



CENTRE ON
HOUSING RIGHTS
AND EVICTIONS



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December 1, 2003

Secretariat of the European Social Charter
Directorate General of Human Rights – DG II
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Comments of the European Roma Rights Center (ERRC) and the Centre on Housing Rights and Evictions (COHRE) on the occasion of the Article 16 Review of Greece, Hungary and Turkey under the European Social Charter supervision cycle XVII-1.

I. STANDING OF THE EUROPEAN ROMA RIGHTS CENTER (ERRC) AND THE CENTRE ON HOUSING RIGHTS AND EVICTIONS (COHRE)

The European Roma Rights Center (ERRC) is an international non-governmental organisation which has consultative status with the Council of Europe. The ERRC has had standing with the ESC collective complaint mechanism since June 2002. The ERRC is a Budapest-based international public interest law organisation which monitors the human rights situation of Roma in Europe and provides legal defence in cases of abuse. Since its establishment in 1996, the ERRC has undertaken first-hand field research in more than a dozen countries and has disseminated numerous publications, from book-length studies, to advocacy letters and public statements. With respect to the three countries under review here:

- The ERRC undertakes regular monitoring of the situation of Roma in Greece in partnership with the non-governmental organisation Greek Helsinki Monitor (GHM) and has done so since 1997. In April 2003, the ERRC published a comprehensive report on the situation of Roma in Greece, focussing in particular *inter alia* on housing rights issues;
- The ERRC has a staff member devoted to regular legal monitoring of the situation of Roma in Hungary. During 2002 and 2003, the ERRC has been carrying out intensive research into the housing rights of Roma in Hungary, with support from the British embassy in Budapest and the Norwegian Ministry of Foreign Affairs;

- In recent years, in response to human rights emergencies in Turkey, the ERRC has undertaken a number of intensive field missions to Turkey from its Budapest. In addition, the ERRC has engaged local monitors for periods of time to document human rights issues related to Roma in Turkey.

ERRC publications, as well as additional information about the organisation, are available on the Internet at: <http://www.errc.org>.

The Centre on Housing Rights and Evictions (COHRE) is a leading international non-governmental human rights organization committed to promoting practical legal and other solutions to endemic problems of homelessness, inadequate housing and living conditions, forced evictions and other violations of economic, social and cultural rights. COHRE places particular emphasis on securing respect for the rights of groups that have traditionally faced discrimination. COHRE is registered as a not-for-profit foundation in the Netherlands with eight offices in Europe, Asia and the Pacific, Africa, Latin America, and the United States. COHRE has consultative status with the Council of Europe.

COHRE has worked in numerous European countries. For example, COHRE has designed housing and property restitution laws and institutions in various European post-conflict situations as well as undertaking fact-finding missions in Latvia, Turkey, Serbia-Montenegro, Kosovo, the Netherlands and United Kingdom. COHRE regularly works with and assists national-level non-governmental organisations in Western Europe (particularly Ireland, United Kingdom, Netherlands) and Central and Eastern Europe and South-Eastern Europe (particularly Bulgaria, Hungary, Serbia, Croatia, Bosnia, Turkey, Czech Republic). COHRE has a particular focus in Europe on the housing rights of Roma, Travellers, the homeless, refugees, returnees and people living with HIV/AIDS as well as inheritance rights of women in South-Eastern Europe. For further information see www.cohre.org.

II. PURPOSE OF THE PRESENT SUBMISSION

It is the understanding of the ERRC and COHRE that Greece, Hungary and Turkey are presently under review by the European Committee of Social Rights for their compliance with Article 16 of the 1961 Social Charter.¹ Greece deposited a declaration with the Council of Europe on June 4, 1984, stating that it had ratified the European Social Charter (hereinafter “ESC”). Hungary deposited a similar declaration on July 8, 1999. Turkey deposited a declaration on its ratification of the ESC on November 24, 1989. The ERRC and COHRE herewith submit comments to the European Committee of Social Rights for consideration during review of the compliance of these three countries with Article 16 of the ESC, in particular in relation to the right to adequate housing. This submission is not a comprehensive review of all issues related to Article 16 in the three named countries. It will focus only on issues related to the right of Roma to adequate housing in Greece, Hungary and Turkey, as protected by Article 16 of the European Social Charter.

