



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Ninety-ninth session**

12 to 30 July 2010

**Views**

**Communication No. 1799/2008**

<u>Submitted by:</u>	Antonios Georgopoulos, Chrysafo Georgopoulou and their seven children (represented by counsel, Panayote Dimitras, Greek Helsinki Monitor)
<u>Alleged victims:</u>	The authors
<u>State party:</u>	Greece
<u>Date of communication:</u>	22 June 2007 and 5 February 2008 (initial submissions)
<u>Document references:</u>	Special Rapporteur's rule 97 decision, transmitted to the State party on 17 July 2008 (not issued in document form)
<u>Date of adoption of Views:</u>	29 July 2010

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\* Made public by decision of the Human Rights Committee.

<i>Subject matter:</i>	Forced illegal eviction and demolition of housing of a Roma family
<i>Procedural issue:</i>	Exhaustion of domestic remedies
<i>Substantive issues:</i>	Cruel, inhuman and degrading treatment; right to privacy, family and reputation; protection of the family; right to equality before the law; protection of minorities
<i>Articles of the Covenant:</i>	7 alone and in conjunction with 2, paragraphs 1 and 3; 17, paragraphs 1 and 2; 23, paragraph 1; 26; 27 alone and in conjunction with 2, paragraphs 1-3
<i>Article of the Optional Protocol:</i>	5, paragraph 2 (b)

On 29 July 2010, the Human Rights Committee adopted the annexed text as the Committee's Views under article 5, paragraph 4, of the Optional Protocol in respect of communication No. 1799/2008.

[Annex]

## Annex

### **Views of the Human Rights Committee under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights (ninety-ninth session)**

concerning

#### **Communication No. 1799/2008\*\***

Submitted by: Antonios Georgopoulos, Chrysafo Georgopoulou and their seven children (represented by counsel, Panayote Dimitras, Greek Helsinki Monitor)

Alleged victim: The authors

State party: Greece

Date of communication: 22 June 2007 and 5 February 2008 (initial submissions)

The Human Rights Committee, established under article 28 of the International Covenant on Civil and Political Rights,

Meeting on 29 July 2010,

Having concluded its consideration of communication No. 1799/2008, submitted to the Human Rights Committee on behalf of Mr. Antonios Georgopoulos, Ms. Chrysafo Georgopoulou and their seven children, under the Optional Protocol to the International Covenant on Civil and Political Rights,

Having taken into account all written information made available to it by the authors of the communication, and the State party,

Adopts the following:

#### **Views under article 5, paragraph 4, of the Optional Protocol**

1.1 The authors of the communication, dated 22 June 2007 and 5 February 2008, are Antonios Georgopoulos (first author, born on 8 September 1983) and Chrysafo Georgopoulou (second author, born on 25 June 1982) and their seven children: Asimakis (born on 13 June 1999), Marios (3 September 2000), Konstantinos (7 September 2001), Christos (29 October 2002), Giorgos (21 February 2004), Tsabikos (20 May 2005), and unnamed (6 January 2007). They claim to be victims of a violation by Greece<sup>1</sup> of article 7

\*\* The following members of the Committee participated in the examination of the present communication: Mr. Abdelfattah Amor, Mr. Prafullachandra Natwarlal Bhagwati, Mr. Lazhari Bouzid, Ms. Christine Chanet, Mr. Mahjoub El Haiba, Mr. Yuji Iwasawa, Ms. Helen Keller, Ms. Zonke Zanele Majodina, Ms. Iulia Antoanella Motoc, Mr. Michael O'Flaherty, Mr. Rafael Rivas Posada, Mr. Fabián Omar Salvioi and Mr. Krister Thelin.

The text of an individual opinion signed by Committee member Mr. Fabián Omar Salvioi is appended to the present Views.

<sup>1</sup> The Optional Protocol entered into force for Greece on 5 May 1997.

alone and read in conjunction with article 2, paragraphs 1 and 3; articles 17, paragraphs 1 and 2, 23, paragraph 1, 26 and 27 alone and read in conjunction with article 2, paragraphs 1, 2 and 3, of the International Covenant on Civil and Political Rights. They are represented by counsel, Mr. Panayote Dimitras, Greek Helsinki Monitor (GHM).

