

IN THE EUROPEAN COURT OF HUMAN RIGHTS  
APPLICATION N° 44758/20

PANAYOTOPOULOS AND OTHERS

THE APPLICANTS

v

GREECE

THE RESPONDENT STATE

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EUROPEAN ROMA RIGHTS CENTRE – THIRD-PARTY INTERVENTION

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1. The European Roma Rights Centre (“the ERRC”)<sup>1</sup> is a Roma-led NGO whose vision is for Romani women, men, and children to overcome antigypsyism and its legacy, to achieve dignity, equality, and full respect for their human rights, and to use their experience to contribute to a more just and sustainable world.
2. The ERRC has been monitoring Roma rights in Greece since 1997, focusing on housing rights issues, police violence, and racial segregation in the education of Romani school children.<sup>2</sup>
3. The ERRC submits these written comments in accordance with the permission to intervene granted by the President of the Section.

**A. Roma are victims of antigypsyism**

4. The word antigypsyism applies to many experiences that would be extraordinary in the lives of most Europeans but are all too common among Roma: police brutality; forced evictions; housing and school segregation; forced sterilisations.
5. According to the European Commission Against Racism and Intolerance (“ECRI”), “anti-Gypsyism” (which they spell with a hyphen) is “*a specific form of racism, an ideology founded on racial superiority, a form of dehumanisation and institutional racism nurtured by historical discrimination, which is expressed, among others, by violence, hate speech, exploitation, stigmatisation and the most blatant kind of discrimination*”. ECRI (2011) 37. The Alliance Against Antigypsyism, an NGO coalition which spells the term without a hyphen, defines the concept as follows:

*Antigypsyism is a historically constructed, persistent complex of customary racism against social groups identified under the stigma ‘gypsy’ or other related terms, and incorporates:*

1. *a homogenizing and essentializing perception and description of these groups;*
2. *the attribution of specific characteristics to them;*

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<sup>1</sup> [www.errc.org](http://www.errc.org)

<sup>2</sup> More information on ERRC activities in Greece is available at:

[http://www.errc.org/search?country=&theme=&area=&keyword=greece&search\\_submit=](http://www.errc.org/search?country=&theme=&area=&keyword=greece&search_submit=)

3. *discriminating social structures and violent practices that emerge against that background, which have a degrading and ostracizing effect and which reproduce structural disadvantages.*<sup>3</sup>

6. The EU and Council of Europe bodies regularly use the word. For example, in October 2017 the Committee of Ministers used it eight times in its Recommendation to Member States on improving access to justice for Roma and Travellers in Europe. CM/Rec(2017)10. On 4 April 2019, the Commissioner for Human Rights used the term 14 times in a “human rights comment”,<sup>4</sup> recommending, for example, “*increasing the training of... members of the judiciary, on anti-Gypsyism*”.
7. In 2018, the EU Agency for Fundamental Rights (FRA) issued the report: “A persisting concern: anti-Gypsyism as a barrier to Roma inclusion”.<sup>5</sup> The new EU Roma strategic framework for equality, inclusion and participation for 2020-2030 states that antigypsyism is a matter of high concern.<sup>6</sup>
8. We respectfully submit that phrases such as “*so-called antigypsyism*” (*Levakovic v Denmark* (2018), § 32) are inappropriate. Antigypsyism is an active force in European society. The term captures what the Court has attempted to describe in more cumbersome and less effective language. See, e.g. *Horváth and Kiss v Hungary* (2013), § 101 (“*as a result of their turbulent history and constant uprooting, the Roma have become a specific type of disadvantaged and vulnerable minority*”). The Court has already acknowledged the existence of institutional antigypsyism in policing – in *Lingurar v Romania* (2019), § 80.

## B. The evidence of antigypsyism in policing in Greece

9. There are no official numbers of Roma in Greece; unofficial estimates range between 180,000 and 350,000, averaging 265,000 Romani people who live scattered over the entire territory, with the biggest concentrations around larger cities such as Athens and Thessaloniki.<sup>7</sup> The Greek state refrains from recognising antigypsyism as a specific form of racism against Roma, and a key reason for that is the non-recognition of Greek Roma as a national minority. The racially underpinned antagonism faced by Roma in Greece is instead considered an example of discrimination against socially vulnerable groups, which indicates the erosion of the racist characteristic of this discrimination. The distinctly higher degrees of social exclusion and of poverty among Greek Roma denote manifestations of antigypsyism and are indicators of a lack of substantive equality between Roma and the majority population. Higher degrees of poverty and social

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<sup>3</sup> “Antigypsyism: A Reference Paper”, June 2017, available at: [https://www.antigypsyism.eu/?page\\_id=17](https://www.antigypsyism.eu/?page_id=17).