Housing is fundamental for the development of family life. In order to ensure the necessary conditions for the full development of the family, which is a fundamental unit of society, Contracting States Parties have undertaken, in accordance with Article 16 of the ESC, to promote the economic, legal and social protection of family life by means such as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married, and by other appropriate means.

The "full development of family life" also requires the full recognition and realization of the right to adequate housing. The previous Committee of Independent Experts overseeing the ESC acknowledged the central role of the right to adequate housing in Article 16. In its Conclusions XII-1(p.30), the Committee, "stressed the need to consider family welfare in terms of the right to receive adequate housing and essential services (such as heating and electricity), these being necessary for the welfare

¹ Article 16 of the ESC states: “With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Contracting Parties undertake to promote the economic, legal, and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means.”

and stability of families".² The United Nations Committee overseeing the International Covenant on Economic, Social and Cultural Rights (ICESCR) -- ratified by Greece, Hungary and Turkey -- reached a similar conclusion, deriving the right to adequate housing from the "right to an adequate standard of living, including adequate food, clothing and housing".³ Greece, Hungary and Turkey have also ratified the International Covenant on the Elimination of All Forms of Racial Discrimination (1965),⁴ where they have undertaken "to prohibit and eliminate racial discrimination in all of its forms and to guarantee the right of everyone ... to equality before the law, notably in the enjoyment of the following rights: ... (iii) the right to housing".⁵

The commitment by States in Article 16 cannot be fulfilled by enacting laws, ordinances or directives, or by undertaking policies or practices that strike at the fundamental basis of family existence, namely the need for security, privacy and shelter, and freedom from racial and other discrimination. Security, privacy and shelter, as well as freedom from racial and other discrimination constitute the foundation not only for family stability but also for the successful realisation of other basic human rights.

In addition, the protections offered by Article 16 of the 1961 Charter, taken together with the broadened base of the right to housing provided under Article 31 of the Revised Social Charter (hereinafter "RESC"),⁶ indicate that the quality and force of the right to housing flowing from the text of Article 16 is arguably stronger than when the 1961 Charter was originally adopted. Greece signed the RESC on May 3, 1996.

Furthermore, the Preamble to the 1961 ESC states, "the enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin". By including within its ambit "social rights" and not only the rights guaranteed under the 1961 ESC, the ESC non-discrimination clause arguably extends beyond the particular rights provided in the 1961 ESC to the full range of social rights secured under the international human rights instruments.

Additionally, Article 16 of should be read in light of the Preamble of the ESC, which requires Contracting Parties to pursue by *all appropriate means* the attainment of the provisions of the ESC. The phrase "all appropriate means" encompasses at minimum an understanding that the Party must refrain from practices that are in contravention of the ESC; that the Party review legislation and policy to ensure that no laws or other regulations or practices contravene its commitments under the ESC or provide a framework for violations of such commitments; and that the Party must ensure that the law is enforced against its agents or against third parties engaging in practices that are in contravention of

² Quoted in Lenia Samuel, *Fundamental Social Rights: Case Law of the European Social Charter*, Council of Europe, 1997, at p.352.

³ See Committee on Economic, Social and Cultural Rights (CESCR). General Comment 4: The right to adequate housing (Art. 11.1 of the Covenant). December 13, 1991, paragraph 1. Article 11(1) of the International Covenant on Economic, Social and Cultural Rights (ICESCR) states, "The States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent." Further, the African Commission on Human and Peoples' Rights concluded that the right to adequate housing was implicitly recognised in rights to protection of family life and property: see *SERAC & CESR v Nigeria*, African Commission on Human Rights, Case No. 155/96, 30th Session at paragraphs 59 and 65.

⁴ See Article 5(e)(iii).

⁵ See Article 5(e)(iii).

⁶ Article 31 of the Revised Social Charter states: "With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed: 1. to promote access to housing of an adequate standard; 2. to prevent and reduce homelessness with a view to its gradual elimination; to make the price of housing accessible to those without adequate resources."

the ESC. Additionally, “all appropriate means” include the adoption of legislative measures in order to promote the right of family to appropriate social, legal and economic protection to ensure its full development.

