

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

- 56.
1. The applicants are thirty-seven Romanian citizens of Roma ethnic origin (ten families). Twenty-one of the applicants are children. One of them (applicant no.12) is seven months pregnant. Two of the applicants (nos.11 and 33) have disabilities.
 2. Until September 2013, the applicants lived on Agricola Street in Eforie (Romania). On 27 September 2013, the applicants' homes, along with those of other Roma living in the city (a community of some 100 people who mainly identify as Muslim, Turkish Roma), were demolished on the orders of the Mayor of Eforie. According to media reports, about eighty law enforcement officers were present and they threatened those being evicted. See Annexes 1 and 2 (videos). The Mayor of Eforie, in an interview at the time, referred to the houses as an "infection" and compared the inhabitants to "stray dogs". The applicants, who were threatened during the eviction, notably by the Deputy Mayor, were left street homeless. See Annex 3. The applicants tried in vain to stop the eviction by asking an administrative court to suspend the eviction order, but the court did not react in time. The applicants are continuing to challenge the lawfulness of the eviction before the administrative courts (the Constanța Tribunal – case no.6104/118/2015).
 3. On 3 October 2013, the applicants were offered shelter in an abandoned school. On 16 July 2014, the authorities in Eforie evicted the applicants again, moving the families to eight containers each measuring 16 square metres. The applicants are still living in those containers. In addition to being too small to accommodate the applicants comfortably, the containers initially lacked water, basic sanitation, and electricity supplies. The containers were supplied with these utilities at some point after the applicants moved into them.
 4. In October 2014, tenancy agreements were concluded for these containers (Annex 4) between the municipality and seven of the adult applicants (nos.1, 5, 11, 13, 17, 25 and 32). An eighth container is rented to Mr Sever Memet, who is not an applicant in this case as he could not be reached. With some exceptions, these agreements also cover the immediate family of the signatory tenant.
 5. The tenancy agreements were prolonged until October 2015 (Annex 5).
 6. The rent for each container is approximately 19 RON per month (4.25 EUR).
 7. In August 2015, the municipality informed the applicants that they had accrued debts following their failure to pay their electricity and water bills. The applicants insist that they were unaware of the amounts they owed for electricity and water before August 2015. They learned at that time that they were being charged approximately 445 RON (100 EUR) per person for these utilities (see Annex 6). The applicants do not know what period of time the charges relate to, and they remain unaware of how much they owe for utilities on a monthly or yearly basis. See, also, below, § 14. The applicants have no regular income apart from child benefit payments of 80 RON (18 EUR) per child per month. Some of the applicants (such as applicant nos.11 and 33) are eligible for disability benefits but are not yet in receipt of those benefits; their applications are still being processed.
 8. In August 2015, the applicants, having been summoned by the municipality, signed papers agreeing to pay the bills within one month in order to avoid eviction (Annex 7). They were unable to pay.
 9. On 1 March 2016, unbeknown to the applicants, the local council of Eforie approved decision no.36 (Annex 8). The decision approves the eviction of some of the applicants from four containers due to failure to pay their electricity and water bills. The decision does not require or even mention any provision of alternative accommodation for the applicants. The applicants have only obtained the full text of decision no.36 as a result of the Rule 39 proceedings in this case. It was only at that point that it became clear that the local council had approved the eviction of just four of the families; the applicants originally (at the time of their Rule 39 application) believed the decision targeted all of the families.

Statement of the facts (continued)

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10. At some point after 15 March 2016, the authorities tacked eviction notices onto the containers (Annex 9). The notices required all the applicants to vacate the premises by 30 March 2016, hand them over, and pay all "taxes" (in Romanian, "taxe") owed in respect of the properties. On 28 March 2016 sixteen employees of the municipality came to the applicants' homes and told them to pack their belongings. The notices and subsequent oral notification did not distinguish between the four families named in decision no.36 (see above § 9) and the other families.

11. On 29 March 2016 the applicants initiated administrative proceedings before the local authority and the administrative courts (Annex 11) to challenge the decision of 1 March 2016 and secure an interim measure to stop the eviction (registered as case no.2141/118/2016). As a matter of domestic law, these challenges did not have automatic suspensive effect. On the same date, the applicants asked the Court to indicate to the Romanian Government that the eviction should not take place.

12. On 30 March 2016 the European Court of Human Rights indicated an interim measure to the Romanian government under Rule 39 of the Rules of the Court. Consequently, on 31 March 2016 the Constanța County Prefect challenged Eforie local council decision no. 36 before the Constanța County Court (case no. 2189/118/2016). This action automatically suspended the local council decision for the duration of those proceedings.