<sup>4</sup> Available at: <https://www.coe.int/en/web/commissioner/-/european-states-must-demonstrate-resolve-for-lasting-and-concrete-change-for-roma-people>.

<sup>5</sup> Available at: <https://fra.europa.eu/en/publication/2018/persisting-concern-anti-gypsyism-barrier-roma-inclusion>

<sup>6</sup> Available at:

[https://ec.europa.eu/info/sites/info/files/eu\\_roma\\_strategic\\_framework\\_for\\_equality\\_inclusion\\_and\\_participation\\_for\\_2020\\_-\\_2030\\_0.pdf](https://ec.europa.eu/info/sites/info/files/eu_roma_strategic_framework_for_equality_inclusion_and_participation_for_2020_-_2030_0.pdf)

<sup>7</sup> Recent Migration of Roma in Europe, OSCE High Commissioner for National Minorities, 10 December 2008, p. 82. Available at: <https://www.osce.org/hcnm/78034>.

exclusion are then explained as the reasons for antigypsyist attitudes towards Roma<sup>8</sup> (instead of antigypsyism being the cause of poverty and social exclusion), thereby portraying Roma as responsible for the poor conditions they are forced to live in and, therefore, for antigypsyism itself.

10. In Greece, the term “antigypsyism” only become a known phenomenon in the last decade, both to the general public and to individuals or institutions dealing with Roma issues or the defence of human rights generally. Romani people tend not to report acts of antigypsyism in Greece, even though episodes of reported racist violence are seen to be increasing,<sup>9</sup> as Roma are exposed to institutional and everyday discrimination in various fields. Several sources indicate the underestimation of racist violence by the Greek authorities, as well as the indifference of police towards racially motivated crimes.<sup>10</sup>
11. Antigypsyism is especially acute in Greece and is well documented amongst police there. The United Nations Committee on Elimination of Racial Discrimination (UN CERD), the United Nations Human Rights Committee (UN HRC), and the United Nations Committee Against Torture (UN CAT) have all expressed concerns about allegations of racially motivated police brutality against Roma in Greece. All three Committees asked the Greek Government to ensure effective investigation of such allegations, to punish the perpetrators, and to compensate the victims. In its 2019 concluding observations, the UN CAT stated that *“while acknowledging the legislative and other measures taken by the State party to tackle hate crime, the Committee is concerned by reports it has received reflecting an increase in the incidence of racist and xenophobic violence, especially against refugees, migrants and members of the Roma community, and a significant rise in the number of incidents where law enforcement officials have been the perpetrators or have otherwise been involved”*.<sup>11</sup> Back in 2016, the UN CERD had already expressed concerns over the problem that *“Roma in Greece continue to be disproportionately subjected to frequent identity checks, arbitrary arrests and harassment by the police and other law enforcement officials, combined with a lack of effective investigation, prosecution and sanctioning of law enforcement personnel for such misconduct (arts. 2, 3 and 5)”*,<sup>12</sup> and recommended to the State-party to *“take appropriate measures to combat unlawful conduct by police or other law enforcement officials based on grounds prohibited by the Convention, and ensure that such acts are thoroughly investigated, that perpetrators are expeditiously brought to justice and that victims are provided with appropriate redress”*.<sup>13</sup> Similar concerns were also expressed

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<sup>8</sup> European Social Charter, Comments by the on the 2nd National Report on the implementation of the European Social Charter submitted by THE GOVERNMENT OF GREECE. Report registered by the Secretariat on 14 May 2019. Page 59. Available at: <https://rm.coe.int/natioanl-report-greece-en/168094efec>

<sup>9</sup> [https://www.unhcr.org/gr/wp-content/uploads/sites/10/2019/04/RVRN\\_report\\_2018en.pdf](https://www.unhcr.org/gr/wp-content/uploads/sites/10/2019/04/RVRN_report_2018en.pdf)

<sup>10</sup> <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=20341&LangID=E>

<sup>11</sup> Concluding Observations (2019) CAT/C/GRC/CO/7. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/GRC/CO/7&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/GRC/CO/7&Lang=En)