The ERRC and COHRE are concerned that, at present, none of the countries under review meet their commitments with respect to the ECS -- and in particular with respect to Article 16 -- due to widespread reports and extensive documentation concerning abuses of the housing rights of Roma. Roma in all three countries at issue here frequently live in segregated areas lacking basic security of tenure and where substandard conditions prevail. Such settlements are generally characterised by inadequate infrastructure and limited access to public services. Roma in such segregated areas and elsewhere frequently suffer forced eviction, abusive police raids and destruction of property. In a number of instances, the purpose and/or effect of forced evictions is to relocate Roma to racially segregated areas. Few of the Roma with whom the ERRC has met have been provided restitution or compensation for gross violations of housing rights, and in particular forced evictions.⁷ In addition, all three of the countries concerned either have deficient legislation ensuring protection from housing rights abuses -- including racial discrimination in the field of housing -- or actually have or have recently had *prima facie* racially discriminatory housing legislation. By pursuing policies of racial segregation and forced eviction and failing to secure adequate living standards for a large number of Roma, the States Parties concerned have fallen significantly short of their obligations under the ESC where Roma are concerned.

III. PRIMARY ISSUES OF CONCERN

Matters Relating to Legal Protections of the Housing Rights of Roma

In all three of the countries at issue, there are causes for concern with regard to existing legal protections of the housing rights of Roma and/or legislation governing related areas.

Greece

Until as recently as July 2003, when it was reportedly amended to remove its most obnoxious provisions, a 1983 Ministerial Decree entitled “Sanitary provision for the organised relocation of wandering nomads”⁸, prohibited Roma from living amongst the rest of the Greek population, rendering Roma susceptible to forced evictions, abusive police raids and destruction of property. Although the Decree was reportedly amended in July 2003, there are no indications that Greek

⁷ Special Rapporteur Mr M. Cherif Bassiouni, in his final report to the United Nations Commission on Human Rights on “The right to restitution, compensation and rehabilitation for victims of gross violations of human rights and fundamental freedoms”, found, “15. Adequate, effective and prompt reparation shall be intended to promote justice by redressing violations of international human rights or humanitarian law. Reparation should be proportional to the gravity of the violations and the harm suffered. 16. In accordance with its domestic laws and international legal obligations, a State shall provide reparation to victims for its acts or omissions constituting violations of international human rights and humanitarian law norms. 17. In cases where the violation is not attributable to the State, the party responsible for the violation should provide reparation to the victim or to the State if the State has already provided reparation to the victim. [...] 21. In accordance with their domestic law and international obligations, and taking account of individual circumstances, States should provide victims of violations of international human rights and humanitarian law the following forms of reparation: restitution, compensation, rehabilitation, and satisfaction and guarantees of non-repetition. 22. Restitution should, whenever possible, restore the victim to the original situation before the violations of international human rights or humanitarian law occurred. Restitution includes: restoration of liberty, legal rights, social status, family life and citizenship; return to one's place of residence; and restoration of employment and return of property.

⁸ Article 1 of the Ministerial Decree states, “The unchecked, without permit, encampment of wandering nomads (*Athinganoi*, etc.) in whatever region is prohibited.” According to Article 3(3), “Encampment is prohibited near archaeological sites, beaches, landscapes of natural beauty, visible by main highway points or areas which could affect the public health (springs supplying drinking water, etc.)” “*Athinganoi*” is the term used for administrative purposes for Roma in Greek. Alternatives in common usage are the usually neutral “*Tsinganoi*” and the pejorative “*Gyftoi*” or “*Yiftoi*”. The provisions of the 1983 Ministerial Decree have been applied, and continue to be applied, arbitrarily and indiscriminately to any Roma, regardless of whether they are itinerant or not.

authorities have acted to design and/or implement policies aimed at alleviating the suffering caused to countless Roma during the approximately 20 years in which the Decree was in force.

In addition, to date, Greece has dramatically failed to provide adequate protections against discrimination -- including racial discrimination -- in conformity with existing European standards. In particular:

- Greece has not yet ratified Protocol 12 to the European Convention on Human Rights which, once in effect, will provide a comprehensive ban on discrimination in the realisation of any right secured by law;
- Greece has not yet transposed the Article 13 Directives⁹ of the European Union into domestic law, despite the elapse of deadlines to do so.

Hungary

Hungarian domestic law currently affords little protection beyond declarative Constitutional provisions against discrimination in the provision of housing. A recent report by the European Union on anti-discrimination law in the candidate countries to the European Union notes that Hungary lacks anti-discrimination provisions related to the right to housing.¹⁰ A draft bill made public in Summer 2003 was noteworthy for lacking provisions banning discrimination in the provision of housing and this lacuna has not been remedied in subsequent draft bills. Hungary has also failed to date to ratify Protocol 12 to the European Convention on Human Rights.

