



# International Covenant on Civil and Political Rights

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## Human Rights Committee

### Decision adopted by the Committee under the Optional Protocol, concerning communication No. 3795/2020\*, \*\*

<i>Communication submitted by:</i>	E.Z. et al. (represented by counsel, Georgios Tsiakalos)
<i>Alleged victims:</i>	The authors
<i>State party:</i>	Greece
<i>Date of communication:</i>	17 July 2020 (initial submission)
<i>Document references:</i>	Decisions taken pursuant to rules 92 and 94 of the Committee's rules of procedure, transmitted to the State party on 23 July 2020 (not issued in document form)
<i>Date of adoption of decision:</i>	31 October 2023
<i>Subject matter:</i>	Forced eviction
<i>Procedural issue:</i>	Exhaustion of domestic remedies
<i>Substantive issues:</i>	Right to an effective remedy; right to life; cruel, inhuman or degrading treatment or punishment; unlawful interference with family rights; unlawful attacks on honour or reputation; discrimination on the ground of national, ethnic or social origin
<i>Articles of the Convention:</i>	2, 6, 7, 9, 14, 16, 17, 23, 26 and 27
<i>Articles of the Optional Protocol:</i>	2 and 5 (2) (b)

1.1 The authors of the communication, E.Z., M.S., C.S., E.S., D.S., C.S., E.V., B.V., C.V., E.V., F.V., R.V., B.A., K.H., F.H., H.H., D.R., P.R., A.R., P.R., M.R. and E.R., dated 17 July 2020, are nationals of Greece or Albania and are of Roma ethnicity. They claim that the forced and unjustified evictions that they were subjected to were in violation of articles 2 (3); 6, read alone and in conjunction with 2; 7, read alone and in conjunction with 2 (1) and (3); 9; 14 (1); 16, read alone and in conjunction with 14, 17 and 26; 17, read alone and in conjunction with 2 (3) and 14; 23, read alone and in conjunction with 2 (3); 26, read alone

\* Adopted by the Committee at its 139th session (9 October–3 November 2023).

\*\* The following members of the Committee participated in the examination of the communication: Tania María Abdo Rocholl, Farid Ahmadov, Wafaa Ashraf Moharram Bassim, Rodrigo A. Carazo, Yvonne Donders, Mahjoub El Haiba, Carlos Gomez Martinez, Laurence R. Helfer, Marcia V.J. Kran, Bacre Waly Ndiaye, Hernán Quezada Cabrera, José Manuel Santos Pais, Soh Changrok, Tijana Šurlan, Kobauyah Tchamdja Captcha, Teraya Koji, Hélène Tigroudja and Meru Tamerat Yigezu.



and in conjunction with 2 (2); and 27 of the Covenant. The Optional Protocol entered into force for the State party on 5 August 1997. The authors are represented by counsel.

1.2 On 17 September 2021, pursuant to rule 94 of its rules of procedure, the Committee, acting through its Special Rapporteurs on new communications and interim measures, decided not to issue a request for interim measures.

### **Facts as submitted by the authors**

2.1 The authors reside in Greece. They have been living in the Roma settlement of Nea Zoi in the Municipality of Aspropyrgos in Attica for more than 15 years in inhuman conditions. One of the main reasons why Roma decided to settle in that area is the proximity of the Ano Liosia landfill, where, every day, they sort and collect recyclable materials to sell to recycling companies. They believed that they had to stay in the settlement until they were relocated, as part of central and local policies adopted by the State party in favour of Roma, which were to be financed by funds allocated by the European Union.

2.2 On 27 June 2020, bulldozers entered the Nea Zoi settlement and demolished the authors' dwellings, evicting more than 100 Roma families, including their minor children. The illegal demolitions were carried out by personnel of the Municipality of Aspropyrgos, accompanied by police officers, without any judicial or administrative decision having been taken. Such destruction was considered by the local authorities as a "cleaning operation". The authors were not provided with alternative housing. Following that illegal action, other Roma residents have been repeatedly harassed and the Deputy Mayor of Technical Services of the Municipality of Aspropyrgos declared that he did not demolish shacks; instead, he "collected rubbish".