<sup>12</sup> Concluding Observations (2016) CERD/C/GRC/CO/20-22. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/GRC/CO/20-22&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CERD/C/GRC/CO/20-22&Lang=En)

<sup>13</sup> *Ibid.*

by other UN treaty bodies including the UN HRC: "the Committee is particularly concerned about reports of police violence against Roma, migrants and refugees and the lack of effective investigation into such cases".<sup>14</sup> The Committee also recommended to the State party to ensure that all allegations of unauthorised and disproportionate use of force by law enforcement officials are thoroughly and promptly investigated by an independent authority, that alleged perpetrators are prosecuted, that those found guilty are punished with sentences that are commensurate with the gravity of the offence, that compensation is provided to the victims or their families, and that the State party should also ensure that the police receive appropriate professional training that includes full respect for human rights principles. Apart from that, in its fifth periodic report on Greece, the ECRI noted that the Greek police were accused of "being a neutral observer of the attacks by right-wing groups on Roma, and that at worst, they actually perpetrated racist violence. Furthermore, the police often refused to investigate those attacks, even when there was ample evidence."<sup>15</sup>

12. The European Court of Human Rights is already familiar with several cases submitted by Romani applicants against Greece concerning human rights violations of different natures (including police brutality); see e.g. *Sampanis and Others v. Greece* (application no. 32526/05), *Lavida and Others v. Greece* (application no.7973/10), *Bekos and Koutropoulos v. Greece* (application no. 15250/02), *Stefanou v. Greece* (application no.2954/07), *Evangelos Tzamalidis and Others v. Greece* (application no.5469/07), *Zois Kokkonis v. Greece and Nikolitsa Chalilpoulou v. Greece* (application no. 76386/11 and 76408/11), *Petropoulou-Tsakiris v Greece* (application no. 44803/04).
13. The Court is also familiar with cases particularly concerning police violence against Roma in Greece. Ill-treatment of Roma by police is widespread throughout Greece. This has been noted on several occasions by international and regional tribunals. In fact, in April 2010, the European Court of Human Rights published its fourth case concerning the ill-treatment of Roma by police in Greece, this time of a 16-year old Romani boy.<sup>16</sup> Similarly, the Human Rights Committee under the ICCPR in an individual communication held that Greece had violated the prohibition of torture when Greek police had subjected a young Romani man to ill-treatment.<sup>17</sup>
14. On 22 April 2010 the European Court of Human Rights delivered a judgment in the case **Stefanou v. Greece** (application no.2954/07). The applicant is a Greek national of Romani origin, who was born in 1985 and lives in Athens. He was sixteen years old at the time of the events. On 5 August 2001, a kiosk owner in Argostoli, Cephalonia, reported to the local police that approximately 9,500,000 Greek drachmas (28,000 euros) had been stolen from him. During the summary investigation that was immediately carried out by the local police, four Romani youths were taken to Argostoli police station. According to the applicant, while he was at the police station he was

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<sup>14</sup> Concluding Observations (2015) CCPR/C/GRC/CO/2. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/GRC/CO/2&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR/C/GRC/CO/2&Lang=En)

<sup>15</sup> <https://rm.coe.int/fifth-report-on-greece/16808b5796>.

<sup>16</sup> *Stefanou v. Greece*, appl. No. 2954/07. The other three cases pertaining to ill-treatment by police of Roma are: *Bekos and Koutropoulos v. Greece*, appl. No. 15250/02; *Karagiannopoulos v. Greece*, appl. No. 27850/03; *Petropoulo-Tsakiris v. Greece*, appl. No. 44803/04.

<sup>17</sup> *Kalamiotis v. Greece*, Communication no. 1486/2006, CCPR/C/93/D/1486/2006, 5 August 2008.

questioned as to whether or not he had been involved in the theft. The applicant submitted that he had been punched and slapped hard in the face for over a quarter of an hour by a police officer, and in the presence of the commander of the police station, who questioned him to make him confess that he had participated in the theft. He was subsequently allowed to leave the police station. However, the applicant maintained that the police officer kept his mobile phone to find out whether it was stolen. The Court held that there has been a violation of Article 3 of the Convention in its substantive part, and a violation of Article 6 § 1 of the Convention, awarding the applicant with EUR 20,000 (twenty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage.

