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Human Dimension Implementation Meeting (Warsaw, 29 September - 10 October 2008) Working session 1: Rule of law I (independence of the judiciary and right to a fair trial)

29 September 2008

Greece: Written contribution on generalized denial of justice for Roma

Greek Helsinki Monitor (GHM) releases today two letters updated in English it sent to competent authorities extensively documenting that, in Greece, there is generalized denial of justice for Roma. GHM calls on all competent UN Special Procedures, Council of Europe and EU institutions, as well as international NGOs to urge Greek authorities to take effective action to investigate these claims and guarantee that Roma in Greece can expect fair trials or other (quasi-)judicial procedures.

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. They indicate that cases against Roma (often resulting from abusive actions of prosecutors) are investigated promptly (and usually end with archival or acquittal), while the investigation of cases concerning serious violations of Roma rights may last for several years and rarely lead to indictments let alone convictions. In some of the latter cases, it was the European Court of Human Rights or the UN Human Rights Committee that ruled for the Roma. GHM, on behalf of the Roma it represents, requested that Greece's chief Prosecutor takes away the case files from those in charge now and assigns them to one or more top level prosecutors who would have no prior involvement with similar cases so that there is a prompt and effective investigation or trial. GHM also asked for judicial officials responsible for this denial of justice to be sanctioned. The reaction to this letter will be known in the fall, but GHM notes that -perhaps coincidentally- the Prosecutor issued two weeks later a circular on the handling by prosecutors of police brutality (see below).

On 30 April 2008, GHM and Minority Rights Group-Greece submitted to the Economic and Social Committee of Greece (OKE) a report indicating that GHM complaints to the Ombudsman as **Equal Treatment Authority** concerning Roma were not at all or properly investigated. OKE has a mandate to engage into dialogue with NGOs and all others involved, on the application of Law 3304/2005 that implements the EU's Race Directives, and publish an annual report. OKE never reacted to the GHM/MRG-G submission and in its subsequent report listed only and totally uncritically the Ombudsman's alleged –and largely inaccurate- handling of Roma issues.

Police brutality under scrutiny

http://www.ekathimerini.com/4dcgi/ w articles politics 100010 27/08/2008 99867

Greece's top prosecutor instructed his subordinates vesterday to urgently investigate any allegations made to them involving police misbehavior and brutality. In a memo that was sent to all of the country's prosecutors, Giorgos Sanidas said that following complaints by Greek and foreign human rights organizations about the treatment of some people at the hands of certain officers, he wants a thorough investigation into any complaints that have recently been lodged with judicial authorities. Although there have not been any specific cases reported in recent weeks, allegations have regularly been made in the past about police mistreating suspects, particularly migrants. Sanidas said that if prosecutors receive notice of complaints, they should immediately arrange for a forensic doctor to examine the complainant and take steps to ensure that anyone who is in any way involved in the incident is questioned as quickly as possible.

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Mr. George Sanidas, Prosecutor of the Supreme Court Mr. Vasilis Nikopoulos, President of the Supreme Court Copy to: Mr. Sotiris Hatzigakis, Minister of Justice

[prot. nos.: ProsSC 6985/13-8-08 - PresSC 243/13-8-08 - MinJus 4016/19-8-08] 13 August 2008

TOPIC: GENERALIZED DENIAL OF JUSTICE AND DISCRIMINATORY ATTITUDE BY PROSECUTORS AGAINST ROMA IN GREECE

Mr. Prosecutor, Mr. President

As it may be known to you, **Greek Helsinki Monitor** (GHM) for some ten years has been defending Roma rights also through litigation. Below you may find a summary of this litigation which, unfortunately, includes vindication of Roma mainly from international courts or other jurisdictions.

One reason is that there is no possibility for (or on behalf of) Roma to seek an effective remedy in the Greek courts, where the judicial investigation of related cases drag on, while cases against Roma are investigated promptly. We include below a list of 38 criminal cases and one case of interim procedure that have been litigated by GHM and were either concluded in the past two-and-a-half years or at still pending for months or years.

From the twelve cases against Roma, one concerned interim measures and three in flagrante cases, with consequent (near) zero investigation time. From the remaining ones, three were investigated within the 4-month period prescribed by law for preliminary examinations, three more were investigated in 5-8 months and two more in 9-12 months. Overall, the length of the investigation of these cases is consistent with the provisions of the law and the ECHR.

From the twenty seven cases where Roma (or GHM on their behalf and as their authorized representative) are plaintiffs and usually also civil claimants, the preliminary examination has been concluded in eight of them, one within 5-8 months, one within 13-16 months, five within 2-3 years, and one within 4 years. For the remaining nineteen, the conclusion of the preliminary examination is pending in one case for less than 4 months, in another for 5-8 months, in four cases for 9-12 months, in another four cases for 13-16 months, in one case for 17-20 months, in two for 21-24 months, in four for 2-3 years, and in two for 4 years or more. It is estimated that for the cases whose investigations are going on for only a few months, they will not be concluded before at least twelve months will have passed. It is obvious that for all these cases there is a violation of both the law and the ECHR, concerning the principle of an investigation and possible hearing within reasonable time.

At the same time, when the Roma and GHM ascertain that the cases against Roma are handled very quickly while the cases related to the defense of their rights, sometimes for the same facts as in cases against them, drag on, they are entitled to claim that there is discrimination and eventually denial of justice against Roma. This impression is reinforced by the fact that in none of the twelve cases against Roma listed below was there some conviction, while on the contrary most were either archived by prosecutors or led to acquittals by court decisions. Moreover, in many such cases, Roma and/or their witnesses were not even summoned to testify in violation of the ECHR and the law. Finally, in some of these cases, prosecutors made manifestly racist statements against Roma,

indicating the absence of subjective impartiality: even though there has often been a request for their exception, most times this request was not even examined.

We will mention two characteristic examples. On 19 August 2006, there was an incident between Roma and police officers and fire fighters in the Argostoli (Cephallonia) settlement. The complaint against the Roma was handled with the in flagrante procedure, during which the –unlawful according to the Roma and GHM- use of a weapon by a police officer was concealed even from the sworn testimonies of eye witness police officers and fire fighters, who had thus perjured themselves. The request that the two cases be tried together was rejected and an adult Rom was convicted on 24 August 2006 – his appeal is pending. Two Roma children were acquitted on 3 April 2008. On the other hand, the preliminary examination for the use of the weapon by a police officer and the perjury of police officers and fire fighres has not been completed two years after the incident!