2.3 In the aftermath of the expulsions, the authors erected sheets to shield their babies from the sunlight. They were forced to sleep in the countryside, in an unsanitary area, during the coronavirus disease (COVID-19) pandemic. The authors claim that such a situation, which poses a danger to their health and public health in general, continues to this day.

2.4 On 30 June 2020, Ellan Passe (the Pan-Hellenic Roma Confederation) addressed an official letter to the Municipality of Aspropyrgos, highlighting its legal obligations and requesting official information about the legal basis for the demolition and the measures taken in relation to the affected Roma. The municipality did not respond to those questions. Shortly after the events took place, the Greek Helsinki Monitor filed a criminal lawsuit against the Municipality of Aspropyrgos on behalf of the victims, including the authors.<sup>1</sup> Nevertheless, an eventual conviction of the perpetrators would have no impact on the authors' homelessness, their relocation or their compensation. Three political parties have questioned the competent ministers in Parliament regarding the demolition of the authors' dwellings and their forced eviction.<sup>2</sup> However, no specific action has been taken.

2.5 According to national law regarding private land, the landowner should sue an illegal occupant before the civil courts, following which State authorities proceed with the expulsion and the demolition of the illegal buildings to enforce the court decision. However, in the present case, the Municipality of Aspropyrgos decided on the eviction, which was enforced by an administrative protocol issued by the Mayor. Furthermore, the demolition of the authors' dwellings was contrary to certain provisions of national law regulating the relocation of vulnerable social groups.<sup>3</sup>

2.6 The authors claim that, in the absence of any judicial or administrative authorization for their eviction, they had no opportunity to challenge any action in court. Therefore, they did not have any effective remedy available under article 5 (2) (b) of the Optional Protocol. Furthermore, no legal remedy would reinstate their rights because the State party does not recognize that the owners of such dwellings are entitled to compensation or to be provided with alternative accommodation. The authors live on land that they do not own and they have

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<sup>1</sup> The authors submit that they do not have access to the content or status of that criminal lawsuit.

<sup>2</sup> DiEM 25 and Syriza (a parliamentary question on 6 July 2020) and the Communist Party of Greece (a letter to the Minister of Internal Affairs on 13 July 2020).

<sup>3</sup> The authors refer to Act No. 4483/2017, para. 159, "temporary relocation of special social groups"; Act No. 3212/2003, art. 13 (11); and Act No. 3448/2006, art. 34 (1).

no intention of claiming ownership. They live there out of necessity. The dwellings were built in violation of town planning regulations. Therefore, the State party's authorities were, in principle, entitled to remove them since they unlawfully occupied municipal or private land. No civil remedy is available to the authors that could lead to the reinstatement of the plot of land that they were evicted from.

2.7 Other 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 a pecuniary award of damages or the conviction of State officials. In both cases, however, the authors would not be allowed to return to the plot of land from which they were evicted.

### **Complaint**

3.1 The authors claim a violation of their right to an effective remedy under articles 2 (3) and 26 of the Covenant due to the fact that none of the procedures foreseen by the national law for eviction was followed in their case and the fact that they have not been offered a legal remedy or assistance or any judicial or extrajudicial procedure to protect them from homelessness.

3.2 The authors argue that their eviction has resulted in an imminent risk of them contracting COVID-19 and spreading it in the community. They are homeless and are looking to find somewhere to stay in a desperate state. Therefore, they believe that their right to life protected by article 6 (1) of the Covenant has been violated.

3.3 The authors claim that, for more than 15 years, the State party kept them in conditions amounting to inhuman and degrading treatment, in violation of article 7 of the Covenant, because of: (a) the substandard and inhuman conditions in which they have been living; (b) the deterioration in their living conditions since they were made homeless; and (c) the failure of the State party to provide them with adequate alternative accommodation, exposing them to summer heat, lack of water and electricity and the COVID-19 pandemic.

