

Subject matter of the application

All the information concerning the facts, complaints and compliance with the requirements of exhaustion of domestic remedies and the six-month time-limit laid down in Article 35 § 1 of the Convention must be set out in this part of the application form (sections E, F and G). It is not acceptable to leave these sections blank or simply to refer to attached sheets. See Rule 47 § 2 and the Practice Direction on the Institution of proceedings as well as the “Notes for filling in the application form”.

E. Statement of the facts

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- A. The Events Giving Rise to the Applicants' Complaints
1. The applicants are 54 Macedonian citizens of Romani ethnic origin. Twenty-nine of the applicants are children. A full list of the applicants is included on an Excel spreadsheet (in hard copy and on a CD-ROM).
 2. Emin Sebihan, an infant born on 30 May 2016, is among the applicants. So is Azbija Aliti, who is four months pregnant. Three of the applicants are men with pregnant wives living with them: Djemile Kurteshi (nine months pregnant) is Mirsad Jashari's wife; Amanda Memed (five months pregnant) is Sebin Miftar's wife; and Ramiza Amet is Perhan Emin's wife. Ibraim Useinov, also an applicant, and his wife, Valentina Ajdin, have a child with a disability.
 3. Until 1 August 2016, the applicants lived in an informal settlement known as “Polygon”, because of its proximity to the old Skopje driving polygon, where people used to take driving lessons. The settlement was located on the left bank of the Vardar river, below the Kale fortress. The area falls under the jurisdiction of the municipality of Centar, in Skopje.
 4. The settlement was inhabited up until 1 August 2016 by 31 Romani families, including a total of 121 people, 66 of whom were children.
 5. Most of the families had been living in the settlement for a period of between five and nine years. See Annexes 1 and 11. One of the applicants claims to have been living in the settlement for 20 years, as the Court can see in a video included at Annex 1.
 6. The individuals living in the Polygon settlement did not have any tenure to the land, and were staying in makeshift dwellings they had made by themselves out of available materials such as paper, wood, plastic bags, and cardboard.
 7. The living conditions in the settlement were poor. In particular, the only water source for the community was a single water pump located apart from the dwellings. Photographs of the community and of the water pump can be found at Annex 4. The photographs were taken in December 2014 by staff members of the European Roma Rights Centre (“the ERRC”), the international NGO representing the applicants in this case; they were visiting the settlement as part of a project on the right to water for Roma.
 8. The families were mainly surviving by collecting scrap iron and plastic. They have applied for social housing from time to time but have always been refused. The applicants have occasionally appeared in the media, asking for social support. See Annex 7.
 9. The Ministry of Transport and Communication used to own the land on which the settlement was located. In November 2011, the Ministry privatised the land by selling it to Amadeus Group DOOEL, an Albanian company which planned to build a Baroque-style hotel complex on the site.
 10. From time to time over the years, the authorities have come and removed the applicants' property and/or destroyed their homes, without offering the applicants any alternative accommodation. The applicants and the others living in the settlement have rebuilt their homes out of available materials.
 11. As part of its project on the right to water, on 14 June 2016, the ERRC wrote to the Municipality of Centar (and other municipalities in Macedonia) on behalf of Roma living within their jurisdiction who did not have access to a ready, safe supply of drinking water. Annex 5. The ERRC asked about what steps the municipality would take to guarantee the right to water for people in this situation. The ERRC has had responses from the other municipalities, but has received no response from Centar.
 12. On 11 July 2016, unbeknown to the applicants, the municipality of Centar made a decision to “clean” the settlement, in accordance with Article 27 of act no.111/2008 on public cleanliness. The applicants learned about this decision after they received the Government's comments on their request to the Court for an interim measure.
 13. The applicants never received any formal notice that they would be evicted from their homes, although some of the applicants report having been given warnings that they should move their belongings away from the site. On the morning of 1 August 2016, police, apparently acting on the orders of the Mayor of Skopje Koce Trajanovski, entered the settlement and destroyed the community's only water source. Later that day, bulldozers arrived and demolished the applicants' homes, along with those of other individuals living in the settlement. The event was witnessed by people from a local NGO and by media, who reported it. According to one media report (Annex 8), “on 1 August 2016 the City of Skopje, with excavators and in the presence of police, and before the children's eyes, demolished their homes, together with parts of their belongings (documents, clothes and furniture). The families were in a state of shock, children were crying”. After the demolition, all of the applicants and the rest of the inhabitants of the settlement were left street homeless; they are still living, without shelter, on the site.