The second example concerns the allegedly illegal evictions and attempts of illegal evictions of Roma in Patras between 2005-2006. The local prosecutor offices engaged in a "prosecution pogrom" against Roma and later against GHM, opening eight case files against them. After swift investigations, usually without any testimonies from the Roma, four cases were archived by the prosecutors. As mentioned by the then Head of the First Instance Prosecutor Office of Patras, two of those cases that had even been announced publicly were not even completed as their aim (that was indeed the aim of all court files), that is the (allegedly illegal) eviction of Roma had been achieved! For a fifth case, charges were quashed by a decision of a judicial council, while for two more cases there were acquittal court verdicts. As for the eighth case that is a shame for justice, two years after an emergency mid-August (in the midst of judicial holidays) hearing there is still no decision in an interim procedure before a prosecutor!

As for the cases concerning Patras and still pending, all following complaints by Roma with the help of GHM, we note that most prosecutors who are in charge of the today, including the Head of the First Instance Prosecutor Office, are accused of unlawful or racist actions in one of these complaints whose examination is pending for two-and-a-half years. Consequently, there is obviously a serious problem of objective impartiality for their handling of all these complaints.

For all these reasons and in our quality of representative of the Roma involved as parties in the 24 cases whose investigations are pending before prosecutors or courts, I request that you take away the case files from these prosecutors and assign them to one or more top level prosecutors who would have no prior involvement with similar cases so that there is a prompt and effective investigation or trial and that the prevailing impression of denial of justice for the Roma in Greece changes. In addition, we request that an investigation is launched into the responsibility of judicial officials in cases for which the investigations were completed with very long delays and/or without the testimony by Roma, their representatives, their witnesses, and/or were launched in manifestly abusive ways aiming at intimidating the Roma and their defenders.

I am available to submit detailed evidence on all these cases to justice.

Yours faithfully

[original in Greek signed] Panayote Dimitras GHM Spokesperson

[GHM notes: in the Greek original letter more information is provided for each case; in italics are case files against Roma]

FIRST INSTANCE PROSECUTOR OFFICE OF ATHENS

- 1. **ABM @2003/12305** (ex officio opening of court case file after a GHM complaint report on 26/9/2003 for eviction of **Roma in Marousi** (Greater Athens) in 2002 <u>preliminary examination not concluded after almost five years</u>)
- 2. **ABM ΣΤ2003/10800** (ex officio opening of court case file after a GHM complaint report on 26/9/2003 for eviction of **Roma in Marousi** (Greater Athens) in 2002 archived on 4/10/2007 preliminary examination concluded after more than four years)
- 3. **ABM Γ2004/846** (ex officio opening of court case file after a GHM complaint report on 16/2/2004 for unlawful and inhuman resettlement of **Roma in Spata** (Attica) archived on 1/6/2006 <u>preliminary examination concluded after almost two-and-a-half years</u>)
- 4. **ABM Δ2004/1945** (ex officio opening of court case file after a GHM complaint report on 21/5/2004 for the disappearance of 502 **Albanian Roma "street children"** from the state institution "Aghia Varvara" between 1998-2001 case assigned to investigative judge on 1/12/2004 preliminary examination not concluded after more than four years)
- 5. **ABM Δ2005/538** (opening of court case file after a complaint with constitution of civil claimant by GHM and two Roma on 8/2/2005 for breach of duty, violation of common ministerial decision on the settlement of **Roma in Spata** (Attica), exposure to danger and violation of equal treatment law archived on 22/6/2007 <u>preliminary examination concluded after almost</u> twoand-a-half years)
- 6. **ABM A2006/4708** (opening of court case file after a complaint with constitution of civil claimant by GHM on 27/9/2006 for racist statements and actions, breach of duty, aggravated defamation through the medium of the press by the Heads of the First Instance and the Appeals Prosecutor Offices in Patras against **Roma in Makrygianni (Patras)** και GHM <u>preliminary</u> examination not concluded after almost two years)
- 7. **ABM Δ2007/4097** (ex officio opening of court case file after a GHM deposition on 6/3/2007 and merging of two case files (ABM Θ2003/12305 και ΣΤ2003/10800) opened after a complaint report by GHM on **Roma in Marousi** (Greater Athens) <u>preliminary examination not concluded after ten months</u>)
- 8. **ABM Δ2007/1159** (opening of court case file after a complaint with constitution of civil claimant by GHM and two Roma on 14/3/2007 for racist texts by the Deputy Mayor of Patras against **Roma in Makrygianni (Patras)** preliminary examination not concluded after seventeen months)
- 9. **ABM Δ2007/1421** (opening of court case file after a complaint with constitution of civil claimant by GHM and two Roma on 2/4/2007 for racist article in a newspaper against **Roma in Crete** on 14/7/2006 preliminary examination not concluded after sixteen months)
- 10. **ABM Δ2007/1422** (opening of court case file after a complaint with constitution of civil claimant by GHM and a Roma on 2/4/2007 for racist comments in a Patras newspaper against **Roma in Makrygianni (Patras)**, abuse of authority, breach of duty, encouragement of

- subordinates to commit and toleration of crime by the Deputy Prosecutor of the Supreme Court on 2/2/2007 preliminary examination not concluded after sixteen months)
- 11. **ABM Δ2007/2427** (opening of court case file after a complaint with constitution of civil claimant by GHM and **Albanian Roma** on 1/6/2007 for evictions and threats of evictions of **Roma in Votanikos** on that days and since then and refusal to provide them with alternative housing preliminary examination not concluded after fourteen months)
- 12. **ABM Δ2007/2540** (ex officio opening of court case file after a GHM complaint report on 1/6/2007 for the arson of a school annex for children of **Roma in Aspropyrgos** during 2007 Easter Break preliminary examination not concluded after fourteen months)
- 13. ABM F2007/3402 (opening of court case file after a complaint with constitution of civil claimant by the Mayor of Aspropyrgos on 30/8/2007 against the President of the Association and two other representatives of Roma in Aspropyrgos for threat, disturbance of peace, unprovoked insult through an act, provoking authority that were allegedly committed in a meeting in the City Hall on 4/7/2007 defense witnesses proposed by the accused with the help of GHM were never examined charges of threat, disturbance of public office, and insult pressed on 3/3/2008 against the Roma who have been referred to trial preliminary examination concluded after seven months!)
- 14. **ABM Γ2007/4337** (ex officio opening of court case file after a GHM complaint report on 16/10/2007 for scandals and corruption in the **allocation of housing loans to Roma living in settlements** preliminary examination not concluded after ten months)