3.4 The authors recall their undisturbed presence in the Nea Zoi settlement for more than 15 years. They argue that the demolition of their dwellings amounted to an arbitrary interference with their homes and family life, violating their rights under article 17 of the Covenant. They claim that, by evicting them without any prior decision or judicial ruling and any justification, the State party violated article 14 of the Covenant. The authors also claim that the demolition of their dwellings without the provision of alternative adequate housing and the possibility for them to challenge such a decision violates article 23, read alone and in conjunction with article 2 (3), of the Covenant.

3.5 The authors argue that their eviction was a consequence of the institutional anti-Gypsyism in Greece and the demolition of their dwellings was largely due to their Roma origin and the Albanian nationality of most of them. Consequently, the authors also claim a violation of their rights under article 26, read alone and in conjunction with article 2, of the Covenant, including the non-discrimination clause in the second sentence of article 26.

3.6 The authors claim that the State party violated article 16, read alone and in conjunction with articles 14, 17 and 26, of the Covenant since the demolition of their dwellings was an arbitrary and unlawful interference with their homes, which amounted to an unlawful attack on the honour and reputation of the authors. The authors also claim to be victims of the violation of article 27 because they are of Roma ethnicity. They assert that before their eviction, they had a sense of belonging to a community with other members of their group, enjoyed their own culture and used their own language. The authors argue that, in violation of article 11 of the International Convention on Economic, Social and Cultural Rights, the State party, through its actions, has worsened their chances of accessing housing, food, water and sanitation by making them homeless.

**State party's observations on the request for interim measures and admissibility**

4.1 On 24 August 2020, the State party submitted its observations on the authors' request for interim measures and on the admissibility of the communication.<sup>4</sup> The State party argues that the authors could have used the remedies available in the State party, including civil and administrative remedies. The State party also argues that, apart from one of the authors, there is no evidence of the authors and their families having been continuously resident in Nea Zoi.

4.2 The State party indicates that, on 27 July 2020, the European Court on Human Rights decided not to prolong the interim measures previously granted, on 10 July 2020, in the context of an application<sup>5</sup> lodged against Greece by 52 alleged residents of Nea Zoi.<sup>6</sup> The applicants, in the context of that request, complained that the Municipality of Aspropyrgos intended to tear down their dwellings.

4.3 The State party holds that, following the complaint filed by the Greek Helsinki Monitor with the Division of the Police to Combat Racist Violence for illegal, racist evictions or attempted evictions of Roma in Aspropyrgos, which was invoked by the authors (see para. 2.4 above), the Division launched an investigation into the incidents. In that regard, the Mayor of Aspropyrgos and other individuals were invited to provide relevant information and explanations concerning the alleged destruction. After all the material had been collected, the Division opened a preliminary criminal case file, which was sent to the Public Prosecutor. In the light of the foregoing, the State party holds that the communication is totally unfounded and the authors' request for interim measures before the Committee must be rejected.

**Authors' comments on the State party's observations on the request for interim measures and admissibility**

5. On 11 September 2020, the authors submitted their comments on the State party's observations on their request for interim measures and the admissibility of the communication. The authors argue that, contrary to the position of the State party denying the eviction of any Roma in the Municipality of Aspropyrgos, the Deputy Minister of the Interior admitted that forced demolitions had taken place in that area and he would find a place to relocate the victims. However, according to the authors, no relocation had occurred despite that promise. The authors hold that there are no judicial or non-judicial remedies to reinstate them on their land, rebuild their homes or find alternative housing. Therefore, the authors assert that there are no domestic remedies available.

**State party's observations on admissibility and the merits**

6.1 On 22 March 2021, the State party submitted its observations on admissibility and the merits of the communication.

6.2 As regards the admissibility of the communication, the State party recalls the Committee's position that authors must exercise due diligence in pursuing the domestic remedies available. Mere doubts about the effectiveness of domestic remedies do not absolve an author from exhausting them.<sup>7</sup> In that regard, the State party submits that, if the national procedural system affords effective and sufficient remedies to its citizens, such citizens must use and exhaust them, exercising them before the competent bodies in compliance with the formal requirements and time limits laid down in domestic law.