1.2 On 1 December 2008, the Special Rapporteur on new communications and interim measures decided on behalf of the Committee to examine the admissibility of the communication together with the merits.

#### **The facts as presented by the authors**

2.1 The authors were born and raised in the Roma settlement of Riganokampos in Patras. Throughout their lives, they have been living in sheds in the settlement, without access to electricity or sewage. Garbage disposal is erratic and there are only two taps of running water catering for the settlement's needs. In January 2004, while visiting the Riganokampos settlement, the Prime Minister's Advisor on Quality of Life stated that it was "the worst of the 75 settlements throughout the country and an insult to our humanity". The authors state that despite this statement, their living conditions have not improved. All attempts to either ameliorate the community's living conditions or to relocate the Roma to an organized settlement failed due to reactions by Greek residents of the area where they live or where they were to be relocated to.

2.2 During July and August 2006, the authors and their children temporarily left Patras for the city of Agrinio for seasonal employment and to visit relatives. On 25 or 26 August 2006, a crew of the Municipality of Patras visited the Roma settlement of Riganokampos and demolished all the sheds of the inhabitants who were not present at that time, including the authors'. Upon return, the authors visited the Welfare Department of the municipality of Patras to complain. There, they were told that they should start looking for an apartment to rent and that the municipality would undertake to provide them with rental subsidies. They were then given a sum of approximately €200 in compensation for the destruction of their home and some of their belongings.

2.3 While looking for an apartment, the authors lived in the shed of a relative in Riganokampos, one of the three that had not been demolished. Due to overcrowding, the authors decided to erect a new shed in the settlement. On 26 September 2006, a police patrol car and a bulldozer were dispatched, and the authors were told to stop erecting their shed otherwise they would be arrested. Faced with the threat of arrest, the authors decided not to oppose the demolition of their shed.

2.4 On the same day, the Council of Europe's Commissioner for Human Rights, Thomas Hammarberg, visited Patras at the invitation of the authors' counsel. The authors told the Commissioner what had happened in the morning, showed him the tracks of the bulldozer as well as the materials with which they had tried to build the shed. They also stated that the officials from the municipality of Patras, who were informed of the Commissioner's visit, had told them not to complain about their living conditions or of the municipality's attitude towards them. Two deputy Mayors of Patras who arrived later at the site explained that this was not a demolition, but a cleaning operation. The family resorted to living in the back of their pick-up truck. On 1 December 2006, the European Commissioner for Human Rights addressed a letter to the State party's Minister of Interior concerning the situation of the Roma in Greece. He stated that the authors' family had been victim of an eviction on 26 September 2006, and that the unchecked anti-Roma attitude of local non-Roma residents, as well as the failure of the authorities to combat and condemn their behavior, seriously hindered the Roma's integration into local society.

2.5 The authors state that, whereas other Roma are from time to time offered rental subsidies, they were never included in any rent subsidy scheme. When they asked a

municipal official as to the reasons for this exclusion, he answered that the authors talked too much to people and that in this way, they had brought shame to the city.

2.6 At the time of submission of the communication, the authors were still living in the Riganokampos settlement in the shed of their relative, under the same unacceptable living conditions.

### **The complaint**

3.1 The authors claim that their forced relocation and demolition of their shed were acts which had not been authorized by any judicial or other decision, and thus could not be the subject of judicial review.<sup>2</sup> Their forced relocation and demolition of their shed were termed as “cleaning operations”. They claim that the absence of any judicial or administrative authorization of these acts deprived them of the opportunity to challenge them before a court and therefore, they did not have any effective remedy available under article 5, paragraph 2 (b), of the Optional Protocol. Furthermore, there is no legal remedy that would reinstate their right following an eviction, because the State party does not recognize that squatters are entitled to compensation or provision of alternative accommodation. The authors live on land they do not own, on the basis of a decision by the municipality which held that they had a right not to be evicted until relocated. Moreover, their shed was built informally, in violation of the town planning regulations, and therefore no civil remedy is available to the authors that could lead to the reinstatement of the plot of land they were evicted from. Other potential legal options (such as lodging a complaint for damages or criminal proceedings against those who forcibly evicted them) would be ineffective since they would at most lead to either an award of damages for the actual monetary loss or the conviction of state officials for breach of duty. In both cases however, the authors would not be allowed to return to the plot of land from where they were evicted.<sup>3</sup>