15. On 22 June 2007, the European Court of Human Rights (ECtHR) ruled in favour of a young Romani man, Ioannis Karagiannopoulos, in the case **Karagiannopoulos v. Greece (application no. 27850/03)**,<sup>18</sup> who had been shot in the head by police during an investigation. The man is now completely disabled and an internal investigation in Greece failed to deliver more than a light fine for "slight negligence" for the officer responsible. One of the officers involved had stated before a criminal court that "the majority of Gypsies are criminals." The Court awarded EUR 120,000 in pecuniary and non-pecuniary damages to the man, ruling that his right to life, protected under Article 2 of the European Convention on Human Rights, had been violated by both the shooting itself and the Greek State's failure to fully and adequately investigate the shooting. The shooting occurred during the course of an investigation of the Karagiannopoulos family home, based on suspicions by Greek police that the family was involved in drug trafficking.
16. On 6 December 2007, The European Court of Human Rights delivered a judgment in the case **Petropoulou-Tsakiris v. Greece** (application no. 44803/04).<sup>19</sup> The applicant, Fani-Yannula Petropoulou-Tsakiris, is a Greek national of Romani ethnic origin who lives in Nea Zoe, a Romani settlement in Aspropyrgos (Greece). The case concerned, in particular, the applicant's allegations that she suffered from a miscarriage as a result of police brutality and that the authorities failed to carry out an adequate investigation into the incident. On 28 January 2002, a police operation involving 32 police officers was carried out in Nea Zoe following a tip-off about drug trafficking. The applicant, who was two-and-a-half months pregnant at the time, claimed that during that operation she was waiting to be searched along with other Romani women when she noticed that a disabled relative of hers was being taunted by police officers. Upon trying to intervene, she was forcefully pushed back by one police officer and kicked in the back by another. She felt intense pain in the abdomen and started bleeding. She was not taken to hospital by the police and, not having any identification documents, feared going of her own accord. The Government denied the applicant's version of events and indeed any other allegations that civilians had been assaulted or subjected to racial abuse on 28 January 2002. Relying on Article 3 and Article 13, the applicant alleged that she had been the victim of police brutality, resulting in a miscarriage, and that the Greek authorities had

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<sup>18</sup> <https://www.antigone.gr/wp-content/uploads/library/developments-in-human-rights-issues/en/070623.pdf>; <http://www.errc.org/roma-rights-journal/european-court-of-human-rights-rules-in-favour-of-17-year-old-romani-boy-shot-by-greek-police>.

<sup>19</sup> [https://www.hr-dp.org/files/2013/09/09/CASE\\_OF\\_PETROPOULOUTSAKIRIS\\_v\\_GREECE\\_.pdf](https://www.hr-dp.org/files/2013/09/09/CASE_OF_PETROPOULOUTSAKIRIS_v_GREECE_.pdf)

failed to carry out an adequate investigation into her allegation. She further alleged that her Romani ethnic origin had influenced the attitude and behaviour of the police and judicial authorities, in violation of Article 14 taken in conjunction with Article 3. The Court held, that there had been a violation of Article 3 of the Convention concerning the lack of an effective investigation into the applicant's allegation; and that there had been a violation of Article 14 (prohibition of discrimination) taken in conjunction with Article 3.

17. On 13 December 2005, the Court brought a judgment in **Bekos and Koutropoulos vs. Greece**.<sup>20</sup> The Court found the Greek state responsible for the inhuman and degrading treatment two Romani man suffered at the hands of police, as well as the subsequent failure to conduct an effective official investigation, in violation of Article 3 (prohibition of torture and inhuman and degrading treatment). The Court also found a violation of the procedural guarantee against racial discrimination contained in Article 14 (discrimination). Mr. Lazaros Bekos and Mr. Eleftherios Koutropoulos were represented by the European Roma Rights Centre (ERRC), together with the Athens-based non-governmental organisation, Greek Helsinki Monitor.

The incident at issue took place in May 1998, when Mr. Bekos and Mr. Koutropoulos were arrested for allegedly attempting to break into a kiosk. The two men were taken to the Mesolonghi police station and interrogated. During the interrogation, both were severely beaten by the police. A forensics report, issued the following day indicated that both young men had sustained "moderate bodily injuries caused in the past 24 hours by a blunt, heavy instrument."

18. On the basis of this evidence, we urge the Court to acknowledge the existence of institutional antigypsyism in Greek policing, similarly to the finding in *Lingurar v Romania* (2019), § 80 ("in the respondent State, the Roma communities are often confronted with institutionalised racism and are prone to excessive use of force by the law-enforcement authorities"). The same is true of Greece.