FIRST INSTANCE PROSECUTOR OFFICE OF CHANIA (CRETE)

15. **ABM B2006/990** (ex officio opening of court case file also after a GHM complaint report on 20/7/2006 for the eviction of **Roma in Kladissos (Chania)** on 18/7/2006 - preliminary examination not concluded after more than two years)

FIRST INSTANCE PROSECUTOR OFFICE OF AMALIADA (PELOPONNISOS)

- 16. **ABM A2002/2325** (ex officio opening of court case file also after a GHM complaint report on 9/10/2002 for scandals and corruption in the allocation of pre-fabricated homes for **Roma in Lehaina** (Peloponnese) to non-beneficiaries in October 2002 <u>preliminary examination and summary investigation concluded after almost three years</u> on 24/6/2005 referral to trial of Mayor and City Council Member of Lehaina acquittal by court on 12/2/2008 <u>judgment not written and formally published through August 2008 six years after the incident</u>)
- 17. **ABM A2008/19** (ex officio opening of court case file after a GHM complaint report on 11/12/2007 for scandals and corruption in the allocation of pre-fabricated homes for **Roma in Lehaina** (Peloponnese) to non-beneficiaries in October 2002 and inadequate investigation by prosecutor and judges since preliminary examination not concluded after seven months)

FIRST INSTANCE PROSECUTOR OFFICE OF CEPHALLONIA (IONIAN ISLANDS)

18. **ABM A2001/2797** (opening of court case file after a complaint with constitution of civil claimant of a Rom child and his father with the help of GHM on 8/10/2001 for police violence against **Roma in Argostoli** (Cephallonia) on 5/8/2001 – preliminary examination concluded after eight months with pressing of charges against police officers on 12/6/2002 and assignment of case to an investigating judge – full criminal investigation between May-September 2003 and

pressing of charges against four police officers for ill-treatment of two Roma – referral to trial by panle of judges of only one police officer on 30/1/2004 – conviction of the police officer to a suspended sentence of three years καταδίκη on 12/4/2006 – acquittal of the officer on appeal on 15/4/2008 – final judgment not written and published through August 2008 seven years after the incident and the filing of the complaint)

- 19. ABM A2006/1939 (opening of court case file after a police summary investigation on 19 and 20/8/2006 for an incident in the settlement of Roma in Argostoli (Cephallonia) between Roma and a police officer on 19/8/2006 conviction of a Rom to a suspended prison sentence of fourteen months on 24/8/2006 for unprovoked bodily harm and insult through an act of a police officer request for postponement and holding of the trial jointly with the coincidental police violence against the Roma (see below) rejected appeals trial date set for 2/6/2009)
- 20. ABM \(\Gamma\)2006/2301 in relation with ABM \(A2006/1939\) (opening of court case file after a police summary investigation on 19 and 20/8/2006 for an incident in the settlement of \(\text{Roma in Argostoli (Cephallonia)}\) between \(\text{Roma and a police officer on 19/8/2006}\) two \(\text{Roma children acquitted of the charges of unprovoked bodily harm and insult through an act of a police officer (one child was on trial in two trials for the same crime!) on \(3/4/2008\)
- 21. **ABM Γ2006/2039** (ex officio opening of court case file after a GHM complaint report on 23/8/2006 for perjury of witnesses, unlawful use of weapon not mentioned to the service (!) and breach of duty by police officers and fire fighters in an incident in the settlement of **Roma in Argostoli (Cephallonia)** between Roma and a police officer on 19/8/2006 and in the ensuing summary police investigation preliminary examination not concluded after two years)
- 22. **ABM Γ2006/2104** (ex officio opening of court case file after a GHM complaint report on 24/8/2006 for unlawful issuance and use of false certificates on the hospitalization of **a Rom in the state Hospital of Argostoli (Cephallonia)** on 12/4/2006 upon a request by the lawyer of the police officer on trial on the same day for ill-treatment of the Rom <u>preliminary examination not concluded after two years</u>)
- 23. ABM \(\Gamma\)2007/426 (opening of court case file after a police summary investigation on 8/3/2007 against five Roma children in Cephallonia (one aged 9 and another 11 years!!) for theft on that day of scrap metal from a deserted factory worth 300 euros (!) trial date set for 9/10/2008)
- 24. **ABM B2008/681** (opening of court case file after a complaint with constitution of civil claimant of a Rom through GHM on 29/4/2008 against state agents for a series of unlawful and racist actions and discrimination against this Roma and other **Roma in Argostoli (Cephallonia)** in matters related to housing and with notification of racist articles in local media even before the beginning of the preliminary examination the prosecutor issued a decision in a related interim measures procedure with which he adopted all the arguments of those charged by the complaint ignoring all documents available to him and denying GHM's right to represent the Rom on the basis of article 13 of the Law on Equal Treatment 3304/2005 thus challenging his own (prosecutor's) objective impartiality preliminary examination not concluded after three montsh)

FIRST INSTANCE PROSECUTOR OFFICE OF THESSALONIKI

25. **ABM B2007/74839** (ex officio opening of court case file after a GHM complaint report on 16/10/2007 for scandals and corruption in the **allocation of housing loans to Roma living in settlements** - preliminary examination not concluded after ten months)