3.2 The authors note that the State party is implementing an “Integrated Action Plan for the Social Integration of Greek Gypsies”. In the framework of this Action Plan, the municipality of Patras submitted in October 2001 a proposal on housing rehabilitation of Roma, including the authors. However, this has not been implemented, because local residents have persistently protested against any relocation proposal.<sup>4</sup> In addition to that, the authorities are not willing to let the authors and other residents of the Riganokampos settlement implement improvement measures at their own initiative. The authors further claim that numerous prosecutors have not only failed to launch criminal investigations in relation to the failure of local authorities to deal with Roma’s housing problem for the last 10 years, but they also employ blatantly racist arguments in reaching their decisions, which remain unsanctioned.

3.3 The authors further argue that they had immediately denounced their eviction to the two deputy mayors on 26 September 2006, as well as to the high ranking police officer who

<sup>2</sup> The authors refer to court proceedings in 2005, when the municipality tried to evict them based on a protocol of administrative eviction, which was quashed by the Patras Magistrate Court. The Court held that eviction without relocation assistance of the authorities is abusive and therefore illegal.

<sup>3</sup> The authors claim that their situation is different from Committee against Torture communication No. 161/2000, *Dzemajl et al v. Serbia and Montenegro*, Views adopted on 21 November 2002, in which the issue of exhaustion of domestic remedies was pertinent, as the complainants owned the properties that were destroyed.

<sup>4</sup> See European Committee of Social Rights, decision No. 15/2003 of 8 December 2004, in which the European Committee of Social Rights considered that Greece had breached article 16 of the European Social Charter, by not offering any remedy or progress in the right of Roma to adequate housing and by continuing to evict Roma from settlements without offering alternative housing.

accompanied the Council of Europe's Commissioner for Human Rights, however no impartial, objective and effective investigation has been launched.

3.4 Recalling the decision by the Committee against Torture in *Dzemajl et al v. Serbia and Montenegro*,<sup>5</sup> the authors submit that the destruction of their houses twice and their unfulfilled expectation with regard to their non-eviction pending relocation, which was based on the Magistrate Court decision of 15 June 2005 and on the proposal of the mayor of Patras, amounts to cruel, inhuman and degrading treatment in violation of article 7 of the Covenant. They further claim that no effective remedy is available to them, which amounts to a violation of article 7 alone and read in conjunction with article 2, paragraphs 1 and 3, of the Covenant.

3.5 The authors contend that the eviction they suffered twice constitutes an "arbitrary and unlawful" interference with their family and home. In both cases, state officials demolished their home while the authorities failed to provide them with emergency accommodation or at least allow them to rebuild their shed and provide them with guarantees that they would not be evicted, pending their relocation. The authors also note that the demolition of their house is unlawful in so far as the requirements laid down by domestic law (namely, issuing and serving of a protocol of administrative eviction) were not met. They further argue that domestic law, in violation of article 17, paragraphs 1 and 2, does not offer them any protection from such kind of interference with their family and home. They claim that the absence of effective remedies under the domestic legislation concerning demolition of Roma informal houses is in violation of article 17 in conjunction with article 2, paragraphs 1, 2 and 3.

3.6 Recalling the jurisprudence by the European Committee of Social Rights, the authors note that article 16 of the European Social Charter<sup>6</sup> is similar to article 23 of the Covenant.<sup>7</sup> They submit that the State party failed to provide them with a permanent dwelling and has repeatedly and forcefully evicted them, which consigned them to living in inhuman conditions with highly adverse impacts on their family life, which constitutes a violation of article 23 of the Covenant. They also complain that the absence of effective remedies (such as launching pre-emptive legal action in order to prevent their eviction and the absence of effective remedies for them to demand compensation and the provision of emergency housing), as well as the fact that only Roma face such problems, are in violation of article 23 read in conjunction with article 2, paragraphs 1, 2 and 3.

3.7 In reference to the Committee's concluding observations on the initial report of the State party (CCPR/CO/83/GRC), the authors, having been evicted and not provided with any remedy, claim that they have been discriminated against because of their ethnic origin, in violation of articles 26 and 27 of the Covenant. In addition to that, they claim that the Greek legal system does not provide them with adequate and effective remedies, capable of addressing their complaints, which constitutes a violation of articles 26 and 27 read in conjunction with article 2, paragraphs 1, 2 and 3.