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<sup>4</sup> On 23 July 2023, the Committee, acting through its Special Rapporteurs on new communications and interim measures, requested that the State party provide its observations on the authors' request for interim measures.

<sup>5</sup> European Court of Human Rights, Application No. 28187/20.

<sup>6</sup> The authors clarified in an email transmitted to the Secretariat on 14 September 2020 that "the application before the European Court of Human Rights was not brought on behalf of the authors of the present communication".

<sup>7</sup> *Foumbi v. Cameroon* (CCPR/C/112/D/2325/2013), para. 8.4; *Leghaei v. Australia* (CCPR/C/113/D/1937/2010), para. 9.3; and *Tonenkaya v. Ukraine* (CCPR/C/112/D/2123/2011), para. 7.4.

6.3 The State party also recalls that the Covenant is an integral and directly applicable part of its legal system, prevailing over any other legal provision to the contrary.<sup>8</sup> In the present case, the State party argues that the authors have failed to exhaust the domestic remedies available. The State party holds that article 20 of its Constitution ensures everyone's legal protection and access to courts. The Greek legal order may also provide judicial protection in urgent cases. In that regard, the State party indicates that the authors could have asked the civil courts (and they still can) to protect their possessions, in accordance with articles 985 and 987 of the Civil Code. In the case of an emergency, as alleged in the present communication, the authors could have submitted an application for interim measures according to the Code of Civil Procedure.<sup>9</sup> The State party also indicates that the authors could have submitted (and they still can) an individual criminal complaint against any person who acted in their alleged eviction or the destruction or damage of their possessions.<sup>10</sup> The State party adds that, in its case law, the European Court of Human Rights has recognized that procedure as an effective remedy.<sup>11</sup>

6.4 The State party contends that, in the case of any pecuniary or non-pecuniary damage the authors may have suffered, they could have filed (and they still can) a claim for compensation under articles 105 and 106 of the Introductory Law to the Civil Code before the competent administrative courts, which provide for the liability of the State and the legal entities governed by public law to pay compensation for any unlawful action or omission of their agents in the exercise of public power entrusted to them.

6.5 With regard to the criminal complaint filed by the Greek Helsinki Monitor with the police for mass evictions or attempted evictions of Roma in Aspropyrgos, a criminal case file was opened. The case is pending with the Public Prosecutor for consideration. The State party holds that the authors have failed to use the effective remedies available and, therefore, the communication should be declared inadmissible under articles 2 and 5 (2) (b) of the Optional Protocol.

6.6 As regards the merits of the communication, the State party contends that, apart from one author, the authors are drifters without a permanent residence. The State party also holds that there was no action to evict the authors or tear down their makeshift shelters on 26 July 2020, as they alleged in their communication. The State party highlights that the authors themselves admitted that they were living on land that they did not own and that their dwellings were built informally, in violation of town planning regulations (see para. 2.6 above). The State party contends that the authors did not provide any indication of the exact locations of their dwellings, how precisely the facts that they denounce had occurred, what kind of other possessions and belongings were torn down or destroyed by the municipality's agents and the exact damage suffered by them.

6.7 The State party indicates that the Decentralized Administration of Attica, which is responsible for the execution of decisions in relation to the demolition of buildings or structures, and West Attica Police Department confirmed that the eviction of the authors had not been carried out nor was it planned. In addition, no request had been submitted to the police to assist in any operation to evict the authors on the date indicated above or any other date. Moreover, the State party notes that the Municipality of Aspropyrgos confirmed to the Secretary-General for Social Solidarity and Combating Poverty, who is responsible for Roma issues, that neither evictions nor the demolition of dwellings had taken place in the area and

<sup>8</sup> Constitution of Greece, art. 28 (1).