In addition, Hungary has dramatically weakened protections available to tenants in recent years. In particular, in May 2000, amended legislation entered into effect allowing the notary -- an employee of the municipality -- powers to order evictions absent a court procedure. According to the law,¹¹ the notary public's decision cannot be appealed in an administrative way. A party who regards the notary public's decision as unlawful may file a complaint in order to change the decision within fifteen days of receiving the decision. However, the decision ordering the eviction must be implemented within eight days, even if the party concerned has filed a complaint. The amendment effectively bars potential evictees the opportunity to contest their imminent eviction because the procedure does not allow for the suspension of the eviction while the appeal proceeds. Significantly, the amended law includes provisions to protect evicted furniture, but not tenants.

Turkey

Turkey's 1934 Settlement Law (as subsequently amended), in effect today, explicitly lists "Gypsies" as among persons to be singled out for particular, detrimental treatment. In the law's chapter on "Areas of Settlement", Article 1 states: "Immigrants and refugees, nomads and itinerant Gypsies are not to be settled in the country; [...]" Article 4 defines as excluded, for the purposes of the law: "A. Persons not faithful to the Turkish culture; B. Anarchists; C. Spies; Ç: Nomadic Gypsies; D. Persons excluded from their motherland, that are not to be accepted to Turkey as migrants."

Turkey has not yet ratified Protocol 12 to the European Convention on Human Rights, nor has it transposed European Union Directive 2000/43/EC "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin" into its domestic law.¹²

⁹ In particular, in July 2000, the European Council of the European Union adopted Directive 2000/43/EC "implementing the principle of equal treatment between persons irrespective of racial or ethnic origin". The Directive provides detailed minimum standards on law banning racial discrimination, and sets an initial deadline for current Member States of the European Union of July 2003 for transposition of the provisions of the Directive into domestic law. The Directive includes a ban on discrimination "in access to and supply of goods and services which are available to the public, including housing."

¹⁰ See European Commission, Directorate-General for Employment and Social Affairs, *Equality, Diversity and Enlargement*, September 2003, p. 20.

¹¹ The Housing Act 1993/LXXVII, as amended by Act 2000/XLI.

Forced Evictions, Abusive Police Raids and Destruction of Property

Many Roma in the countries concerned live without legal security of tenure and are highly vulnerable to forced evictions, abusive police raids on their homes and destruction of property. Forced evictions of Roma have in practice frequently taken place in all three countries in recent years. When such abuses take place, legal remedy is often not available to victims.

The obligations of States to prevent and remedy forced evictions are most clearly set out in General Comments of the UN Committee on Economic, Social and Cultural Rights (CESCR) concerning Article 11(1) of ICESCR. In its General Comment 4, CESCR, which monitors States' compliance with the ICESCR stated, at paragraph 18, "[...] instances of forced eviction are *prima facie* incompatible with the requirements of the Covenant and can only be justified in the most exceptional circumstances, and in accordance with the relevant principles of international law."¹³

In its General Comment 7 on forced evictions, the CESCR defined forced evictions as "the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection."¹⁴ Paragraph 16 sets out, "Evictions should not result in individuals being rendered homeless or vulnerable to the violation of other human rights. Where those affected are unable to provide for themselves, the State party must take all appropriate measures, to the maximum of its available resources, to ensure that adequate alternative housing, resettlement or access to productive land, as the case may be, is available." The United Nations has further set out in its Fact Sheet 21 on the Right to Adequate Housing the duty of governments to respect and protect the right to adequate housing and specifically, refrain from and prevent the practise of forced evictions on their territory.¹⁵

¹² Information from a presentation made by Ms Isabelle Chopin of the non-governmental organisation Migration Policy Group in Budapest, November 2003.

¹³ Committee on Economic, Social and Cultural Rights (CESCR). General Comment 4: The right to adequate housing (Art. 11.1 of the Covenant). December 13, 1991, paragraph 18.

¹⁴ CESCR. General Comment 7: The right to adequate housing (art. 11.1 of the Covenant): forced evictions. May 20, 1997, paragraph 3.