### C. Cases of institutional antigypsyism deserve a different approach

19. Too often, the Romani victims of police brutality have had difficulty, as victims of a violation of Article 14 taken with the procedural limb of Article 3, in convincing the Court that they were also victims of a violation of Article 14 taken with the substantive limb of Article 3. This is due to the standard of burden of proof - "*beyond reasonable doubt*" - that applicants alleging discrimination are required to prove. See: *Nachova and others v Bulgaria* (Grand Chamber, 2005), § 147. However, vulnerable victims alleging racially motivated police violence are particularly unlikely to discharge this burden of proof when they are also victims of a failure on the part of the authorities to effectively investigate their allegations, including the potential racial motivation behind actions of the police. The failure of the authorities to investigate leaves the victims unable to prove a violation of Article 14 taken with the substantive limb of Article 3. See, e.g., *Nachova*, § 147. While it is of course possible for the Court to conclude that police violence was discriminatory, the existence of sufficient evidence in any particular case is out of the hands of the Romani applicants who come to the Court seeking justice.

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<sup>20</sup> <http://hudoc.echr.coe.int/eng?i=001-71594>.

See, e.g., *Stoica v Romania* (2008), § 122 (finding a violation of Article 14 based, in large part, on racist statements contained in a police report).

20. In *R.R. and R.D. v Slovakia* (2020), the Court examined whether or not the planning of the police operation, during which the Romani applicants suffered injuries, was contaminated by racism. However, due to a lack of any investigation in this regard, the Court had to hold that: “*In these circumstances, and taking into account the material in its possession as well as the applicable standard of proof (see, mutatis mutandis, Nachova and Others v. Bulgaria [GC], nos. 43577/98 and 43579/98, § 147, ECHR 2005 VII, with further references), the Court is unable to take a position on whether racist attitudes played a role in the planning of the operation of 19 June 2013.*”
21. Without naming it as such, the Court has frequently dealt with antigypsyism in police and prosecutors’ offices. See, e.g., *Nachova and others v Bulgaria* (Grand Chamber, 2005) and *Šečić and others v Croatia* (2009). In these cases, the Court found violations of Article 14, taken with the procedural limb of Article 2 or Article 3, resulting from the failure to unmask the racist motives that appeared to lay behind violence against Roma. However, ineffective investigation of racial motive is only one part of the problem of institutional antigypsyism. For example, in *Nachova and others*, the Court found that there had been a failure to adequately investigate the deaths of two Romani men (a violation of the procedural limb of Article 2, taken on its own, §§ 114-119). The Court separately found a violation of Article 14 taken with the procedural limb of Article 2 because of the failure to adequately investigate the racist motives behind the killings (§§ 162-168). This second finding was a truism: it would be difficult to imagine an investigation into the death or ill-treatment of a Romani person that was ineffective in general yet effective in unmasking any racist motive. See also *Šečić and others v Croatia* (2009) (finding, first, a violation of the procedural limb of Article 3 and then, separately, a violation of Article 14 taken with the procedural limb of Article 3).
22. The ERRC notes that the Court’s analysis under Article 14 taken with Article 3 has gone further in the area of inadequate police responses to gender-based violence. In *Opuz v Turkey* (2009), the Court concluded “*that domestic violence is tolerated by the authorities and that the remedies indicated by the Government do not function effectively*” (§ 196), also noting that “*the general and discriminatory judicial passivity in Turkey created a climate that was conducive to domestic violence*” (§ 197). See also *Halime Kılıç v Turkey* (2016), § 120 (“*En fermant régulièrement les yeux sur la répétition des actes de violences et des menaces de mort dont la fille de la requérante était victime, les autorités internes ont créé un climat propice à cette violence*”). The Court, in essence, found institutional sexism in the Turkish institutions responsible for protecting women from gender-based violence. The ERRC notes, in particular, that in those cases (*Opuz* and *Halime Kılıç*) the Court did not find it necessary to consider specifically whether the procedural or the substantive limb of Article 2 was engaged.
23. When faced with institutional antigypsyism of the kind described above in policing in Greece, the ERRC urges the Court to make the equivalent finding in individual cases of police brutality against Roma: institutional antigypsyism among police is responsible for a violation of Article 14 taken with (as appropriate) Articles 2 or 3.
24. The question is not whether there is enough evidence to meet the “beyond reasonable doubt” standard that police violence was due to discrimination, or whether there has

been a failure properly to investigate racist motives; it is whether the incident took place in a context where the authorities, aware of problems of racism against Roma, allow police forces contaminated with institutional antigypsyism to act with impunity (i.e. whether "*les autorités internes ont créé un climat propice à cette violence*").

