, the Government fails to provide relevant background evidence on the establishment of the site. This demonstrates the failure of the Government to properly establish such sites and to provide the appropriate facilities.

In June 1996, the Greek government announced a “National Policy Framework for Greek Gypsies”⁴⁷ consisting of measures aimed at alleviating the multiple problems that the Romani community was experiencing. These measures were set out in an eight-page document. In the preface, it was recognized that the problems faced by Roma, especially those who were itinerant or were living in camps, were highly complex and that their primary needs were not being met. The ministers responsible for the implementation of the measures explicitly acknowledged in the document that the Greek state has never attempted, at a national level, to formulate and implement a comprehensive policy for the Roma.

According to the 1996 Programme, organized settlements for temporary residence would be set up in five municipalities⁴⁸ including Messini⁴⁹ in the South Western Peloponnese. These settlements were to be established in the first year of the Programme’s implementation (i.e. 1996-1997) and would have access to running water, electricity, sewage facilities.

According to recent local press articles, the idea of setting up a temporary camping (“κατασκήνωση”) and not an organized permanent housing unit (“οικισμός”) for the Roma of Kalamata⁵⁰ was put forward in 2001, namely 7 years before it was finally

⁴⁷ In Greek: *Exaggelia Plaisiou Ethnikis Politikis iper ton Ellinon Tsinganon apo tous Ypourgous PE.CHO.DE., k. K. Laliotis, Ygeias kai Pronoias k.k. A. Peponis kai F. Kotsonis*, June 1996.

⁴⁸ The others were Menemeni in Thessaloniki, Theba (approx 90 kilometers North West of Athens), Karditsa (Central Greece) and the island of Rhodes.

⁴⁹ It should be noted that the 1996 Programme mentioned the setting up of a settlement not in Kalamata but in Messini (a municipality which is close to Kalamata, with its own Roma population).

⁵⁰ Living mostly in two localities, Karydia – in the industrial area of the city- and Aghia Triada – in the outskirts near to a residential area.

completed, and was supported by the now defunct Greek Prime Minister's Office for Quality of Life with a sum of 250 million drachmas (roughly 733 thousand euros).⁵¹ Consequently, the new camp site in Kalamata was not established in order to accommodate the Roma of Messini.⁵²

The camp site, located in the Birbita locality, on one of the banks of the Pamissos river, consists of 66 wooden houses (another 39 will soon be constructed), a building with toilets and another building with a doctor's office. Each Roma family that will be housed is issued with a property deed valid for three years, during which it is presumed that it will have managed to secure permanent housing.⁵³

However, this new "model" camp site is insufficient to meet the right of Roma residents to adequate housing. It is located in the midst of fields, at a considerable distance from the nearest urban centre (the town of Messini). Initially houses were not equipped with adequate washing facilities (there were no wash basins) or sewerage. In response to complaints⁵⁴ the competent authorities promptly undertook to take measures to address these problems.⁵⁵

It also appears that there is some disagreement regarding the agreement between the Prefecture and the Municipality of Kalamata over their respective responsibilities in relation to the site.⁵⁶

Furthermore, as the authorities themselves have acknowledged in the domestic media, this is a temporary camp site until the Roma secure permanent housing by means of a housing loan.⁵⁷ Hence the Government's argument in page 10 of its Observations that it is a permanent settlement is inaccurate.

In summary, 13 years after the first government Roma programme, the Roma of Messini have yet to be relocated even to a temporary camp site, let alone to a

⁵¹ See *Tharros*, Kalamata based newspaper, issue of 2 December 2008, available at http://www.tharrosnews.gr/index.php?option=com_content&task=view&id=21102

⁵² See *Tharros*, Kalamata based newspaper, issue of 2 December 2008, op. cit. Indeed, according to the same press article, the site will be extended in the future with another 120 wooden houses being installed for the Roma of Messini in a plot of land located on the opposite bank of the Pamissos river, in the Makaria locality.