<sup>9</sup> Code of Civil Procedure, arts. 682, 683, 691A and 732–734. It is stressed, in particular, that, under article 682 or article 732 of the Code of Civil Procedure, specifically for cases concerning proprietary or possessory rights, the competent court is entitled to order as an interim measure any measure that, in the circumstances, is at its discretion appropriate in order to safeguard or maintain the right or to regulate the situation.

<sup>10</sup> Code of Criminal Procedure, arts. 242 and 417 et seq.

<sup>11</sup> European Court of Human Rights, *Ibishi and others v. Greece*, Application No. 47236/07, Decision, 4 January 2012; and *Tzamalís and others v. Greece*, Application No. 5469/07, Decision, 20 October 2009. Such criminal complaints are filed on an individual basis and they should not be confused with the general complaint filed by the Greek Helsinki Monitor with the Division of the Police to Combat Racist Violence for mass multiple illegal racist evictions or attempted evictions of Roma people in Aspropyrgos.

that, in concert with other relevant actors, he was endeavouring to find an appropriate solution in relation to the relocation of Roma in the area concerned. The State party holds that several actions have been taken concerning the situation of the Roma community of Aspropyrgos in relation to sanitation, health care, relocation and housing.<sup>12</sup>

6.8 As regards the authors' allegations under article 17 of the Covenant, the State party argues that, since there was no forced eviction or demolition of the authors' dwellings, therefore, there had been no interference with their rights to their private and family lives and homes. The State party also argues that, since the authors did not seize any domestic court concerning their allegations, despite the possibility to do so, they cannot claim that they were not provided with equal access to a court or tribunal as protected under article 14 of the Covenant.

6.9 The State party indicates that the authors complain in a general and vague manner under article 26 of the Covenant about discrimination by the authorities. The State party contends, however, that the authors were not subjected to discriminatory treatment on any ground. The State party recalls that not every differentiation based on the grounds listed in article 26 amounts to discrimination, as long as it is based on reasonable and objective criteria in pursuit of a legitimate aim under the Covenant.

6.10 With regard to the violation of article 23, the State party holds that it did not interfere with the authors' family life. On the contrary, it took and continues to take all the necessary actions for the authors' relocation and permanent residential rehabilitation so that they acquire an appropriate first dwelling away from those in the Nea Zoi camp.

6.11 The State party holds that no issue of danger to the authors' lives under article 6 or of inhuman or degrading treatment or punishment under article 7 of the Covenant arises in the present case. Considering the allegations submitted by the authors, the State party holds that no issues under articles 9, 11, 16 (1) and 27 of the Covenant arise.

6.12 Lastly, the State party submits that the provisions of article 2 are only subsidiary and do not apply independently. As the authors failed to substantiate their allegations under articles 6, 7, 9, 11, 14, 16, 17, 23, 26 and 27 of the Covenant, their reliance on the subsidiary provisions of article 2 of the Covenant is ill-founded. Therefore, the State party holds that there has been no violation of the Covenant.

#### **Authors' comments on the State party's observations on admissibility and the merits**

7.1 In their comments of 29 July 2021, which rely on the jurisprudence of the Committee on the Elimination of Discrimination against Women,<sup>13</sup> the authors reiterate that they did not have any possibility to challenge the decision of the Municipality of Aspropyrgos since the local authorities did not provide them with advance notice of the eviction, there was no decision to contest, nor any ground to institute criminal proceedings; therefore, they did not have an effective remedy available.

7.2 The authors indicate that the basic principles and guidelines on development-based evictions and displacement obligate States to ensure that evictions only occur in exceptional circumstances. The authors also indicate that such measures require full justification given their adverse impact on a wide range of internationally recognized human rights and should respect the principles of legality and proportionality. The authors hold that the protection provided by those procedural requirements applies to all vulnerable persons and affected

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<sup>12</sup> On 7 July 2020, agents of the General Secretariat for Social Solidarity and Combating Poverty visited the area of Aspropyrgos, in particular the neighbourhoods of Nea Zoi, Sofo and Neoktista in which the population is exclusively Roma. On the same day, they organized and participated in a meeting with the municipal authorities. The Secretary-General for Social Solidarity and Combating Poverty requested that the General Directorate of Public Health and Social Care of the Region of Attica conduct an immediate inspection of the neighbourhoods of Aspropyrgos in which Roma people were living and draft a report on environmental conditions in those areas, making at the same time suggestions to ensure sanitary conditions (annex 7 to the Government's information letter dated 24 August 2020).