25. The ERRC believes there is sufficient evidence of the existence of institutional antigypsyism in policing in Greece. The very same form of racism deprives Roma of access to the evidence with which they could prove that police violence in a specific case was due to discrimination. Thus, individual cases of police brutality against Roma should be considered as a part of a larger pattern which must be recognised as such if States are to fulfil their obligations under Articles 1 and 46 § 1 of the Convention. In such circumstances, a finding of a more global violation of Article 14 taken with Article 3 (or Article 2) by the Court would be more appropriate. Such a finding is more likely to ensure that the Court's judgments lead to the systemic changes at domestic level that will make it unnecessary to bring similar complaints to Strasbourg in the future.
26. The ERRC also asks the Court to take into account the notion of **harassment as a form of discrimination** when deciding on potentially discriminatory policing. Under EU law (Article 2(3) of the 2000/43/EC Directive), harassment occurs "*when an unwanted conduct related to racial or ethnic origin takes place with the purpose or effect of violating the dignity of a person and of creating an intimidating, hostile, degrading, humiliating or offensive environment*". Under EU law and the law of most member States of the Council of Europe, harassment is another form of discrimination prohibited by law, after direct and indirect discrimination. Like "indirect discrimination", this is a vital notion of anti-discrimination law that must inform the analysis of whether there has been a violation of Article 14 taken with another provision of the Convention. See, mutatis mutandis, *D.H. and others v Czech Republic* (Grand Chamber, 2007), §§ 81-91.
27. When police target Roma for physical and/or psychological abuse as part of a police culture contaminated by institutional antigypsyism, their actions meet the definition of harassment. By their very nature, such actions offend the dignity of the victims and intimidate, degrade, and humiliate them in a way related to their ethnicity. Harassment may provide the most appropriate lens through which to consider such incidents.

#### **D. Lack of effective remedy for police misconduct**

28. There is a widespread practice of mishandling investigations when Roma are (or allege to be) victims of illtreatment or torture by the police in Greece. The list of well-known but mishandled cases where domestic investigation was ineffective are the best evidence that the state party lacks an effective remedy to adequately address police misconduct, especially when racially motivated. In the case of **Thanasis Panayotopoulos, Yannis Bekos, and Vasilis Loukas**, three young Roma who complained they had been tortured by the Western Attica Hellenic Police Division, despite the plaintiffs asking that police officers to be interrogated, asking prosecutors for a forensic investigation, and filing a complaint together with the Athens Special Prosecutor on Racist Violence and with the Greek Ombudsman, they were totally



ignored.<sup>21</sup> On the contrary, more than two months after the filing of the complaint, the Roma were asked to testify about their allegations in the framework of an internal police investigation to a local police station subordinated to the police division where they claimed to have been tortured. Later, the criminal investigation was assigned to a judge in January 2019 who did not summon the victims to testify, nor did he ask for a forensic examination: he merely took defense statements. When the judge closed the investigation in February 2019 he refused access to the complete file to the lawyer representing the victims, in violation of the law, giving him only the defence statements. The prosecutor to whom the file was then assigned in March 2019 has also refused access to the file, again in violation of the law. The Ombudsman to whom a complaint was filed in late 2016 never took any action and archived the complaint as they had lost the documents submitted. In the case of **Nikolaos Katsaris v. Greece**<sup>22</sup> (Communication No. 1558/2007), a Romani man who was subjected to racially motivated humiliation as well as physical and psychological ill-treatment by Greek police officers based on his Romani ethnic origin, the Human Rights Committee stated that “in the light of the multiple, unexplained and serious shortcomings of the preliminary investigations, including the fact that the authors complaint of 27 October 1999 was ignored by the Prosecutor of First Instance, the absence of any forensic medical examination, the discrepancies with regard to the arresting officers which cast doubts on the thoroughness and impartiality of the investigations, the alleged use of discriminatory language by investigating authorities to refer to the author or his way of life; and the length of the preliminary investigations, the Committee concludes that the State party has failed in its duty to promptly, thoroughly, and impartially investigate the author’s claims.” In the Case of **Andreas Kalamiotis v. Greece** (Communication No. 1486/2006) the UN HRC held that Greece failed to provide a Romani victim of police brutality with an effective remedy and appropriate reparation, thus violated his right to an effective remedy read together with the prohibition of torture of the International Covenant on Civil and Political Rights. The Hellenic Police carried out a preliminary informal investigation without hearing the victim and his witnesses and rejected the Greek Ombudsman’s recommendation for a formal Sworn Administrative Investigation. The criminal investigation was concluded with a decision by a Judicial Council of Misdemeanors of Athens to drop charges, based primarily on the defendant police officer’s arguments as the Roma witnesses never testified.<sup>23</sup> In the **Bekos-Koutropoulos case**, the conclusion of the EDE (Sworn Administrative Investigation) to impose severe sanctions on two police officers should have been accepted by the Chief of Police, rather than merely replace them with a small fine for one of the officers; and the racist motive should have been investigated. While, in the **Petropoulou-Tsakiri case**, an EDE was required and carried out by a senior police officer not involved in the operation, with statements by the victim and all possible witnesses, instead of the informal investigation carried out by an officer involved in the operation and with statements only by the five police officers involved; a forensic examination