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<sup>5</sup> See note 3 above.

<sup>6</sup> The right of the family to social, legal and economic protection:

"With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means."

<sup>7</sup> See European Committee of Social Rights jurisprudence, decision of 8 December 2004 in relation to the Collective Complaint No. 15/2003 *European Roma Rights Centre v. Greece*.

### State party's observations on admissibility and merits

4.1 On 22 October 2008, the State party forwarded its comments on admissibility. The State party repeats the facts as presented by the authors and adds that in 2005, the State Real Estate Agency, as the owner of the land of the Riganokampos Roma settlement, issued a protocol of administrative eviction to evict all inhabitants of the Riganokampos settlement. The protocol of administrative eviction was successfully challenged before the Magistrate Court of Patras. In its decision 312/2005, the Patras Municipal Court ruled that the State had a legal obligation to present the inhabitants of the Riganokampos settlement with an alternative solution before proceeding to their eviction. The State party underlines that by virtue of the decision 312/2005, the authors have a legal right to occupy publicly owned property until the local authorities found an area of relocation. According to the State party, the Court stated:

“their [the Roma of the Riganokampos settlement] removal from that area without prior solution to the problem of their resettlement which is a legal obligation of the State ... will have serious consequences on them ... And this because it is commonly known that residents of the areas where they [the Roma] are to be relocated react to that prospect [and] this makes it extremely difficult for them to find another area to relocate, without the help of the authorities. In the light of the aforementioned, the exercise by the State of its right to evict them [the Roma] from the plot of land it owns is abusive and as a result the issuing of a protocol of administrative eviction is in violation of article 281 of the Greek Civil Code<sup>8</sup> and is therefore illegal”.

4.2 The State party argues that therefore, as of 2005, when the Patras Municipal Court gave the authors a legal right to occupy public property owned by the State Real Estate Agency, the authors were in legal possession of the land in Riganokampos<sup>9</sup> and that they should have raised a civil action against the municipality of Patras for intrusion into their legal possession (art. 997 of the Civil Code). According to article 997 of the Civil Code, a squatter enjoys legal protection against third persons if the individual occupies the land with permission of the owner or is a lessee or keeper of the property. In view of the non-exhaustion of domestic remedies, the State party submits that the communication should be declared inadmissible under article 5, paragraph 2 (b), of the Optional Protocol.

4.3 On 19 January 2009, the State party submitted its observations on the merits and argued that the communication should be dismissed as ill-founded. Referring to a document of the police station in Patras dated 25 August 2006, the State party states that on 25 August 2006, two police officers, deployed upon request by the Vice-Mayor for the Environment and City Image, met a cleaning group of the municipality at the Riganokampos settlement; however, no cleaning operation was carried out that day. On 26 August 2006, the police was not dispatched and therefore no cleaning operation was undertaken with the assistance

<sup>8</sup> Art. 281 of the Greek Civil Code provides that “the exercise of a right is prohibited where it manifestly exceeds the bounds of good faith, morality or the economic or social purpose of that right”.

<sup>9</sup> The State party cites the following domestic case law: A.P. 821/1995, D/VN 1997/618, A.P. 544/1993, D/VN 1994/1090, A.P. 462/1990, E.E.N. 1991/78, as well as the Greek Civil Code, art. 997, according to which in order to enjoy legal protection against third persons, it is required to occupy the land with permission of the owner or have a legal relationship as the lessee or keeper of the property. In addition to that, according to art. 4 of Law (A.N.) 263/1968 as amended with art. 2, para. 1 of Statute decree (N.D.) 1154/1972 and art. 1, para. 1 of Law 719/1977, a squatter on public property may request to buy off the property; if the squatter does not request to buy it off, he/she can be evicted on the basis of a protocol of administrative eviction.

of the police.<sup>10</sup> The State party also contests that police was dispatched during the visit of the Council of Europe's Commissioner for Human Rights on 26 September 2006. It confirms that the police was dispatched to the Riganokampos settlement on 26 September 2006, however, due to the construction of a new shed by a third party, Georgios and Konstantina Georgopoulos, and not the authors. Based on the explanation by the president of the local cultural association, according to which the construction of new sheds was not allowed, as the site would be landscaped, the third party agreed to have their building materials removed by a bulldozer.<sup>11</sup>

4.4 On 23 June 2006, the second author, Chrysafo Georgopoulou, and her children were recognized as beneficiaries of housing assistance with the right to apply for a loan of €60,000. On 12 September 2008, the Head of the Real Estate Service confirmed that the authors still lived in the Riganokampos settlement.