13. On 6 April 2016 the Mayor of Eforie responded to the applicants' preliminary administrative complaint (Annex 12). It is unclear to the applicants why this response came from the Mayor and not from the local council, to whom the complaint was addressed and who was supposed to convene and consider it.

14. The response says that the eviction measures have been stopped. It is unclear from the wording (in Romanian, "am sistat") whether this is a temporary or a permanent suspension. According to Romanian administrative law, an administrative act, such as decision no.36, may be revoked following a preliminary complaint. It does not appear from the response that decision no.36 has been revoked. The response emphasises that only some of the applicants were to be evicted in accordance with decision no.36. The response does not make clear how these families were selected for eviction. The response also asserts that the applicants have not sought the renewal of their tenancy contracts since October 2015. This is incorrect. The applicants have inquired about the renewal of their contracts and have been told that this was impossible in the absence of a new council decision. The response also mentions that the local council had agreed to pay the utilities up to 31 March 2015 out of the local budget. Romanian law allows local authorities to subsidise utilities for socially marginalised people. It is unclear why the local council has not continued to do so since March 2015, nor is it clear during which period the applicants have accumulated the debts they allegedly owe.

15. The applicants note that Eforie has a large stock of social housing. According to information on the website of the Ministry of Regional Development and Public Administration (<http://www.mdrap.ro/lucrari-publice/-1763/-8348>), the city created 120 units of social housing in 2009 and is close to completing another 124 units. This means that at present, Eforie has about 1 social housing unit per 100 inhabitants, compared with 1 unit for about every 1,900 inhabitants that exists in Bucharest (see information available in a policy paper available at http://www.gasesteocasa.ro/library/main/Raport/PP_Gaseste_O_Casa_v01_WEB.pdf).

Statement of the facts (continued)

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

59. Article invoked	Explanation
	<p>16. The applicants stress at the outset that the gravamen of their complaint is not the potential eviction, but the threat of eviction, which came in the form of the eviction notices they all received (statement of facts, § 10; Annex 9). To the extent to which the threat of eviction without any provision of alternative housing still hangs over the applicants, the applicants invite the Court separately to find a potential violation, on the basis of the same principles set out in this application.</p>
Article 3	<p>17. The applicants allege that the threat of eviction in itself amounts to a breach of Article 3. In particular, threatening people with eviction on such short notice (less than 15 days) whilst failing to offer any alternative adequate housing solution and/or support amounts to inhuman and degrading treatment for people who are considered, under the Court's case law, to be particularly vulnerable (Roma). See <i>M.S.S. v Belgium and Greece</i> (Grand Chamber, 2012), § 251 (on leaving vulnerable people homeless); <i>D.H. and others v Czech Republic</i> (Grand Chamber, 2007), § 182 (on the specific vulnerability of Roma). Article 3 is moreover applicable to the present case given that the authorities originally evicted the applicants and have subsequently housed them for several years, making the authorities responsible for the applicants' ongoing housing conditions; see, <i>mutatis mutandis</i>, <i>Moldovan and others (no 2) v Romania</i> (2005), § 104. The applicants recall the Court's emphasis on "the necessity, in the event of the forced eviction of Roma and travellers, of providing them with alternative housing, except in cases of force majeure". <i>Winterstein v France</i> (2013), § 159. In this case, the applicants, who are Roma, are facing a risk of eviction and there is no intention to provide them with alternative housing. This is not a case of force majeure; indeed, there is no clear reason why the applicants are being evicted now. See <i>M.S.S. v Belgium and Greece</i> (Grand Chamber, 2011), § 253; <i>Sufi and Elmi v the United Kingdom</i> (2001), § 279.</p>
Article 8	<p>18. The applicants further allege that the threat of eviction amounted to an interference with their right to respect for private and family life and home. The interference is not in accordance with Article 8 § 2 of the Convention in two respects.</p> <p>19. First, it is "not in accordance with the law". All of the applicants were threatened with eviction (statement of facts, § 10), even though most were not named in the local council's decision (Annex 8); the eviction therefore had no legal basis in respect of those applicants not named in the decision. In respect of those applicants who were named in the decision, the applicants assert that they appear to have been selected arbitrarily; no indication has been given as to why those families in particular were targeted. Those applicants are also uncertain about how much money they owe for utilities and for what period of time (statement of facts, § 14). In these circumstances, the legal basis for the eviction of these applicants is so uncertain as to fail to meet the "quality of law" requirement inherent in Article 8 § 2. See <i>Andersson v Sweden</i> (1992), § 75.</p> <p>20. Secondly, the interference is disproportionate, and therefore not necessary in a democratic society. No alternative housing was proposed and the authorities have not taken into account the vulnerable situation of the applicants, most of them Roma, some of whom have disabilities, and one whom is pregnant (see <i>Winterstein v France</i> (2013), § 87 and § 150; <i>Buckley v United Kingdom</i> (1996) § 76; <i>D.H. v Czech Republic</i> (2007) § 181; <i>Yordanova and others v. Bulgaria</i> (2012) § 130). Prior to issuing the eviction notice, the Eforie authorities did not conduct any balancing between the necessity of evicting the applicants and the consequences of this measure, which include rendering families with small children street homeless. See, <i>mutatis mutandis</i>, <i>Connors v United Kingdom</i> (2004), §§ 86, 94. The applicants also note the complete failure to comply with any of the procedural requirements for forced evictions set out in the Court's judgment in <i>Winterstein v France</i> (2013), § 148.</p>