<sup>13</sup> In particular, *L.A. et al. v. North Macedonia* (CEDAW/C/75/D/110/2016); and *S.N. and E.R. v. North Macedonia* (CEDAW/C/75/D/107/2016).

groups, irrespective of whether they hold a title to home and property under domestic law. The authors assert that, in the present case, the Municipality of Aspropyrgos was not authorized by law to proceed with such evictions since it did not issue an administrative decision, nor did it communicate any decision to the authors.

7.3 Regarding the remedies to be exhausted, the authors assert that it was impossible to ask the civil courts to protect their possessions<sup>14</sup> and to submit an application for interim measures,<sup>15</sup> as stated by the State party. The authors also assert that the interim measures would not facilitate their relocation and change their homelessness status. They argue that the civil avenue, including a request for interim measures, is ineffective because the court may not reinstate their access to the land that they were illegally occupying for more than 15 years. The authors also argue that articles 105 and 106 of the Introductory Law to the Civil Code are irrelevant to their claims since those articles refer to damages and do not assist in finding solutions to their homelessness.

7.4 Contrary to what has been suggested by the State party, namely that the applicants could have lodged a criminal complaint against the perpetrators of the evictions,<sup>16</sup> the authors argue that the criminal prosecution of the perpetrators should have already taken place *ex officio*, or after the criminal lawsuit of the Greek Helsinki Monitor or following the views expressed by several parliamentarians and media outlets.

7.5 The authors argue that the administrative procedure suggested by the State party is complicated, time-consuming and costly. Such a procedure would not address the violations of the Covenant. The authors contend that they are not concerned with the issue of pecuniary or non-pecuniary damage but with the interference with their homes, endangerment of their life and health and the inhuman, degrading and discriminatory treatment that they were subjected to, as well as with their relocation.

7.6 The authors argue that all (civil, administrative and criminal) legal options that the State party suggests against those who demolished their homes are *ex post* and not *ex ante* remedies, which could have an immediate suspensive effect, as there was no notice of a decision issued so that they could challenge and stop the evictions. The authors add that the matter at hand is that, by the time of their evictions, their rights had been violated and they did not have any opportunity up to that point to challenge the decision to evict them before the domestic legal system.

7.7 The authors assert that the State party is aware of their presence and domicile since their children attend the seventh elementary school of Aspropyrgos.<sup>17</sup> The authors also assert that, before Parliament,<sup>18</sup> the Deputy Minister of the Interior indicated that, according to the information provided by the Municipality of Aspropyrgos, the demolitions that had taken place were considered by the local authorities as “cleaning operations” and were a response to the illegal situation after private individuals asked the municipality to intervene. The Deputy Minister of the Interior also promised that the authorities would find a place to relocate the evicted individuals. The authors hold that the Municipality of Aspropyrgos stopped the demolition and evictions only after the issuance of the interim measures granted by the European Court of Human Rights (*Anastasopoulou and others v. Greece*).<sup>19</sup>

7.8 The authors hold that, despite the Government’s promise to relocate the affected Roma population in the context of the COVID-19 pandemic, no relocation has occurred. The authors also hold that, at the time their dwellings were demolished, the Ministry of Health had issued several recommendations on temporary spaces for the settlement of Roma with regard to access to clean drinking water, hygienic wastewater disposal, personal hygiene

<sup>14</sup> According to the Civil Code, arts. 985 and 987.

<sup>15</sup> According to the Code of Civil Procedure, arts. 682, 683, 691A and 732–734.