Statement of the facts (continued)

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14. The authorities did not offer the applicants any alternative accommodation and referred them to the municipality of Shuto Orizari, which is widely known as a Romani municipality because of its majority Roma population and the fact that most of its elected officials are Roma. Although some (but not all) of the applicants have their registered address there, the applicants have no place to stay in Shuto Orizari. On the date of the eviction, some of the inhabitants told journalists that they felt they were being punished for having sought social support in the media. See Annex 7.

15. After the eviction took place, the Inter-municipal Centre for Social Work, a public body that serves the City of Skopje, made an oral offer of accommodation to three of the families (about 19 individuals), including one of the applicants (Perhan Emin). They were offered places in Cicino Selo, a shelter for refugees, internally displaced people, and homeless people. Those to whom the offer was made refused to accept this accommodation due to security concerns as well as poor living conditions in the shelter. This can be seen in a video which the Government made available to the Court in the context of the applicants' Rule 39 request. No other alternative accommodation was offered. The next paragraph provides information about Cicino Selo shelter.

16. Following a fire in 2015, as the Government have indicated to the Court in response to the applicants' Rule 39 request, the Cicino Selo shelter now has only 36 rooms. According to the ERRC's Skopje-based country facilitator, who has spoken to former residents of the shelter, each room measures 13 square metres. On 29 July 2016, according to a press report from that date (Annex 6), it already had 54 inhabitants. According to the information the Government gave the Court, that number is now 55. In the past, ethnic tensions between Roma and Albanians in the shelter have been reported. In 2013, the Macedonian Ombudsman's Office investigated the living conditions in Cicino Selo. In its report (Annex 3), the office concluded that the living conditions were inadequate, including insufficient supply of food and food storage facilities, an unacceptably low level of hygiene, and problems with waste collection, healthcare, personal safety, and equal access to education for Romani children.

17. On 6 August 2016, Skopje was hit by torrential, unforeseen rain which caused floods in the city with water levels reaching up to 1.5 metres in affected areas. The applicants and the other inhabitants were left exposed to these weather conditions. They had no shelter, no access to clean water, and nowhere to go.

18. On 11 August 2016 the applicants asked the Court to indicate to the Government, in accordance with Rule 39 of the Rules of Court, to provide accommodation for the evicted families.

19. Following the eviction, and until 19 August 2016, the applicants received support from the Red Cross. This consisted of food parcels. The applicants could not eat much of the food because it consisted of uncooked rice and other items that needed to be prepared, and the applicants had (and continue to have) no access to water, gas, electricity, or cooking equipment. During the weekend of 20-21 August 2016, the ERRC's Skopje-based country facilitator provided food to the applicants. Since then, the local NGO Iriz ("Initiative for Development and Inclusion of Communities") has been providing the applicants with material support. However, they cannot continue to do so indefinitely. See Annex 11.

20. On 17 August 2016 the ERRC submitted a "signal" to the Macedonian Ombudsman's Office urging them to take all necessary measures for starting an investigation in relation to the breaches of the rights of the applicants and the rest of the people evicted. Annex 10.

21. Many of the applicants have bronchitis, as well as other illnesses (including skin conditions) caused by their poor living conditions, exposure to an unhealthy living environment, and exposure to constantly changing weather conditions. The children have not received their immunisations, and the female applicants of child-bearing age are particularly concerned that their reproductive health is at risk. Two NGOs working directly with the applicants have provided statements about the situation, available at Annexes 11 and 12. According to the NGO "Iriz", the applicants are being monitored constantly by employees of the City of Skopje to stop them from trying to rebuild their homes. See Annex 11.

B. Materials on the Housing Situation of Roma in Macedonia

22. The Macedonian Government are aware of the housing crisis facing the country's sizable Romani minority. The "Strategy for Roma in the Republic of Macedonia, 2014-2020", published by the Ministry of Labour and Social Policy (and available at <http://www.merc.org.mk/Files/Write/Documents/02310/en/Roma-Strategy-in-Macedonia-2014-2020.pdf>), describes the situation: "the data shows that the largest number of Roma in Macedonia live in urban areas (95%), and they are more concentrated in poorer areas (ghettos) or suburban areas. The general conclusion is that the conditions in which they live are very bad, often below the proclaimed standards of adequate housing which are constantly perpetuated. They are often populated in settlements with unclear ownership status outside of the urban planning, with lack of basic infrastructure and with services from the state system which are difficult to obtain". The strategy sets out various goals for improving the housing situation for Roma, including through social housing.