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

60. Article invoked	Explanation
Article 13 (read in conjunction with Articles 3 and 8)	<p>21. The applicants allege that they do not enjoy an effective remedy against the breaches of Articles 3 and 8 about which they are complaining. This is addressed further below in relation to the exhaustion of domestic remedies, the applicants recalling the affinity between the requirement on applicants to exhaust domestic remedies and the guarantee contained in Article 13. <i>Selmouni v France</i> (1999), § 74. For the purposes of this section of the application, the applicants note that they have an arguable claim that issuing the eviction notice violates Article 3 of the Convention (see above), and that the eviction itself, if enforced, would breach Article 3. In cases where a person has substantial grounds to believe she is at real risk of a breach of Article 3, the Convention guarantees her a remedy with automatic suspensive effect. <i>M.S.S. v Belgium and Greece</i> (Grand Chamber, 2011), § 293. To the extent that the Court may wish to consider the eviction notices under Article 8 of the Convention, the applicants allege that an interference of this kind is so serious that it falls into the category of Article 8 violations where remedies with automatic suspensive effect are required. See, <i>mutatis mutandis</i>, <i>Al-Saadoon v United Kingdom</i> (2010), § 160 (noting that in exceptional Article 8 cases it is appropriate to indicate interim measure under Rule 39 of the Rules of Court); <i>Winterstein v France</i> (2013), § 148(δ) (indicating that someone facing the loss of her home is entitled to have the proportionality of the measure considered by an independent tribunal). In the present case, the applicants were not informed at all in the eviction notices about how, where, and when they could challenge them. See, <i>mutatis mutandis</i>, <i>M.S.S. v Belgium and Greece</i> (Grand Chamber, 2011), §§ 304-309; <i>Hirsi Jamaa and others v Italy</i> (2012), § 204. In any event, domestic law does not provide any remedy with automatic suspensive effect against such an administrative act. The applicants have lodged a request for an interim measure with the administrative courts, but this could not, in itself, have suspended the eviction. The fact that the Constanța County Prefect, unusually (and after the Court indicated an interim measure under Rule 39) challenged the eviction decision, thus automatically suspending it, does not cure the defect in the system: the lack of automatic suspensive effect against eviction orders of this kind. See, <i>mutatis mutandis</i>, <i>Čonka and others v Belgium</i> (2002) § 83 (“the requirements of Article 13, and of the other provisions of the Convention, take the form of a guarantee and not of a mere statement of intent or a practical arrangement”); <i>Gebremedhin v France</i> (2006), § 63.</p>
Article 14 (read in conjunction with Articles 3 and 8)	<p>22. The applicants allege that they have suffered treatment contrary to Articles 3 and 8 based on their Roma ethnicity, resulting in a breach of Article 14 taken with those articles. The fact that the applicants were treated differently based on their Roma ethnicity is obvious from the very fact that only Roma are housed in these containers, while the city of Eforie has a comparatively large stock of social housing. See above, § 15, and, <i>mutatis mutandis</i>, <i>Oršuš and others v Croatia</i> (Grand Chamber, 2010), § 153. The applicants do not believe the authorities will be able to show that non-Roma social tenants are treated similarly, or put forward any reasonable justification for segregating the applicants by ethnicity and subjecting them to repeated evictions. The applicants also note that from the very beginning of this cycle of forced evictions, when their houses were demolished in 2013, the authorities have created a hostile environment for the applicants based on their race. For example, during the first eviction, the Deputy Mayor of Eforie threatened the applicants with physical harm if they did not leave their homes willingly (Annex 3). The Mayor himself referred to the applicants' original homes as an "infection" and compared the applicants to "stray dogs", comments which have clear racial overtones, given the widespread climate of Antigypsyism in Romania. <i>Ciorcan and others v Romania</i> (2015), §§ 76-81, 164. The Court's practice is to take into account this context when considering complaints about discrimination. See, <i>mutatis mutandis</i>, <i>Bączkowski and others v Poland</i> (2007), § 100. The applicants assert that the threat of eviction, in these circumstances, amounts to harassment, a form of discrimination (see, e.g., EU Directive 2000/43, Article 2(3)).</p>