4.5 Regarding the authors' allegation of a violation of article 7 alone and read in conjunction with article 2, paragraphs 1 and 3, of the Covenant, the State party submits that the allegations of demolition and eviction are not confirmed by facts, given that no cleaning operation had been carried out neither on 25 nor on 26 August 2006, and that the authors had not been evicted due to their absence on these dates. It further notes that the authors' allegation of the demolition of their shed on 26 September 2006 has also not been confirmed by the facts; the demolition concerned a third party who consented to its demolition.

4.6 The State party further submits that the allegations of a violation of article 17 alone and read in conjunction with article 2, paragraphs 1, 2 and 3, of the Covenant are manifestly ill-founded, as the municipality of Patras had not undertaken any cleaning works on 25 or 26 August 2006. It therefore maintains that in the absence of any eviction of the authors, there has not been any interference with their privacy and family life. According to information by the Real Estate Service, the authors still live in sheds at Riganokampos in 2008. In addition to that, the State party highlights that they were given the opportunity of residential rehabilitation by granting the second author the possibility to apply for a housing loan.

4.7 Regarding the authors' allegation of a violation of article 23 alone and read in conjunction with article 2, paragraphs 1, 2 and 3, of the Covenant, the State party reiterates its previous arguments that in the absence of any demolition or eviction and by providing the second author the possibility to apply for a housing loan, the State party complied with its obligation to protect the family.

4.8 Finally, the State party recalls the Committee's jurisprudence on article 26, according to which not all differences of treatment are prohibited under article 26, but that any differentiation must be based on reasonable and objective criteria.<sup>12</sup> The State party submits that the authors were not treated differently from any other group of citizens; on the

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<sup>10</sup> Document No. 1032/2/123-a/29 September 2006 states that on 25 August 2006, a patrol car of the police went to the Riganokampos settlement, where they met a cleaning group of the municipality. However, according to that document, the cleaning group did not carry out any cleaning operation. Moreover, according to the document, the police did not provide any assistance to any cleaning groups on 26 August 2006.

<sup>11</sup> See document No. 4808/4/13-ra/9 September 2008, which explains that the president of the local cultural association explained that the site would be landscaped and therefore the construction of new sheds was not allowed, as a result the family of Georgios Georgopoulos consented to the removal of the building materials.

<sup>12</sup> See communications No. 689/1996, *Maille v. France*, Views adopted on 10 July 2000, para. 10.4; and No. 854/1999, *Wackenheim v. France*, Views adopted on 10 July 2002, para. 7.3.

contrary they were treated more favourably given they belong to the vulnerable Roma group. It therefore submits that the allegations of a violation of articles 26 and 27 alone and read in conjunction with article 2, paragraphs 1, 2 and 3 are ill-founded.

#### **Authors' comments on the State party's observations**

5.1 On 3 March 2009, the authors submitted their comments on the State party's observations on admissibility and merits. With regard to the State party's argument that the authors failed to exhaust domestic remedies, the authors submit that the Patras Municipal Court decision of 2005 did not confer any property deed to the authors, as the land continues to be property of the State party. They underline that the State party has failed to adduce concrete evidence that there exist domestic remedies accessible and effective in practice and has not provided any concrete examples of similar cases which produced a favourable outcome. Citing an example of administrative court proceedings related to compensation following Roma eviction in the municipality of Aspropyrgos pending since July 2002, the authors note that all proceedings before administrative courts last for years. The authors reiterate that the essence of their complaint relates to the absence of any protocol of administrative eviction, which prevented their access to any remedy that they could exhaust. They further submit that no remedy could have provided them with alternative accommodation.<sup>13</sup> The authors further contend that they could not have been expected to take any measures to protect themselves from illegal actions on the part of the State party, given its obligation to conform to judicial decisions and abide by them.