FIRST INSTANCE PROSECUTOR OFFICE OF PATRAS

- 26. ABM E2004/435 (ex officio opening of court case file after a complaint report by municipal district authorities on 12/2/2004 for illegal settlement and criminal behaviour of all Roma in Riganokampos (Patras) preliminary examination concluded after seven months without depositions by Roma (!) all of whom were indicted on 27/9/2004 for violation of sanitary decrees and the (abolished!) decree for uncontrolled settlements archived on 21/7/2006)
- 27. **ABM B2004/1566** (opening of court case file after a complaint with constitution of civil claimant of a Rom through GHM on 8/12/2004 for racist police circular dated 16/2/2004 against **Roma in Patras** without examination of plaintiffs' witnesses archived on 15/6/2005 with First Instance Prosecutor's decree that included racist expressions (!) GHM application for review accepted Appeals Prosecutor's decree dated 18/6/2007 finds violation of antiracism law though time-barred final archival on 2/8/2007 preliminary examination concluded after more than two years)
- 28. **ABM B2004/1567** (opening of court case file after a complaint with constitution of civil claimant of a Rom through GHM on 8/12/2004 for racist decision of state agents to prevent **Roma in Patras** from frequenting a central square on 23/6/2004 without examination of plaintiffs' witnesses archived on 2/7/2005 with First Instance Prosecutor's decree GHM application for review accepted final archival with Appeals Prosecutor's decree dated 25/9/2007 and served 19/10/2007 preliminary examination concluded after almost three years)
- 29. ABM H2005/119 (ex officio opening of court case file after a complaint report by neihgbors on 24/1/2005 for illegal settlement of Roma in Makrygianni (Patras) preliminary examination concluded after four months without depositions by Roma (!) with Roma indicted on 9/6/2005 total duration of summary investigation four months again without defense statements by the defendants archived)
- 30. ABM IA2005/243 (ex officio opening of court case file after a complaint report by state Real Estate Agency of Achaia on 9/2/2005 for arbitrary seizure of public land by Roma in Makrygianni (Patras) on 28/1/2005 (!) preliminary examination concluded after nine months with referral to trial of the "heads" of six Romani households on 4/12/2005 acquittal on 25/6/2008 final judgment not written and published through August 2008, three and a half years after the incident)
- 31. ABM \(\alpha 2005/1143 \) (ex officio opening of court case file after local press articles on 24/3/2005 and related order by Appeals Prosecutor for arbitrary seizure of public land and violation of sanitary decrees by Roma in Makrygianni (Patras) preliminary examination concluded after three months without depositions by Roma (!) with Roma indicted on 2/7/2005 summary investigation lasted for ten months and ended with prosecutorial motion to quash charges that was upheld by a judicial council on 6/6/2006)
- 32. ABM A2005/711 (ex officio opening of court case file after a complaint report by state Real Estate Agency of Achaia on 1/6/2005 for arbitrary seizure of public land by Roma in Riganokampos (Patras) on 24/5/2005 (!) preliminary examination concluded after one year with referral to trial of the "heads" of all fifteen Romani households on 10/6/2006 acquittal on 26/11/2007 final judgment not written and published through August 2008, more than three years after the incident)

- 33. **ABM IA2005/1517** (ex officio opening of court case file after complaint reports by GHM on 27/12/2005, 5/1/2006, 8/1/2006, 16/1/2006, 23/1/2006 for unlawful an racist actions and threats of eviction against Roma in Makrygianni **Roma in Riganokampos and Makrygianni** (**Patras**) constituted themselves civil claimants through GHM for a series of unlawful and racist actions by state and judicial officials on 27/3/2005 <u>preliminary examination not concluded after more than two years while accused prosecutors continue to handle other court case files on Roma cases thus creating a problem of objective and sometimes subjective partiality!!)</u>
- 34. ABM 12006/7 (ex officio opening of court case file after order by Appeals Prosecutor on 18/1/2006 for pollution, violation of sanitary regulations, instigation of or simple complicity to crimes, provocation and assistance to commit misdemeanors by Roma in Makrygianni (Patras), GHM and others preliminary examination concluded after four months without depositions by Roma and GHM with pressing charges against the Roma for the aforementioned crimes and for arbitrary seizure of public land, repeated thefts, negligence of children by parents, and violation of measures to prevent diseases, unlawful violence, violation of laws for aliens and for drugs, on 9/6/2006 summary investigation lasted six months until charges were dropped because of the eviction of the Roma which according to a statement of the First Instance Prosecutor of Patras was the aim of the pressing of the charges rathe than the punishment of alleged perpetrators (!!!))
- 35. ABM I2006/71 (ex officio opening of court case file after a complaint report by neihgbors on 2/5/2006 for unlawful actions of state agents, police officers, a magistrate and GHM related to Roma in Makrygianni (Patras) preliminary examination lasted six months without testimony by GHM (!!) case archived because of the lowering of tensions after the eviction of the Roma according to a statement of the First Instance Prosecutor of Patras (!!!)).
- 36. Interim measures of mandatory law 1539/1938 (hearing before a First Instance Prosecutor of Patras on 11/8/2006 concerning seizure of public land by Roma in Makrygianni (Patras) for alleged urgency of the case no postponement was granted (!) two years later there is still no decision (!!))
- 37. **ABM ΣT2006/1241** (ex officio opening of court case file after a GHM complaint report on 4/10/2006 for scandals and corruption in the **allocation of housing loans to Roma living in settlements** preliminary examination not concluded after almost two years)
- 38. **ABM Q2007/1992** (ex officio opening of court case file after a GHM complaint report on 16/10/2007 for scandals and corruption in the **allocation of housing loans to Roma living in settlements** preliminary examination not concluded after ten months)
- 39. **ABM E2006/1568** (ex officio opening of court case file after a GHM complaint report on 13/12/2006 for multiple evictions of **Roma in Riganokampos and Makrygianni (Patras)** archiving by First Instance Prosecutor of rejected by Appeals Prosecutor case file returned to First Instance Prosecutor on 11/4/2008 for pressing of charges <u>preliminary examination</u> concluded after sixteen months summary investigation lasting already four months)

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PRESS RELEASE

3 August 2008 [updated on 28 August 2008]

Greece: Ten years of GHM litigation on behalf of Roma

Greek Helsinki Monitor (GHM), on the occasion of yesterday's **Roma Holocaust Remembrance Day (Porjamos)** (http://en.wikipedia.org/wiki/Porajmos), draws up a balance sheet of ten years of GHM litigation on behalf of Greece's Roma and Roma's vindication in some cases related to specific Roma rights violations (1998-2008) and also announces that three new cases have been communicated to Greece by international jurisdictions. In this ten year struggle, Roma organizations that are the privileged interlocutors of the state and the independent authorities, and are generously funded by the state, with the exception of the **Greek Gypsy Union** (Ενωση Ελλήνων Τσιγγάνων), not only did nothing about these or other cases, but have repeatedly criticized GHM.