<sup>16</sup> Code of Criminal Procedure, arts. 242 and 417 *et seq.* (offences committed in *flagrante delicto*).

<sup>17</sup> In connection with this claim, the authors supplied as evidence several certificates of school attendance at the seventh elementary school of Aspropyrgos, which is the school in the settlement of Nea Zoi.

<sup>18</sup> The relevant session of Parliament was recorded and is available at <https://youtu.be/yTFVAacFQ6w> (in Greek).

<sup>19</sup> The authors did not provide any other information about the case.

facilities, electricity supply and collection of waste. However, the Municipality of Aspropyrgos failed to apply those measures. The authors indicate that the State party only promised and announced its intention to relocate Roma without supplying evidence to the Committee that this process had been initiated.<sup>20</sup>

7.9 The authors reiterate that article 17 of the Covenant was violated since the demolition of their dwellings constituted an unlawful, unreasonable, unnecessary, disproportionate and arbitrary interference with their right to respect for their privacy, family life and homes. They claim that they were not provided with equal access to a court or tribunal since the Municipality of Aspropyrgos acted like a tribunal and as the executor of its decision, in violation of article 14 of the Covenant. The authors add that they were subjected to discriminatory treatment on the grounds of their Roma ethnicity and their Albanian identity, in violation of articles 26 and 27 of the Covenant. They also argue that those evictions have both an unlawful discriminatory intent and an unlawful discriminatory effect.

7.10 The authors note that, as Roma, without access to water and sanitation, they are forced to live in toxic waste and illegal landfills, and their evictions by the State party during the peak of the COVID-19 pandemic and the summer heat could have had detrimental effects on their health and life. The authors contend that such a situation constitutes a grave danger to their right to life as protected by article 6 of the Covenant and constitutes inhuman or degrading treatment or punishment under article 7, in conjunction with article 2 (1) and (3), of the Covenant.

#### **State party's additional observations**

8.1 On 11 October 2021, the State party submitted additional observations concerning the authors' comments. The State party reiterates that the authors do not provide any details or evidence regarding the type and condition of their makeshift accommodation, which they claim was demolished by the municipal authorities of Aspropyrgos. The State party also submits that it has never received the certificates referred to by the authors regarding their children's attendance at the seventh elementary school of Aspropyrgos and, therefore, it is not in a position either to confirm the attendance of the authors' children at that school or to comment on the matter.

8.2 The State party indicates that several special measures have been taken in favour of the Roma population, including in Nea Zoi. However, the State party notes that origin, race or any other characteristic requiring special protection cannot operate to the detriment of others, the protection of public health and the environment and the equal treatment of others.

8.3 With regard to the authors' allegations that they were exposed to the danger of COVID-19 contamination, the State party notes that, in June 2021, the General Secretariat for Social Solidarity and Combating Poverty, with the cooperation of the local authorities, had organized for the Roma population of Aspropyrgos to be vaccinated. Subsequently, a unit of the National Public Health Organization carried out rapid COVID-19 tests and actions to sensitize the local population regarding the pandemic.

8.4 On 8 December 2021, the State party informed the Committee that the school certificates submitted by the authors to attest to their residence in the Municipality of Aspropyrgos concerned the academic year 2020/21. Since those certificates were issued after the alleged evictions, the State party affirms that it cannot draw solid conclusions with regard to the permanent installation of the authors in the Municipality of Aspropyrgos.

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<sup>20</sup> See Act No. 4483/2017, art. 159; and joint ministerial decision PO 64/2018 of the Ministers of Internal Affairs, Economy and Development, Labour, Social Security and Social Solidarity on temporary relocation, art. 9.



## Issues and proceedings before the Committee

### *Consideration of admissibility*

9.1 Before considering any claims contained in a communication, the Committee must decide, in accordance with rule 97 of its rules and procedure, whether it is admissible under the Optional Protocol.