¹⁵ "'To Respect': The duty to respect the right to adequate housing means that Governments should refrain from any action which prevents people from satisfying this right themselves when they are able to do so. Respecting this right will often only require abstention by the Government from certain practices and a commitment to facilitate the "self-help" initiatives of affected groups. In this context, States should desist from restricting the full enjoyment of the right to popular participation by the beneficiaries of housing, rights, and respect the fundamental right to organize and assemble.

In particular, the responsibility of respecting the right to adequate housing means that States must abstain from carrying out or otherwise advocating the forced or arbitrary eviction of persons and groups. States must respect people's rights to build their own dwellings and order their environments in a manner which most effectively suits their culture, skills, needs and wishes. Honouring the right to equality of treatment, the right to privacy of the home and other relevant rights also form part of the State's duty to respect housing rights.

"To Protect": To protect effectively the housing rights of a population, Governments must ensure that any possible violations of these rights by "third parties" such as landlords or property developers are prevented. Where such infringements do occur, the relevant public authorities should act to prevent any further deprivations and guarantee to affected persons access to legal remedies of redress for any infringement caused.

In order to protect the rights of citizens from acts such as forced evictions, Governments should take immediate measures aimed at conferring legal security of tenure upon all persons and households in society who currently lack such protection. In addition, residents should be protected, by legislation and other effective measures, from discrimination, harassment, withdrawal of services or other threats.

Steps should be taken by States to ensure that housing-related costs for individuals, families and households are commensurate with income levels. A system of housing subsidies should be established for sectors of society unable to afford adequate housing, as well as for the protection of tenants against unreasonable or sporadic rent increases.

In addition, a number of provisions of the European Convention on Human Rights provide protections against forced evictions and destruction of property. Article 8(1) of the European Convention on Human Rights sets forth the following guarantees: "Everyone has the right to respect for his private and family life, his home and his correspondence." In *Buckley v. the UK*¹⁶, the Commission found that an applicant's complaint which argued she was prevented from living with her family in her caravans on her land fell within the scope of Article 8 of the Convention as relating to her right to respect for her family life, private life and home. In its opinion, the Commission stated that the "concept of a home is not limited to those which are lawfully occupied or which have been lawfully established. 'Home' is an autonomous concept which does not depend on classification under domestic law."¹⁷ Article 8's protection encompasses each of the following rights: the right of access¹⁸, the right of occupation¹⁹, and the right not to be expelled or evicted, and is thus intimately intertwined with the principle of legal security of tenure (see above).²⁰ Indeed, in the case of *Cyprus v. Turkey* the Commission specifically stated the following: "The Commission considers that the evictions of Greek Cypriots from houses, including their own homes, which are imputable to Turkey under the Convention, amount to an interference with rights guaranteed under Article 8 paragraph 1 of the Convention, namely the right of these persons to respect for their home, and/or their right to respect for private life..."²¹ In *Velosa Barreto v. Portugal*²², the Court confirmed that Article 8 does not give a landlord the right to recover possession of a rented house on request and in any circumstances.

Further, the European Court has developed extensively under its Article 8 jurisprudence the concept of "positive obligations", under which a Contracting State must not only restrict its own interferences to what is compatible with Article 8, but may also be required to protect the enjoyment of those rights and secure the respect for those rights in its domestic law.²³ In addition, protections available under Article 1 of Protocol 1 to the European Convention -- guaranteeing the peaceful enjoyment of one's possessions -- have been interpreted to include the protection of housing rights.²⁴ In some

States should ensure the creation of judicial, quasi-judicial, administrative or political enforcement mechanisms capable of providing redress to alleged victims of any infringement of the right to adequate housing." The Fact Sheet is available on the Internet at: <http://www.unhchr.ch/housing/fs21.htm#obligations>.

¹⁶ *Buckley v. UK*, 23/1995/529/615.

¹⁷ See *Buckley v. UK*, Commission decision,

¹⁸ *Wiggins v. United Kingdom*, No. 7456/76, 13 D & R 40 (1978).

¹⁹ *Ibid.*

²⁰ *Cyprus v. Turkey*, 4 EHRR 482 (1976).

²¹ *Ibid.*, para. 209.

²² Series A, No. 334.

²³ E.g. *Costello-Roberts v. United Kingdom*, March 25, 1993, Series A, No. 247-C; 19 E.H.R.R. 112, para.26.