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<sup>21</sup> For details see: [https://www.omct.org/files/2019/07/25442/submission\\_greece.pdf](https://www.omct.org/files/2019/07/25442/submission_greece.pdf)

<sup>22</sup> See: [https://www2.ohchr.org/english/bodies/hrc/docs/CaseLaw/CCPR-C-105-D-1558-2007\\_en.doc](https://www2.ohchr.org/english/bodies/hrc/docs/CaseLaw/CCPR-C-105-D-1558-2007_en.doc).

<sup>23</sup> <https://www.omct.org/en/resources/urgent-interventions/un-body-finds-greece-did-not-provide-effective-remedy-to-roma-victim-of-police-violence>.

should have also been sought, and the racist motive should have been impartially investigated.

29. The National Commission for Human Rights (NCHR) already concluded in a special report on tackling racist violence in Greece by the police and the justice system that the “racist violence could not be dealt [with] effectively without a complete change in the way that the police handled such cases”.<sup>24</sup> It is commendable that during Greece’s review by the Human Rights Council for the UPR, on 3 May 2016, that the head of the Greek state delegation stated that: “We recognise that there has been a pattern of excessive use of force and non-accountability by State agents.” There is moreover ample evidence on the persistence of widespread torture or ill-treatment by law enforcement officers and related impunity.<sup>25</sup>
30. The statistical data on complaints relating to torture and ill-treatment allegedly committed by law enforcement officials and on related investigations, prosecutions, convictions, and on the penal or disciplinary sanctions applied without any disaggregation provided by the State for 2015-2016, indicate that out of 140 complaints for violence and abuse there were imposed 11 final unspecified “lower disciplinary penalties” (i.e. likely small fines) while no one was convicted by a court, which seems to be clear evidence of impunity.<sup>26</sup>
31. The UN CAT Committee in its 2019 concluding observations on Greece reported that between 2012 and 2018 six court cases were brought for acts of torture, which resulted in five convictions, with prison sentences ranging from one to seven years. However, the Committee has not received comprehensive information about the disciplinary sanctions imposed on the offenders, nor an indication of whether the alleged perpetrators of those acts have been removed from public service pending the outcome of the investigation of the complaints.<sup>27</sup>
32. Article 13 of the Convention requires remedies to be “effective” not only in law but also in practice. See: *Ilhan v Turkey*, 2000, § 97. In light of the information mentioned above, the ERRC believes that Greek authorities have been systematically failing to comply with their obligation to provide effective remedy to Romani victims of violent acts as required by the procedural limb of Articles 2 or 3 of the Convention.

The European Roma Rights Centre  
05 October 2021



<sup>24</sup> [http://www.nchr.gr/images/English\\_Site/Ektheseis/eng2011.pdf](http://www.nchr.gr/images/English_Site/Ektheseis/eng2011.pdf)

<sup>25</sup> [https://www.omct.org/files/2019/07/25442/submission\\_greece.pdf](https://www.omct.org/files/2019/07/25442/submission_greece.pdf)

<sup>26</sup> *Ibid.*

<sup>27</sup> Concluding observations (2019) CAT/C/GRC/CO/7. Available at: [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/GRC/CO/7&Lang=En](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CAT/C/GRC/CO/7&Lang=En)