G. Compliance with admissibility criteria laid down in Article 35 § 1 of the Convention

For each complaint, please confirm that you have used the available effective remedies in the country concerned, including appeals, and also indicate the date when the final decision at domestic level was delivered and received, to show that you have complied with the six-month time-limit.

61. Complaint	Information about remedies used and the date of the final decision
This section applies to all of the applicant's complaints: Article 3; Article 9; Article 13 (read in conjunction with Articles 3 and 8); and Article 14 (read in conjunction with Articles 3 and 8).	23. The applicants recall their argument that the threat of eviction violated Article 3 of the Convention; if the eviction were carried out, that would amount to a separate breach of Article 3. In such circumstances, Article 13 requires a remedy with automatic suspensive effect. Likewise, the interference with the applicants' Article 8 rights is so serious that it falls into that category of Article 8 violations where remedies with automatic suspensive effect are required. See above, § 21.
	24. There was no remedy in Romanian law with automatic suspensive effect against the impugned threat of eviction. While the unusual intervention of the Constanța County Prefect, following the interim measure indicated by the Court under Rule 39, has suspended the eviction, this is not a remedy directly available to the applicants. On this basis alone, the applicants submit that their request to the Court is appropriate.
	25. The applicants have requested an interim measure from the domestic courts (Annex 11). On 31 March 2016 the Constanța County Court, in accordance with the preliminary verification provided for in Article 200 of the Civil Procedure Code (requiring the judge to verify whether the application complies with the formal requirements set out in Articles 194-197) asked the applicants to provide further documents within 10 days (Annex 13). This request was received by the applicants' representative on 5 April and the requested documents were submitted on 13 April. The complaint was forwarded to the local council on 11 April 2016, and they have been given until 21 April 2016 to reply.
	26. Almost a month after the application for the interim measure, no hearing has yet been held in the case. The applicants submit that the procedure under Article 14 of the Administrative Proceedings Law which requires the court to summon the parties, as well as the verification procedure under Article 200 of the Civil Procedure Code, make it nearly impossible for the administrative courts to react to an imminent threat of eviction; in particular, these provisions impose requirements to submit documents such as original powers of attorney by post. In these circumstances, the applicants claim that the burden is on the Government to show there is an effective remedy. See, <i>mutatis mutandis</i> , <i>Mikolajová v Slovakia</i> (2011), § 34.
	27. Having received the response of the Eforie Municipality to their preliminary administrative complaint on 18 April 2016, the applicants are in the process filing a court challenge against it and will inform the Court as soon as they do so.
	28. The applicants note that theoretically, Romanian law can be interpreted as ensuring access to court proceedings in circumstances such as these: Article 1041 of the Civil Procedure Code prescribes a judicial procedure for evictions. Yet there is no indication in the municipality's response to the preliminary administrative complaint or from their past actions that they intended to comply with domestic law in this respect. The applicants recall that in July 2014 they were forcibly evicted from an abandoned school where they were being housed and then rehoused in these segregated containers against their wishes and without the requisite judicial proceedings. Romanian law does not offer any injunctive remedy against unlawful conduct of this kind (as opposed to the injunctive relief that can be obtained against unlawful administrative proceedings, described above at § 25). The interim measure provided for in Article 997 of the Civil Procedure Code ("ordonanța președințială") is predicated on the plaintiff being able to file an application on the merits asserting the same rights. This was not the applicants' case, given that any theoretical injunction would have been granted on the basis of a finding that the municipality can only evict them through judicial proceedings, as required by Article 1041; this is not a "right" that can be asserted in civil court.