Statement of the facts (continued)

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23. The European Commission Against Racism and Intolerance recently summed up the strategy's approach to housing as follows: "The new Roma strategy also aims at legalising 70% of irregular Roma settlements by 2017, while providing alternative temporary or permanent accommodation for the population whose settlements cannot be legalised. The construction of new social housing units is a crucial factor in this part of the strategy. Already in 2012, a new rule was introduced which reserves 10% of new social housing units for Roma". CRI(2016)21, § 62. Yet ECRI criticises the authorities' approach, noting that the current situation remains dire: "In spite of 10% of new social housing units being reserved for Roma (see § 62), the housing problem has not been resolved and around 28% of Roma still live in informal settlements, such as Cicino Selo near Skopje, the living conditions of which have been criticised by the Ombudsman. Although forced evictions are not very common, they do occasionally occur. Many Roma live in sheltered accommodation provided by the authorities, but the standards are often poor. Prejudice and discrimination against Roma in the private housing market persist". CRI(2016)21, § 66.

24. According to the Council of Europe Commissioner for Human Rights, writing in 2013 about his 2012 visit to the country, "Roma [in Macedonia] continue to face serious difficulties in access to quality education, employment, health care and housing, and the extreme poverty experienced by many of them - children included - is obvious to any observer". CommDH(2013)4. The Commissioner concluded that "a comprehensive strategy should be pursued to promote integrated housing policies and prevent the creation of new segregated areas". The Commissioner, elsewhere, has referred to forced evictions of Roma as "Europe's silent scandal" (<https://www.opendemocracy.net/can-europe-make-it/nils-mui-nieks-michael-georg/roma-evictions-europes-silent-scandal>).

25. In its concluding observations on Macedonia, published on 15 July 2016 (E/C.12/MKD/CO/2-4), the International Committee on Economic, Social, and Cultural Rights stated that: "The Committee is concerned at the lack of effective measures to provide social housing for disadvantaged and marginalized individuals and families and at the large proportion of the population, particularly Roma families, living in informal settlements in poor living conditions with limited access to basic services and infrastructure, health care and education. It is also concerned about the poor living conditions in which the internally displaced persons continue to live in collective centres, and that Roma families living in informal settlements are under constant threat of eviction owing to the lack of legal security of tenure (art. 11)" (§ 45). The Committee urged Macedonia "to adopt a legal framework establishing procedures to be followed in the case of evictions that is in line with the international standards and guidelines contained in general comment No. 7 (1997) on the right to adequate housing: forced evictions" (§ 46).

26. The applicants draw the Court's attention to a joint statement of the United Nations Office of the High Commissioner on Human Rights, the Organization for Security and Cooperation in Europe, the European Network of Equality Bodies, the European Network of National Human Rights Institutions, the European Union Fundamental Rights Agency, and the Council of Europe, expressing concern about the forced evictions of Roma and Travellers and reminding states of their legal obligations in this respect (Annex 14). The statement was issued on 29 June 2016. The statement recalls the human rights obligations of national and local authorities, stressing that forced evictions are only permitted in "the most exceptional circumstances" and urging states to find long-term solutions to the accommodation problems that Roma and Travellers face.

F. Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments

59. Article invoked	Explanation
Article 3, read on its own	<p>The applicants claim that the eviction of 1 August 2016 and the failure to provide them with alternative accommodation or any other form of support amounts to treatment contrary to Article 3. The Court has already found that leaving members of a particularly vulnerable group homeless can breach Article 3 (M.S.S. v BEL and GRC (2011) § 251; V.M. vs BEL (2015) §§ 136-138). The applicants' situation is tantamount to the M.S.S. and V.M. cases: since 1 August they have been living in conditions of extreme poverty without money, food, drinking water, or sanitation. During the recent heavy rain and floods, the applicants were left exposed to the elements. The current circumstances, which have lasted for over a month, are a direct threat to lives and health of the applicants, and to the infants and pregnant women among them in particular. The applicants are Roma and therefore members of a "particularly vulnerable group". See, e.g., Horváth and Kiss v HUN (2013), § 102. The applicants note the precarious housing situation of Roma in Macedonia (see statement of facts). Over a quarter of the country's Roma live in informal settlements. Macedonian Roma face difficulties entering social housing because of a lack of housing stock, and difficulties entering the private-rental market because of discrimination and poverty. In addition to their vulnerable position as Roma, many of the applicants and their family members are children. Indeed, for infants and young children, watching their homes being demolished before their eyes, while faced with their parents' powerlessness, was particularly traumatising. See, mutatis mutandis, Muskhadzhieva and others v BEL (2010), § 59. These children are likely to perceive their current situation as never-ending, with potentially irreversible psychological consequences, in addition to severely compromising their image of their parents. See, mutatis mutandis, Popov v FRA (2012) §§ 100-101. There are pregnant women among the group as well as one recent mother. These women are worried about the impact on their reproductive health and the health of their unborn children. In the light of Article 53 of the Convention, the applicants recall Article 12 § 2 of the UN Convention on the Elimination of All Forms of Discrimination (to which Macedonia is a State Party): "States Parties shall ensure to women appropriate services in connection with pregnancy, confinement and the post-natal period, granting free services where necessary, as well as adequate nutrition during pregnancy and lactation". The Macedonian authorities have flouted this provision in the present case, exposing pregnant and nursing women to conditions of severe degradation in which they cannot guarantee their own health or nutrition or that of their children. Only some of the applicants were offered any form of shelter at all, and they argue that even that shelter was inadequate (see Rule 39 correspondence on the Cicino Selo shelter).</p>
Article 8, read on its own	<p>Without prejudice to the argument set out above under Article 3, the applicants' claim that evicting them and leaving them homeless in conditions of extreme destitution amount to a breach of Article 8. Forced evictions of this kind clearly engage Article 8 (right to respect for private life, family life, and home), regardless of the fact that the inhabitants do not have tenure to the land. See, e.g., Yordanova and Others v BGR (2012), § 118. The eviction was not in accordance with the law, because the law in this case lacked the "quality of law" that Article 8 § 2 demands. S and Marper v GBR (2008), § 95. The purported basis of the eviction - as the applicants learned following their request for an interim measure - was act no.111/2008 on public cleanliness. Their homes were characterised as "waste" under the law. According to the translation provided by the government, that term is defined as "a collection of waste products collected during public cleanliness maintenance". The applicants could not reasonably expect that their homes might be classified as "waste products", and that they would be evicted as part of a cleaning process, as opposed to an eviction following legal proceedings for construction of illegal buildings or illegal occupation of land. The failure of the law to limit the scope of what can be qualified as waste makes it arbitrary. See, mutatis mutandis, L.H. v LVA (2014), § 57. In particular, the applicants claim that it is incompatible with the rule of law to proceed with evictions of people from their homes under waste-management legislation alone. The applicants also claim that the eviction did not pursue a legitimate aim. The applicants note the ERRC's argument, set forth in a</p>

Statement of alleged violation(s) of the Convention and/or Protocols and relevant arguments (continued)