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

9.3 The Committee notes the State party's argument that domestic remedies have not been exhausted by the authors. The Committee notes the State party's assertion that the eviction of the authors was neither planned nor conducted and that no request was made to the police to assist in any eviction operation during the period covered by the authors' claims. The Committee also notes that, according to the State party, the authors could have asked the civil courts for protection of their possessions<sup>21</sup> and that, in the case of an emergency, they could also have applied for interim measures according to the Code of Civil Procedure. The Committee observes that the authors consider that the procedure for interim measures at the national level enshrined in the Code of Civil Procedure is ineffective. In view of the fact that they never received any advance notice, it was impossible for them to challenge and stop the evictions once they had already taken place. In view of the contradictory information by the authors and the State party, the Committee is not in a position to determine whether a request for interim measures to stop the evictions would have been an effective remedy.

9.4 The Committee notes the State party's argument that the authors could have lodged an individual criminal complaint against the authors of the destruction or damage of their possessions and they could also have filed a case with the competent administrative courts to claim compensation.<sup>22</sup> Moreover, the Committee notes the authors' contention that the domestic remedies evoked by the State party against those who demolished their homes are *ex post* and not *ex ante* remedies that could have an immediate suspensive effect; therefore, there were no domestic remedies available. The Committee observes, however, that according to the authors, a criminal lawsuit filed by the Greek Helsinki Monitor against the Municipality of Aspropyrgos on their behalf is still pending with the Public Prosecutor. The Committee considers that, in the absence of arguments from the authors explaining how the criminal procedure pending before the Public Prosecutor was unreasonably delayed, this procedure remains available and has not been exhausted. The Committee considers that the authors have not explained why the other legal avenues indicated by the State party (administrative and civil) could not be exhausted. The Committee notes that the absence of prior notice before the demolitions of their homes cannot absolve the authors from exhausting the available domestic remedies after the demolitions took place.

9.5 The Committee recalls its jurisprudence stating that, although there is no obligation to exhaust domestic remedies if they have no chance of being successful, authors of communications must exercise due diligence in the pursuit of available remedies and that mere doubts or assumptions about their effectiveness do not absolve the authors from exhausting them.<sup>23</sup> In the present case, the Committee observes that the versions of the facts provided by the authors and the State party are different and that the referral of the matter to domestic bodies could have provided an opportunity to clarify the matter and to decide on the authors' claims. The Committee notes that the authors have not shown why it was impossible for them to submit their claims to the domestic authorities or why administrative or judicial appeals would have been manifestly ineffective. In the light of the foregoing, the Committee considers that the authors have not exhausted domestic remedies in relation to

<sup>21</sup> In accordance with articles 985 and 987 of the Civil Code.

<sup>22</sup> Introductory Law to the Civil Code, arts. 105 and 106.

<sup>23</sup> See, *inter alia*, *V.S. v. New Zealand* (CCPR/C/115/D/2072/2011), para. 6.3; *Vargay v. Canada* (CCPR/C/96/D/1639/2007), para. 7.3; and *García Perea and García Perea v. Spain* (CCPR/C/95/D/1511/2006), para. 6.2; *B.Z. et al. v. Albania* (CCPR/C/121/D/2837/2016), para. 6.4; *A.S. et al. v. Albania* (CCPR/C/127/D/2444/2014), para. 8.4; and *A.K. et al. v. Albania* (CCPR/C/127/D/2438/2014), para. 8.4.

their claims that their forced evictions constituted a violation of their rights under articles 2 (3); 6 read alone and in conjunction with 2; 7, read alone and in conjunction with 2 (1) and (3); 9; 14 (1); 16, read alone and in conjunction with 14, 17 and 26; 17, read alone and in conjunction with 2 (3) and 14; 23, read alone and in conjunction with 2 (3); 26, read alone and in conjunction with 2 (2); and 27 of the Covenant.

10. The Committee therefore decides:

- (a) That the communication is inadmissible under article 5 (2) (b) of the Optional Protocol;
  - (b) That the present decision shall be transmitted to the State party and to the authors.
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