The first ever GHM Roma litigation case concerned the ill-treatment of two young Roma in a police station in Mesolonghi (Western Greece) on 8 May 1998. By pure coincidence, a field trip to Greece's Roma settlements by GHM and the European Roma Rights Center (ERRC) included a visit to Mesolonghi on 9 May 1998. There the allegations were recorded, the bruised bodies were photographed, and the two Roma were taken first to the local hospital and then to the forensic doctor in Patras, who examined them and wrote a detailed report. What followed showed that, as in almost every other case of even documented allegations, Roma almost never have the possibility to have a fair treatment from the Greek police, judicial, administrative and independent authorities, even if some agents of those authorities at some point did handle cases with objectivity and acknowledged violations. The police sworn administrative investigation (EDE) was concluded with a report where it was recommended that the police officers involved be severely punished, but the Hellenic Police leadership did not sanction them. The Greek Ombudsman, to whom GHM appealed in 2001 in order to review the legality and the objectivity of the EDE, did not do it, even though it did record a case of discrimination against Roma. That Authority merely included this finding in a comprehensive report on police violence released in 2004, when the domestic remedies had been exhausted (with the acquittal of one police officer by the Three-Member Appeals Court of Patras on 9 October 2001). This case was also the object of the first ever application by GHM (along with the ERRC) to the European Court of Human Rights (ECtHR) which led to the first ever (triple) conviction of Greece for the violation of Roma rights on 13 December 2005 (see information on the case of **Bekos-Koutropoulos** below).

Five more convictions by the ECtHR in three cases litigated by GHM followed – two on police violence (June 2007 and December 2007) and one for exclusion from or racial segregation in primary education (June 2008). Moreover, the **European Committee of Social Rights**, in February 2005, convicted Greece for a triple violation of Roma's right to adequate housing. Complete information follows.

In the cases litigated by GHM before Greek courts, there are only two final convictions of police officers for the death of two Roma, **Anastasios Mouratis (Three-Member Appeals Court of Lamia** – March 2003 – suspended prison sentence of two-and-a-half years) and **Marinos Christopoulos (Mixed Jury Appeals Court of Athens** – April 2006 - prison sentence of ten years

and three months). There is also a final decision of the **Three-Member Administrative Court of Athens** (November 2003) for compensation of **Marinos Christopoulos**' family.

There are also two convictions at first instance where domestic remedies are pending. The first by the **Three-Member Administrative Court of Athens** (September 2006) for compensation of three Roma families (of **Dionysia Panayotopoulou – George Panayotopoulos – Dionysis Halilipoulos**) for their unlawful eviction by the **Municipality of Aspropyrgos**. The second by the **Three-Member Misdemeanors Court of Athens** (July 2008) which convicted three persons of the extreme right weekly "**Eleftheros Kosmos**" for a racist comment against Roma (prison sentence of seven months suspended or commuted to fine).

The decisions of the **UN Human Rights Committee** (UN HRC - equivalent to the ECtHR) in three cases communicated by GHM and on which the two parties have exchanged arguments are pending. Two concern police violence against Roma **Nikos Katsaris** (Nafplio, Peloponnese – September 1999) and **Andreas Kalamiotis** (Aghia Paraskevi, Greater Athens – June 2001) that were archived by prosecutors. The third concerns a racist letter against **Roma in Riganokampos** (**Patras**) (November 2001) for which the signatories were acquitted by a **Three-Member Misdemeanors Court of Patras** (June 2003). [**Updated on 28 August 2008**: GHM was informed after 3 August that on 24 July 2008 the UN HRC convicted Greece in the Kalamiotis case for the violation of the right to an effective remedy read together with the prohibition of torture].

Finally, the ECtHR communicated recently to Greece two new cases based on GHM applications: on 17 June 2008 for the eviction of Roma in Chania (Crete) in July 2006 (http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=837184&portal=hbkm&sou rce=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649) and on 8 July 2008 for police violence against Rom Theodore Stefanou in Argostoli (Cephallonia) in August 2001, a case for which the Three-Member Misdemeanors Court of Cephallonia convicted a police officer to a suspended sentence of three years (April 2006) but the Three-Member **Appeals Court of** Patras, shameful trial, acquitted him (April in a (http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=838327&portal=hbkm&sou rce=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649). Whereas, on 17 July 2008, the UN Human Rights Committee communicated to Greece a new case after a GHM communication for multiple evictions of one Roma family in Riganokampos (Patras) in August and September 2006, one of which was witnessed and documented by the Commissioner for Human Rights at the Council of Europe during his visit to that settlement in September 2006.

EUROPEAN COURT OF HUMAN RIGHTS: 9 CONVICITONS OF GREECE IN FOUR GHM CASES IN 2005-2008

- **1-3. Bekos & Koutropoulos** (application 15250/02 with the **European Roma Rights Center** (ERRC) judgment on 13/12/05 victims Roma). Three violations of articles: 3 (ill-treatment by police), 3 (absence of effective investigation) and 14 (non-investigation of racial motive). Judgment in English at: http://cmiskp.echr.coe.int///tkp197/viewhbkm.asp?action=open&table=F69A27FD8FB86142BF01 C1166DEA398649&key=11768&sessionId=1776122&skin=hudoc-en&attachment=true. Related GHM press release at: http://cm.greekhelsinki.gr/index.php?sec=194&cid=1500.
- **4-5. Karagiannopoulos** (application 27850/03 judgment on 21/6/07 victim Rom). Two violations of articles: 2 (injury that caused permanent disability by police) and 2 (absence of effective investigation). Judgment in French at:

http://cmiskp.echr.coe.int////tkp197/viewhbkm.asp?action=open&table=F69A27FD8FB86142BF01 C1166DEA398649&key=62997&sessionId=1779934&skin=hudoc-en&attachment=true. Related GHM press release at: http://cm.greekhelsinki.gr/index.php?sec=194&cid=3153.