60. Article invoked Article 8 (continued)	Explanation
	<p>separate application, that the eviction appears to have been a form of victimisation, in retaliation for a letter asserting the applicants' right to water. The applicants likewise perceive the eviction as a form of retaliation for seeking social support. Lastly, the applicants argue that the eviction was disproportionate and therefore not necessary in a democratic society. The way in which the eviction was carried out flew in the face of the standards set out at Winterstein and others v FRA (2013), § 148. The applicants' vulnerability as members of Roma community was not sufficiently considered before the eviction took place; they had no possibility to have the proportionality of the eviction assessed by an independent tribunal before it happened; and the use of legislation which is not designed to regulate evictions resulted in lack of procedural safeguards. According to Winterstein, § 159, there is a generally recognised obligation to provide alternative accommodation to Roma who have been forcibly evicted except in cases of force majeure. The applicants have addressed the illusory offer of accommodation, made to only some of them, in the Rule 39 correspondence.</p>
Article 14, read with Articles 3, 8, and 10	<p>The applicants urge the Court to consider their complaint in the context of the widespread, poor housing conditions of Roma in Macedonia. More than a quarter of Macedonia's Roma live in informal settlements like the one the authorities destroyed on 1 August. This is tantamount to the situation that prevailed in Horváth and Kiss v HUN (2013): like school segregation, poor, segregated, substandard housing for Roma has a long history in Europe, placing on States "specific positive obligations to avoid the perpetuation of past discrimination or discriminative practices" (§ 116). Macedonia accepted its obligation to rectify this situation, in theory, in its Roma national inclusion strategy; but in practice, in this case the authorities willfully made a vulnerable Roma community's desperate housing situation worse. The applicants also submit that the Court cannot ignore the characterisation of the applicant's homes as "waste", under legislation on public cleanliness, as opposed to characterising their homes as illegal constructions or their presence on the site as squatting. The Court has found in comparable circumstances that basing a decision on such an arbitrary ground linked to discrimination raises a presumption that the action was in fact discriminatory. E.B. v France (2008), § 73. Given the arbitrary action of the authorities in relying on the law on public cleanliness, the burden of proof is on the Government to show that the eviction was not discriminatory. This should particularly be the case here given that the characterisation of the applicants' homes as "waste" relies on and taps into widespread, vicious stereotypes about Roma. See, mutatis mutandis, Konstantin Markin v RUS (2012), § 143. In relation to Article 14 taken with Article 10, the applicants also rely on the ERRC's separate claim that the eviction amounted to retaliation for their demands for social support in general, and the ERRC's request in particular that the municipality take steps to respect their right to water.</p>
Article 13, read with Articles 3 and 8	<p>As set out above, the applicants had an arguable claim that the eviction would be contrary to Article 3. As such, they were entitled to a remedy with automatic suspensive effect before the eviction took place. Gebremedhin v FRA (2006), § 66. Even if the Court finds that the eviction only engaged Article 8, the applicants argue that the case was so serious that it falls into that category of Article 8 cases where applicants are entitled to a remedy with automatic suspensive effect. See, mutatis mutandis, Al-Saadoon v GBR (2010), § 160. In the present case, the legal basis for the eviction was a decision under Article 27 of act no.111/2008 on public cleanliness. The decision was not addressed to the applicants (who did not become aware of it until the Government submitted it to the Court), and Article 27 explicitly states that appeals against such decisions do not have automatic suspensive effect. The applicants note that the Government, in their submissions to the Court on the applicants' Rule 39 request, specifically state that "as no eviction took place in the informal settlement, there have been no legal proceedings in this respect of which the applicants would have been able to take part into". Regardless of whether the impugned action can be qualified as an "eviction" under domestic law, under the Convention it was an act against which the applicants were entitled to a remedy meeting the requirements of Article 13, read with Articles 3 and 8.</p>

I. List of accompanying documents

You should enclose full and legible copies of all documents. No documents will be returned to you. It is thus in your interests to submit copies, not originals. You MUST:

- arrange the documents in order by date and by procedure;
- number the pages consecutively; and
- NOT staple, bind or tape the documents.

68. In the box below, please list the documents in chronological order with a concise description. Indicate the page number at which each document may be found.

1.	CD-ROM with videos dating from up to two years prior to the eviction	p.	1
2.	Press article, 29 April 2010	p.	2
3.	Ombudsman's Office of Macedonia, report, September 2013	p.	5
4.	Photographs of the settlement, taken by the ERRC in the context of its right-to-water project, December 2015	p.	17
5.	Letter from the ERRC to the municipality of Centar, 14 June 2016	p.	20
6.	Press article, 29 July 2016	p.	22
7.	Press article, 1 August 2016	p.	26
8.	Press article, 4 August 2016	p.	29
9.	CD-ROM with videos dating from 5 August 2016, showing the applicants' situation	p.	30
10.	Signal from the ERRC to the Ombudsman's Office of Macedonia, 17 August 2016	p.	31
11.	Statement from NGO "Iriz", undated, sent to ERRC on 2 September 2016	p.	39
12.	Statement from NGO "Umbrella", undated, sent to ERRC on 2 September 2016	p.	41
13.	Joint press release from various Macedonian NGOs, 7 September 2016	p.	43
14.	Statement of the United Nations, the OSCE, Equinet, the European Network of National Human Rights Institutions, the EU Fundamental Rights Agency, and the Council of Europe, on forced evictions of Roma in Europe, 29 June 2016	p.	46
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