5.2 The authors inform the Committee that following their complaint to the Patras Prosecutor's Office, a criminal investigation was launched in December 2006; however it has not been concluded, despite the State party's legislation that provides for an upper limit of four months for such investigations. The authors also filed a complaint with the Ombudsman, who appears to have investigated the allegations; however, despite the authors' request, the Ombudsman has not informed them of the outcome.<sup>14</sup>

5.3 Referring to the State party's observations on the authors' eviction of 25 or 26 August 2006, the authors quote the police document submitted by the State party, according to which "police assistance is requested during the cleaning operations in the Riganokampos settlement where itinerant Roma had settled". The authors underline that they find it offensive, as they are not itinerant but were born in that settlement, and as police protection was sought for the removal of garbage, which was probably requested due to anticipated resistance against the demolition of homes. They further note that it was also requested "to police effectively the areas so as to prevent re-settlement of itinerant Roma". The authors maintain that according to the police report, the police officers were turned back by the municipality after a short stay at Riganoskampos settlement on 25 August 2006 and they did not return to the settlement on 26 August 2006, hence they would not be in a position to provide any information on what happened on these days.

5.4 With regard to the demolition of a shed on 26 September 2006, the authors note that the State party claims that this was not the shed of the authors, but of Georgios

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<sup>13</sup> The authors cite the observations by Greece before the European Court of Human Rights in the pending case *Tzamalīs v. Greece*, regarding a Roma eviction in Crete, in which the State party accepted that no remedy existed that would have allowed the applicants to resettle on the plot of land from where they were illegally evicted.

<sup>14</sup> The authors cite an article published by the Ombudsman's office in December 2006, in which forced evictions in Riganoskampos of Patras with or without protocols of administrative eviction are mentioned [no date of these evictions is provided]. It also describes that these evictions are termed as "cleaning operations" and usually happen without previous relocation.

Georgopoulos. The authors reiterate the facts as submitted, according to which following the demolition of their home in August 2006, they lived with relatives, namely the father of the first author, Georgios Georgopoulos. On 26 September 2006, it was the first author's father who helped the authors to build a new shed and who decided to take the blame on himself, for it not to be his son who was blamed. Referring to the police document submitted by the State party, the authors clarify that it was not the first author's father who consented to the demolition but "the Roma", meaning all Roma involved in its construction. The authors adduce further evidence with regard to the demolition of 26 September 2006. In a statement made during the Patras Prosecutor's criminal investigation, a member of Patras parliament, who accompanied the Council of Europe's Commissioner for Human Rights on that day, stated that the deputy mayor present during the visit did not provide any answer to the authors as to where they could relocate after the second demolition of their home. In the framework of the same investigation, a local political leader confirmed having witnessed during the same visit the demolition of six or seven shacks in the Riganoskampos settlement.

5.5 With regard to the claims invoked by the authors, they maintain that they have demonstrated with compelling evidence that they were victims of unlawful evictions. Regarding the State party's argument that they are eligible for a housing loan, the authors state that they did not secure any such housing loan. In addition to that, they underline that being illiterate, destitute and having a large family, they could not be expected to apply for a housing loan through a complicated bureaucratic procedure. Furthermore, they would never be able to pay back the loan and it would be insufficient to house their family. They further highlight that due to their Roma origin, they frequently face discrimination, including forced eviction, absence of any remedy and anti-Roma prejudice by State party officials. They therefore reiterate their claims under article 7 alone and in conjunction with article 2, paragraphs 1 and 3; and articles 17, 23, 26 and 27 read alone and in conjunction with article 2, paragraphs 1, 2 and 3, of the Covenant.

### **Issues and proceedings before the Committee**

#### *Consideration of admissibility*

6.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its rules of procedure, decide whether or not the communication is admissible under the Optional Protocol to the Covenant.

6.2 The Committee has ascertained, as required by article 5, paragraph 2 (a), of the Optional Protocol, that the same matter is not being examined under another international procedure of investigation or settlement.