⁵³ See *Tharros*, Kalamata based newspaper, issue of 12 March 2009, available at http://www.tharrosnews.gr/index.php?option=com_content&task=view&id=22334 . It should be noted that the first 35 such deeds were issued to the beneficiaries only on 11 March 2009.

⁵⁴ The local Roma leader refused to receive the property deed before the washing basin was installed, calling on the authorities to evict him if they considered his act to be illegal. See *Tharros*, op cit, issue of 12 March 2009, op. cit.

⁵⁵ See *Tharros*, op cit, issue of 21 February 2009, available at http://www.tharrosnews.gr/index.php?option=com_content&task=view&id=22110

⁵⁶ See *Tharros*, Kalamata based newspaper, issue of 13 December 2008, available at http://www.tharrosnews.gr/index.php?option=com_content&task=view&id=21290 . It appears that the disagreement arose in relation to the non-inclusion of the Roma of Aghia Triada to the lists of those Roma who would be relocated to the new camp site

⁵⁷ See *Tharros*, Kalamata based newspaper, issue of 11 November 2008, "*Ο δήμαρχος υπογράμμισε ακόμη ότι η εγκατάσταση είναι προσωρινή και στόχος είναι οι τσιγγάνοι, μέσω του δανειακού προγράμματος, να αποκτήσουν το δικό τους σπίτι*" available at http://www.tharrosnews.gr/index.php?option=com_content&task=view&id=20768

permanent settlement, notwithstanding the fact that this resettlement was characterized as “urgent” at the time. Instead, one of the Kalamata Roma communities has been relocated to a temporary camp site with inadequate facilities far away from the city they have lived in for decades.

- *Insufficient numbers of temporary stopping places*

The Government has failed to provide any information concerning the allegations of continued failure to remedy the situation in relation to insufficient numbers of temporary stopping places despite the fact that the ECSR found this to be a violation of Article 16 in 2004. In the absence of such evidence it can only be concluded that there have been no such places constructed since at least 2004.

Failure to compile accurate disaggregated statistical data on the Roma

The Government in its Observations maintains that it is not possible to collect adequate statistical data on the size of the Roma community as, firstly, it may infringe their rights under data protection legislation and, secondly, that it is impossible to keep track of the itinerant Roma travelling within the territory.

(a) Data Protection and the collection of statistical data

In relation to the first submission, the Complainant notes that similar arguments have been raised on a number of occasions before the ECSR. The ECSR has adopted a very clear position on this, set out in its recent Conclusions XIX-1 (2008), to the effect that “*where it is known that a certain category of persons is, or might be, discriminated against, it is the national authorities’ duty to collect data to assess the extent of the problem (European Roma Rights Centre v. Greece, Complaint No. 15/2003, decision on the merits of 8 December 2004, §27). The gathering and analysis of such data (with due safeguards for privacy and against other abuses) is indispensable to the formulation of rational policy (European Roma Rights Centre v. Italy, Complaint No. 27/2004, decision on the merits of 7 December 2005, §23).*”⁵⁸ The complainant also notes that the Greek Ombudsman has indicated in a recent letter to the General Secretary of the Ministry of Interior that, given that the collection of such data is imperative in order for any initiative in relation to the Roma to be successfully planned and implemented, it should not be considered illegal as “*...its purpose and criterion is the “combating of social exclusion and disadvantage that is a result of having the ethno racial characteristic in question.”*”⁵⁹ This is reinforced by the third recommendation of the joint NCHR - Ombudsman report on Roma (see Annex I above): “*Policies should be based on systematic needs assessment and collection of data of their beneficiaries. Particular attention should be paid to the method of data collection and use in order to prevent any potential abuse thereof. Guarantees such as*

⁵⁸ Available at http://www.coe.int/t/dghl/monitoring/socialcharter/Conclusions/Year/XIX1_en.pdf, p. 310.

⁵⁹ See Ombudsman’s letter, ref. nos. 16048.06.2.1, 15891/07, 17489/07, 18454/07 and 18892/07, dated 18 February 2008, page 5.