- **6-7. Petropoulou-Tsakiri** (application 44803/04 with ERRC judgment on 6/12/07 victim Romni). Two violations of articles: 3 (absence of effective investigation of ill-treatment by police) and 14 (non-investigation of racial motive and racist behavior). Judgment in English available at: http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=826734&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649. Related GHM press release at: http://cm.greekhelsinki.gr/index.php?sec=192&cid=3210.
- **8-9. Sampanis and others** (application 32526/05 judgment on 5/6/08 victims Roma). Two violations of articles: 14 (prohibition of discrimination) in conjunction with article 2 of Protocol 1 (right to education) and 13 (right to an effective remedy). Judgment in French at: http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=836273&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649. Related GHM press release at: http://cm.greekhelsinki.gr/index.php?sec=194&cid=3304.

EUROPEAN COMMITTEE OF SOCIAL RIGHTS: 3 CONVICITONS OF GREECE IN ONE GHM CASE IN 2005

1-3. Collective complaint by ERRC (complaint 15/03 in cooperation with GHM – decision communicated on 7/2/05 – victims Roma). Three violations of Article 16 of the European Social Charter for a) the insufficiency of permanent dwellings for Roma b) the lack of temporary stopping facilities for Roma and c) the forced eviction and other sanctions of Roma. Decision in English at: http://www.coe.int/t/e/human_rights/esc/4_collective_complaints/list_of_collective_complaints/CC_15Merits_en.pdf. Related GHM press release at: http://cm.greekhelsinki.gr/index.php?sec=194&cid=748.

[UPDATE ON 28/8/2008] UN HUMAN RIGHTS COMMITTEE: 1 CONVICITON OF GREECE IN ONE GHM CASE IN 2008

1. Kalamiotis (communication 1486/2006 in cooperation with the **World Organisation Against Torture** (OMCT) – decision on 24/7/08 – victim Rom). One violation of Article 2 paragraph 3 (right to an effective remedy of ill-tretament) read together with Article 7 (prohibition of torture) of the International Covenant on Civil and Political Rights. Decision available in English at: http://daccessdds.un.org/doc/UNDOC/DER/G08/434/84/PDF/G0843484.pdf. Related GHM press release at: http://cm.greekhelsinki.gr/index.php?sec=194&cid=3329.

In the original letter in Greek sent to the authorities was attached a GHM press release dated 9/8/2008 with the title "Hellenic Police: 'Near zero criminality in Rhodes Roma settlement. We did not find what we expected to find' – What had happened in Patras." Therein was documented a contrast between a recent Rhodes police operation that dispelled the racist myth of Roma criminality in settlements, and the attitude of prosecutors, police and neighbors in Patras in 2006 where such unproven allegations were used to evict the Roma in Makrygianni.

GREEK HELSINKI MONITOR (GHM) MINORITY RIGHTS GROUP-GREECE (MRG-G)

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Mr. Christos Polyzogopoulos President of the Economic and Social Committee of Greece (OKE)¹

30 April 2008

Mr. President,

With great delay due to work overload and limited resources in our mainly voluntary work, we reply to your letter with protocol number $900.02.004/554/\Xi/27-2-2008$.

As we explained on the phone to your scientific associate Athanasios Papaioannou, on 30 March 2008, we were able only during the Easter break to write the attached short but we believe also concise Greek Helsinki Monitor (GHM) memo on the effective denial of justice by the Ombudsman as Equal Treatment Authority regarding issues concerning Roma, on the basis of our experience to this day. To this memo, we attach the 31 complaints or letters to that Authority, without the often multi-page long documents attached to them. We are available for any additional information on, dialogue on, or investigation of that matter by OKE, as well as to on the extensive use by our NGOs of article 13 and others of Law 3304/2005 on the implementation of the Principle of Equal Treatment.

Finally, we inform you that the signatories of this letter are the legal representatives of the two NGOs which cooperate on this issue.

Yours faithfully,

[original in Greek signed]

[original in Greek signed]

Panayote Dimitras GHM Spokesperson Nafsika Papanikolatos MRG-G Spokesperson

GHM/MRG-G note in the August 2008 English version of the present letter: "The Economic and Social Committee of Greece (an advisory body based on the tripartite organization model), within the framework of its mandate to conduct social dialogue on social policy issues, draws up an annual report on developments regarding the implementation of Law 3304/2005, with special emphasis to the workplace, submits proposals to the Government and social partners on the promotion of the principle of equal treatment and the adoption of anti-discriminatory measures, encourages dialogue with representative organizations, including relevant NGOs, and aims at raising awareness and disseminating information on the applicable legislation and the measures taken in pursuance thereof" (excerpted from the Sixteenth, seventeenth, eighteenth and nineteenth periodic reports of Greece, due on 18 July 2003, 2005 and 2007, submitted in one document to UN ICERD CERD/C/GRC/19 dated 3 April 2008, paragraph 255).

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THE GREEK OMBUDSMAN AS EQUAL TREATMENT AUTHORITY: 39 MONTHS OF DENIAL OF JUSTICE IN COMPLAINTS ABOUT ROMA

30 April 2008

According to Law 3304/2005 on the implementation of the Principle of Equal Treatment, the Greek Ombudsman was assigned the task of the competent Authority on related matters concerning the public sector. In the ensuing 39 months, Greek Helsinki Monitor (GHM) acting as representative, or on behalf, of victims of alleged discrimination, and on the basis of article 7 of Directive 200/43/EC and article 13 of Law 3304/2005 that was promulgated in implementation of the Directive, sent 31 complaints or other letters (some may be considered as complementary complaints to previous complaints on the same issue, while two concerned requests that the Greek Ombudsman provides copies of documents sent by state agencies to it in the framework of the investigation of complaints). 21 complaints and 8 letters concerned Roma, while 2 complaints concerned Jews. The full list follows.

On the basis of the law and the related annual report of the Greek Ombudsman, this quasi-judicial competence of that Authority should lead, following an investigation, to mediation and/or a conclusion of the existence or absence of discrimination.

Some complaints appear to have been archived on the basis of false claims that there was no legal representation of victims, when it is known that this Authority has examined other complaints without any representation of victims but filed by third persons on behalf of victims.