6.3 The Committee notes the State party's objection on the admissibility of the communication due to the authors' failure to exhaust domestic remedies. It notes the State party's explanation, according to which the decision No. 312/2005 of the Patras Municipal Court conferred upon the authors a legal right to occupy public property until relocation and the authors should have challenged the intrusion into their possession pursuant to article 997, of the Greek Civil Code. The Committee also notes the authors' argument that in absence of any judicial or administrative decision in relation to their eviction and the demolition of their shed, no domestic remedies were available to them. It notes the authors' explanation according to which they live on land they do not own and the 2005 Patras Municipal Court decision only provided them with a right not to be evicted until relocated and was not a deed of property. It further notes the authors' argument that the State party failed to provide concrete information on the remedies that would be accessible and effective with a favourable outcome, providing them alternative accommodation. The Committee has also noted that the authors filed an application to the Patras Prosecutor's

Office and a criminal investigation was launched in December 2006, which to date remains unconcluded.

6.4 While having noted article 997 of the State party's Civil Code, according to which a squatter may challenge any intrusion by a third party, if the owner has permitted the occupation of the property or if the squatter is a lessee or a keeper, as well as the 2005 Patras Municipal Court decision, which declared the authors' previous eviction by the Real Estate Agency (the owner) abusive due to the absence of any solution to the community's resettlement, the Committee nevertheless considers that the State party has not provided any detailed information on the availability and effectiveness of the remedy under its Civil Code in the particular circumstances of the authors' case. The Committee observes that the alleged and contested eviction and demolition of the authors' home was undertaken by the State party's municipality, to which the 2005 Patras Municipal Court decision had been addressed. Hence, the Committee considers that, it cannot be expected that the authors should have to take further legal actions to ensure that the State party conforms to its own court decision. It notes that upon complaint by the authors, the Prosecutor's Office started an investigation in December 2006 and that this investigation remains pending. Under the circumstances, the Committee is satisfied that the authors, by bringing their complaint to the Patras Prosecutor's Office, have exhausted domestic remedies, in accordance with article 5, paragraph 2 (b), of the Optional Protocol.

6.5 The Committee considers that the facts as presented by the authors appear to be sufficiently serious not to preclude the admissibility of the claim under article 7 read alone and in conjunction with article 2, paragraphs 1 and 3, of the Covenant. It further considers that the authors' claims under articles 17, 23, 26 and 27 read alone and in conjunction with article 2, paragraphs 1, 2 and 3 are sufficiently substantiated, for purposes of admissibility, and it therefore proceeds to their examination on the merits.

#### *Consideration of the merits*

7.1 The Human Rights Committee has considered the present communication in the light of all the information made available to it by the parties, as provided for in article 5, paragraph 1, of the Optional Protocol.

7.2 The Committee notes the State party's argument that, since neither on 25 nor on 26 August 2006 did the police or municipality carry out any evictions or cleaning operations, and since the demolition of a shed on 26 September 2006 in the Roma Riganoskampos settlement did not concern the authors but a third party who consented to its demolition, the communication is manifestly ill-founded. It also notes the authors' contention according to which the police report provided by the State party only attests to the fact that the police was deployed to the Riganoskampos settlement on 25 August 2006 and did not return to it on 26 August 2006, but that it does not provide any evidence of what happened on these days. It further notes the authors' argument that the demolition of 26 September 2006 was directed against the authors themselves and not a third party, as they were being helped in the construction by the first author's father who decided to take the blame for it rather than his son. Moreover, it notes that, while disputing the authors' allegations, the State party acknowledges their Roma origin. The Committee also notes the authors' argument that it was due to their Roma origin that they suffered the alleged violations.

7.3 The facts, as to whether and when a home demolition occurred in the Roma Riganoskampos settlement, are in dispute. However, the Committee notes the information provided by the authors, according to which the Patras Prosecutor launched an investigation in December 2006, which remains pending. The Committee observes that the State party refuted the authors' allegations based on two police reports but, nevertheless, has not adduced any further evidence on the planned "cleaning operation" by the municipality in the Roma Riganoskampos settlement on 25 or 26 August 2006. It further notes that the

State party has not explained the length of the criminal investigation into the authors' allegations before the Patras Prosecutor, which has not lead to any decision. The Committee considers that the authors' allegations, also corroborated by photographic evidence, claiming arbitrary and unlawful eviction and demolition of their home with significant impact on the authors' family life and infringement on their rights to enjoy their way of life as a minority, have been sufficiently established. For these reasons, the Committee concludes that the demolition of the authors' shed and the prevention of construction of a new home in the Roma Riganoskampos settlement amount to a violation of articles 17, 23 and 27 read alone and in conjunction with article 2, paragraph 3, of the Covenant.