*confidentiality, consent of the subject, credibility of the bodies and individuals collecting the data and monitoring mechanisms are necessary.*⁶⁰

Similarly, the Complainant notes that the government and in particular the Ministry of Interior, have tried in the past to collect data on the religion and ethnic origin of non-EU nationals, when the latter applied for residence permits. Furthermore, whereas the Data Protection Authority declared such data collection illegal, it noted that the illegality resulted from the soliciting of data at the time of filling out the application for a residence permit; nothing precluded the Ministry of Interior from gathering such data by using e.g. an anonymised form and subsequently explaining to the individuals the reason for the data collection. The complainant considers it highly pertinent for the purposes of the present complaint that the Ministry of Interior attempted to justify its data collection in relation to non-EU nationals on the basis of drafting of social integration programs for those individuals legally residing in Greece.⁶¹

In addition, as part of a recent project funded by the Greek Ministry of Labor and Social Security entitled “*Recording of the existing situation of the Roma Population in Greece, Evaluation of Actions Implemented and Development of Action Plan for the 4th EU Programming Period*”⁶², the Prefectures were asked to collect data regarding the settlements and numbers of Roma (as well as their nationality), whilst providing the source of their information.⁶³

Another example of data collection occurs in relation to the criminal justice system. GHM has received from the Western Attica Hellenic Police a document relating to alleged criminality in the Aspropyrgos area in 2008⁶⁴, where in relation to each person arrested it is stated whether s/he is a national (“*ημεδαπός*”), a repatriated (“*ομογενής*”), an alien with its country of citizenship, or a Rom. It was on that basis that police could make a presentation on “*criminality in general and among Roma*” on 2 December 2008, in a meeting at the Municipality of Aspropyrgos (<http://thriassio.gr/1186.pdf>).

In the light of all of the above evidence, it is unclear on what grounds the government can legitimately argue that it is illegal to collect such data.

(b) Movement within the Roma community.

With respect to the second argument, the complainant refers the Committee to page 33 of Annex A to the Collective Complaint, where it is stated that in 1999 DEPOS (the Public Enterprise for Town Planning and Housing) estimated that only 12% of

⁶⁰ See the proposals for a solution to this major issue of the Minority Rights Group International: 'Disaggregated Data Collection: a Precondition for Effective Protection of Minority Rights in South-East Europe', www.minorityrights.org.”

⁶¹ See Data Protection Authority, Decision no. 16/2007, ref. no. 1355, dated 22 February 2007.

⁶² An outline of the project and the preliminary findings is available at http://www.euromanet.eu/upload/75/59/Recording_of_the_existing_situation_of_the_Roma_Population_in_Greece.pdf

⁶³ Based on a questionnaire (prepared by the NGO and the Consultancy company that were awarded the project) and addressed to the Prefectures. The questionnaire is available at http://www.oikokoinonia.gr/files/Erotimatologio_katagrafis.doc and is entitled “*Questionnaire for the Recording of Residence Areas of Gypsies*”.

⁶⁴ Prot. No. 1026/3/11/2-ξθ/27-2-2009 (on file with GHM and available on request)

the Roma were nomadic. Today it is generally accepted that even fewer Roma are nomadic. By making such a contrary sweeping generalization, the Government is perpetuating a stereotype, falsely attributing a nomadic lifestyle to all Roma, even though the majority have been settled in one place for many years.⁶⁵

Conclusion:

Having regard to the submissions set out herein, the Complainant requests the ECSR to find, in accordance with its request under the Complaint, that the Greek Government is in violation of its obligations under Article 16 of the Charter, taken together with the non-discrimination clause of its Preamble.

A handwritten signature in black ink, appearing to read 'Iain Byrne', with a long horizontal stroke extending to the right.

Iain Byrne
Senior Lawyer
INTERIGHTS

25 March 2009

⁶⁵ See <http://www.errc.org/cikk.php?cikk=1844&archiv=1>.