In one case, the complaint was considered unfounded after a procedure that violated the fundamental principles of fair trial and impartiality, but also of article 13 of Law 3304/2005. The Greek Ombudsman organized a meeting of the (Rom) victim without informing the victim's representative (GHM), but with an invitation of the victim to the meeting by the state agency which was the opposing party in that case and which used a misleading method. During that meeting, the victim was reported to have retracted his allegation and agreed with the act of discrimination. When subsequently informed by GHM about his alleged positions in that meeting, the Rom victim denied it with a sworn statement before a magistrate.²

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² GHM note in the August 2008 English version of the present memo: On 5 June 2008, the European Court of Human Rights (ECtHR), in its judgment on the case Sampanis and others v. Greece initiated by a GHM application, held unanimously that there had been a violation of Article 14 (prohibition of discrimination) of the Convention in conjunction with Article 2 of Protocol No. 1 (right to education) and a violation of Article 13 (right to an effective remedy) of the European Convention on Human Rights, on account of a failure to provide schooling for the applicants' children and of their subsequent placement in special classes because of their Roma origin; the first applicant to the ECtHR, Spyros Sampanis, was also the plaintiff in the complaint that the Greek Ombudsman handled in the aforementioned unacceptable way; the Ombudsman's dismissal letter was used by the Greek state in support of its arguments before the ECtHR, which though rejected them, noting inter alia that "the Court was not satisfied that the applicants, as members of an underprivileged and often uneducated community, had been able to assess all the aspects of the situation and the consequences of their consent to the transfer of their children to a separate building. Reiterating the fundamental importance of the prohibition of racial discrimination, the Court considered that the possibility that someone could waive their right not to be the victim of such discrimination was unacceptable. Such a waiver would be incompatible with an important public interest"; there were also two previous complaints to the Ombudsman about this case, one by GHM and one by a volunteer teacher that had also been concluded without the finding of any improprieties, and with the acceptance of the creation of an annex with segregated classes for Roma.

The practice of contacting directly the victims avoiding their legal representative who was not present in such meetings is a generalized practice. Moreover, this Authority never sought any contact with GHM, other than through written communication.

The investigation of most complaints is in theory ongoing or pending, for some for over one year, while at the same time the Greek Ombudsman refuses to provide GHM with copies of the documents sent by state agencies to the Greek Ombudsman. At the same time, in texts published by individual Greek Ombudsman researchers, there are references to the existence of discrimination in cases that are the object of GHM complaints, even though such finding of discrimination has never been reported by the Authority in its own official documents. Besides, for these acts of discrimination, some of which are also of the competence of the prosecutor to whom the Authority is legally obligated to refer possible violations of the law, the prosecutor's office has never been informed.

There were urgent complaints aiming at the prevention of upcoming violations. The Authority disdained to investigate them promptly or at least inform GHM that it cannot do so. The violations did occur and sometimes they were later on reported by the Authority or some of its individual researches in their own texts, in the form of reports that are usually the work of non-governmental "observatories" rather than the Greek Ombudsman, which is, and should operate as, a jurisdictional quasi-judicial institution. In other complaints, the Greek Ombudsman initially sent to competent state agencies some documents and then the investigation became inactive.³

A characteristic example of the systematic refusal to send answers to GHM and effectively investigate allegations are the evictions of Patras Roma in the summer of 2006. Following a visit to the two settlements lasting a mere few hours, in September 2006, a visit that was undermined and disturbed by neighbors and representatives of the municipal authorities, the **Commissioner for Human Rights at the Council of Europe** concluded that there were acts of discrimination as well as anti-Roma tendencies and sent a letter to the Greek authorities. There was never any answer to that letter. The Deputy Ombudsman for Human Rights visited Patras after the Commissioner and publicly reassured local authorities of his understanding of the problems these authorities were facing... The related GHM complaints on these evictions have remained pending and unanswered, while the correspondence between the Authority and the state agencies has not been given to GHM, in violation of every principle of transparency and good administration.

In some related letters to GHM, the Greek Ombudsman has referred with contempt to NGOs in general or GHM in particular and/or has asked that the Roma complain directly to the Authority, challenging their representation on the basis of article 13 of Law 3304/2005 and slighting the fact that Roma living in settlements are uneducated and unable to document their allegations.

The only report that is being investigated to this day in an almost satisfactory way concerns a Jew. The Ministry of Interior has not deigned to answer to the Authority for several months and the Authority has tolerated this delay, but this is understandable.

³ **GHM note in the August 2008 English version of the present memo:** On 9 July 2008, the ECtHR communicated to Greece the case of *Siasios and others* concerning inhuman conditions of detention of drug addicts in a police station in Katerini (Northern Greece); in the related statement of facts it is mentioned that the applicants had previously complained about them to the Greek Ombudsman on 2 February 2007 and that **on the next day** a Greek Ombudsman researcher was inspecting the police station, a full five hours away from Athens where the Ombudsman's office is located; moreover, on 30 April 2007 a full Ombudsman report was sent to the police station in which only a small part of the allegations were confirmed; yet in this case the Ombudsman showed how it can deal promptly with urgent complaints (not submitted by Roma...).

It can be concluded that the Roma do not enjoy effective legal protection by the Greek Ombudsman and in turn by Law 3304/2005 but are the objects of denial of justice. GHM is available to document this with numerous more documents and other texts before any competent authority.

GHM finally recalls that on the basis of GHM reports, Greece was convicted by the European Committee of Social Rights in the framework of collective complaint no. 15 (European Roma Rights Center v. Greece), in December 2004, as well as in the follow-up procedure of monitoring the implementation of the previous decision, in July 2006, for the violation of the rights of the Roma in Greece to adequate housing as well as for the illegal evictions against them. Moreover, through April 2008, there were three convictions of Greece by the European Court of Human Rights (ECtHR) for police violence, ineffective investigation and (in two cases) discrimination against Roma (Bekos-Koutropoulos in December 2005, Karagiannopoulos in June 2007, and Petropoulou-Tsakiri in December 2007). All three complaints were submitted by GHM. In two of them, the Greek Ombudsman had been involved, without ever reaching similar conclusions: in fact, in Petropoulou-Tsakiri Greece included in its arguments excerpts from an Ombudsman text that has evaluated as satisfactory the explanations provided by Hellenic Police after the disciplinary investigation of the case, which the ECtHR on the contrary found to be ineffective and racist!⁴ In conclusion, on the basis of reports and other texts by GHM and/or international NGOs based on GHM work, all experts' bodies of the Council of Europe and the UN, in their reports or concluding observations on Greece, have expressed concerns or criticism for violations of the rights of Roma in Greece.