7.4 In the light of the Committee's findings, it does not deem it necessary to examine the authors' allegation of a violation under articles 7 and 26 alone and read in conjunction with article 2, paragraphs 1, 2 and 3, of the Covenant.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol, is consequently of the view that the facts before it disclose a violation by the State party of articles 17, 23 and 27, alone and read in conjunction with article 2, paragraph 3, of the Covenant.

9. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the authors with an effective remedy, as well as reparations to include compensation. The State party is under an obligation to ensure that similar violations do not occur in the future.

10. Bearing in mind that, by becoming a party to the Optional Protocol, the State party has recognized the competence of the Committee to determine whether there has been a violation of the Covenant or not, and that, pursuant to article 2 of the Covenant, the State party has undertaken to ensure to all individuals within its territory or subject to its jurisdiction the rights recognized in the Covenant and to provide an effective and enforceable remedy in case that a violation has been established, the Committee wishes to receive from the State party, within 180 days, information about the measures taken to give effect to the Committee's views.

[Adopted in English, French and Spanish, the English text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

## Appendix

### Individual opinion of Committee member Mr. Fabián Omar Salvioli

1. I concur with the decision on communication No. 1799/2008, *Georgopoulos et al. v. Greece*, as I fully share the Committee's reasoning and conclusions. However, I would like to add some comments on two issues which, I believe, deserve fuller treatment in the future jurisprudence of the Human Rights Committee: the concept of degrading treatment; and the interdependence of civil and political rights and economic, social and cultural rights.
2. The Committee rightly declared the case of *Georgopoulos et al. v. Greece* to be admissible for a possible violation of article 7 of the Covenant, which governs the right of every person to integrity of the person, prohibiting torture and cruel, inhuman or degrading treatment. The Committee's jurisprudence has made it clear that this article protects both physical and mental integrity.
3. The authors in the present case argue in their complaint that the destruction of their houses twice and their unfulfilled expectation with regard to their non-eviction pending relocation, which was based on the Magistrate Court's decision of 15 June 2005 and on the proposal of the mayor of Patras, amounts to cruel, inhuman and degrading treatment. While in this case the Committee, on the basis of the evidence before it, did not find it necessary to address this possible violation in its consideration of the merits, the declaration of admissibility shows that the Committee is prepared to consider such arguments and reflects the trend in contemporary international human rights law away from the fictitious and artificial division of rights into "categories" and towards the view that all human rights are universal and interdependent.
4. In fact, economic or social deprivation that derives from acts (or omissions) of the State may in some cases amount to violations of the International Covenant on Civil and Political Rights. The principle of non-discrimination (art. 2, para. 1), equality before the law (art. 26), the prohibition of torture and cruel, inhuman or degrading treatment (art. 7), the prohibition of slavery or servitude (art. 8), the prohibition of arbitrary interference with a person's privacy, family, home or correspondence (art. 17), freedom of association (art. 22), protection of the family (art. 23), the rights of children (art. 24) and the rights of minorities (art. 27) are some of the legal standards in the Covenant that enable rights to be exercised in the "social domain".
5. The prohibition of torture and cruel, inhuman or degrading treatment is absolute; it is a norm of international public law (*jus cogens*) and as such has attracted unanimous support in international human rights jurisprudence. It remains to further develop the jurisprudence specifically on "degrading treatment", a concept with huge potential and a valuable weapon for the future jurisprudence of human rights bodies.
6. All human rights are universal, indivisible and interdependent and interrelated. This is the consensus of the international community as expressed in the Vienna Declaration and Programme of Action (para. 5) and at the historic World Conference on Human Rights held in 1993. Those guiding principles of international human rights law, which must guide the international human rights bodies in their work of interpretation, cannot be ignored.
7. The Human Rights Committee's mandate and duty is to apply the International Covenant on Civil and Political Rights. To be effective, it must do this in the light of the universality, indivisibility and interdependence of all rights inherent in the human person. The declaration of admissibility for a possible violation of article 7 in the case of *Georgopoulos et al. v. Greece* is a valuable precedent in this respect.

(Signed) Fabián Omar **Salvioli**

[Done in English, French and Spanish, the Spanish text being the original version. Subsequently to be issued also in Arabic, Chinese and Russian as part of the Committee's annual report to the General Assembly.]

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