Presumably all these international institutions do not agree with the Greek Ombudsman that GHM "was insisting in sending to the Ombudsman cases that were vague about the crucial facts or it was completely impossible to prove" (April 2007) or with the Deputy Greek Ombudsman that "it is our firm belief that exclusively denunciatory tactics of civil society agents have greatly contributed to the defensive stubbornness exhibited nowadays by most public authorities competent on Roma issues" (January 2008).

Finally, it is characteristic that in the webpage of the Greek Ombudsman as Institution to Promote the Principle of Equal Treatment, under "Useful Links" there is a list of Non-Governmental Organizations (http://www.synigoros.gr/diakriseis/links.htm) that the Greek Ombudsman presumably considers as working on anti-discrimination. GHM is not among the 16 names listed, indicative of the institutionally and objectively negative partial attitude of the Greek Ombudsman towards GHM. It should be noted moreover that, for the Greek Ombudsman, the state Research Centre for Gender Equality (KETHI), the Office of the UN High Commissioner for Refugees, and the National Youth Council (which includes party youth organizations) are NGOs, listed therein!

COMPLAINTS AND LETTERS TO THE GREEK OMBUDSMAN

- 1. 4 February 2005: Cancellation of resettlement of Aghia Paraskevi (Greater Athens) Roma in area bought for that purpose in Spata (Attica)
- 2. 13 February 2005: Albanian Roma evictions in Riganokampos and Makrygianni, Patras

GHM note in the August 2008 English version of the present memo: On 5 June 2008, the European Court of Human Rights (ECtHR), issued its judgment on the case *Sampanis and others v. Greece* initiated by a GHM application (see note 1 above); that was the fourth conviction of Greece by the ECtHR for violations of Roma rights; on 24 July 2008, the United Nations Human Rights Committee (HRC) adopted its Views in the case of Rom *Andreas Kalamiotis v. Greece*, to the HRC by World Organisation Against Torture (OMCT) and GHM; according to the HRC, Greece violated Article 2 paragraph 3 (right to an effective remedy) read together with Article 7 (prohibition of torture) of the International Covenant on Civil and Political Rights concerning the lack of an effective investigation into the allegations of police brutality against the Rom; in that case, the Greek Ombudsman had investigated the case, following a GHM complaint in 2001 and had recommended –although with a crucial two-year delay- that the Hellenic Police held a Sworn Administrative Investigation, a recommendation ignored by the Police.

- 3. 19 February 2005: Threat of eviction of Roma in Makrygianni, Patras
- 4. 23 May 2005: Threat of eviction of Roma in Makrygianni, Patras
- 5. 11 July 2005: Use of derogatory terms for Roma by the administration
- 6. 20 June 2006: Unanswered letters to Region of Western Greece and Municipality of Patras on the resettlement of Roma in Riganokampos and Makrygianni, Patras
- 7. 31 July 2006: Eviction of Roma in Makrygianni, Patras
- 8. 8 August 2006: Threat of eviction of Roma in Makrygianni, Patras
- 9. 10 August 2006: Eviction and threat of eviction of Roma in Chania (Crete)
- 10. 1 October 2006: Unanswered letters to Region of Western Greece (on the substance) and Municipality of Patras (formally and on the substance) on the resettlement of Roma in Riganokampos and Makrygianni, Patras
- 11. 14 October 2006: Evictions, and no answer from the authorities on the resettlement, of Roma in Riganokampos and Makrygianni, Patras
- 12. 26 November 2006: Request for the provision of copies of documents sent by state authorities on the eviction of Roma in Chania (Crete)
- 13. 14 January 2007: Roma children in annex segregated classes in Psari Aspropyrgos (Attica)
- 14. 14 January 2007: Resettlement of Albanian Roma in Votanikos (Athens)
- 15. 27 January 2007: Refusal to issue a certificate on Property Fee to a non-Rom resident in Ano Liosia (Attica) so that he could sell his property to a Rom
- 16. 5 February 2007: Unanswered letter to Municipality of Patras on resettlement of Riganokampos Roma to rented homes with rent subsidy
- 17. 9 April 2007: Request for the provision of copies of documents sent by state authorities related to complaints on Roma in Chania (Crete), Riganokampos and Makrygianni (Patras) and reminder that eight complaints or other letters to the Greek Ombudsman have remained unanswered.
- 18. 5 June 2007: Eviction of Albanian Roma in Votanikos (Athens)
- 19. 11 June 2007: Eviction of Albanian Roma in Votanikos (Athens)
- 20. 11 June 2007: Eviction and threatened eviction of Roma in Nea Alikarnassos (Crete)
- 21. 14 July 2007: Refusal to issue a certificate on Property Fee to a non-Rom resident in Ano Liosia (Attica) so that he could sell his property to a Rom
- 22. 17 September 2007: Refusal to reinstate citizenship to a Greek Jew resident of Israel
- 23. 16 January 2008: Eviction of Albanian Roma in Votanikos (Athens)
- 24. 16 January 2008: Threatened eviction of Roma in Paiania (Attica)
- 25. 18 January 2008: Unanswered letter to Foreign Minister for the non-inclusion of Greek Jews emigrants to Israel in the Ministry's statistics on Greeks emigrants to Israel
- 26. 30 March 2008: Unanswered letter by Roma from Psari Aspropyrgos (Attica) to the Secretary General of the Ministry of Interior on their resettlement
- 27. 30 March 2008: Resettlement of Roma in Koropi Attica Highway (Attica)
- 28. 8 April 2008: Threat of eviction of a Romani family in Argostoli (Cephallonia)
- 29. 10 April 2008: Unlawful and racist interruption of provision of electric power by the state company DEI to a Romani family in Argostoli (Cephallonia)
- 30. 27 April 2008: Unlawful and racist interruption of provision of electric power by the state company DEI to a Romani family in Argostoli (Cephallonia) and refusal by the Prefecture of Cephallonia to reply to the written requests of the family
- 31. 30 April 2008: Copy of memo to the State Real Estate Agency of Cephallonia on threatened eviction of a Romani family in Argostoli (Cephallonia) without provision of alternative adequate housing, including a commitment that the family will comply with any related opinion of the Greek Ombudsman