²⁴ In *Öneryildiz v. Turkey*, a case involving the destruction of slum dwellers' homes following an explosion at a rubbish tip, the European Court of Human Rights, while finding a violation by the Turkish government of Article 1 of Protocol 1 ruled, *inter alia*, "The Court reiterates that the concept of 'possessions' in Article 1 of Protocol No. 1 has an autonomous meaning and certain rights and interests constituting assets can also be regarded as "property rights", and thus as "possessions" for the purposes of this provision ... the Court considers that neither the lack of recognition by the domestic laws of a private interest such as a 'right' nor the fact that these laws do not regard such interest as a 'right of property', does not necessarily prevent the interest in question, in some circumstances, from being regarded as a 'possession' within the meaning of Article 1 of Protocol No. 1 ... It must be accepted ... that notwithstanding that breach of the planning rules and the lack of any valid title, the applicant was nonetheless to all intents and purposes the owner of the structure and fixtures and fittings of the dwelling he had built and of all the household and personal effects which might have been in it. Since 1988 he had been living in that dwelling without ever having been bothered by the authorities (see paragraphs 28, 80 and 86 above), which meant he had been able to lodge his relatives there without, *inter alia*,

circumstances, forced evictions may rise to the level of cruel and degrading treatment or punishment, as banned under Article 3 of the Convention.²⁵

Greece

ERRC research in Greece in the period 1997-2003 indicates a pattern and practice of regular forced evictions of Roma.²⁶ Forced evictions of Roma occur with alarming frequency in Greece. Roma are often harassed by Greek authorities as they conduct evictions and, on many occasions, the property of Roma is destroyed. Few evicted Roma have been provided with alternative accommodation. A non-exhaustive list of instances of forced eviction of Roma and destruction of property belonging to Roma undertaken by Greek authorities in recent years and documented by the ERRC and partner organisation the Greek Helsinki Monitor (GHM) follow:

- On the morning of September 13, 2001, a bulldozer belonging to the municipality of Aspropyrgos, accompanied by both state and municipal police officers, began demolishing dwellings belonging to Roma. One resident, Mr V.A., reportedly asked the officers to see the documents authorising the eviction, to which an officer reportedly responded that the officers had no documents authorising the eviction with them. The demolition ceased after being only partially implemented, reportedly following an intervention of the Ombudsman at the request of the ERRC/GHM.
- Workmen from the municipality of Patras destroyed with a bulldozer and a dump truck, on the morning of August 29, 2001, at around 11:00 AM, two dwellings from the Romani settlement situated on university-owned land in the Glykada Riganokampos area of Patras. The operation was carried out without the authorisation or the presence of a public prosecutor, as is required by Greek law in such cases.
- In December 1999, fifteen out of twenty-five Romani families were forcibly evicted from their homes in the Municipality of Ana Liosia after having been forcibly moved to the area by municipal authorities in April 1997. In 1997, the municipality of Ano Liosia forcibly closed a Romani settlement named "the camping", rendering seventy Romani families homeless. Twenty-five families were temporarily relocated to a new settlement in Ano Liosia, behind a parking lot used by the municipality's garbage collection trucks. The lot was surrounded by a wire fence. In December 1999, ten of the twenty-five families – those who were registered in the local residents' rolls as municipal residents of Ano Liosia – were relocated to prefabricated houses; the rest were evicted again without being provided with alternative accommodation.
- On February 16, 1999, a municipality of Aspropyrgos crew, escorted by the two deputy mayors of Aspropyrgos and police, entered the Nea Zoe Romani settlement with a water tanker, two bulldozers, a jeep, and three police cars. The municipal employees tore down five sheds with the two bulldozers and set the rubble on fire. The settlement comprised twelve barracks altogether, with around one hundred inhabitants. The Roma were not given enough time to remove their possessions. According to the Mayor, the municipal crew merely "cleaned up" the area. Even where authorities have not carried out forced evictions, they have frequently threatened Roma in exposed settlements with forced eviction, a threat made plausible by the fact of a widespread lack of security of tenure in Romani settlements. For example:
- On September 28, 2002, an attempted eviction attempt took place in Aspropyrgos when a bulldozer belonging to the municipality of Aspropyrgos, together with a municipal patrol car

paying any rent. He had established a social and family environment there and, until the accident of 28 April 1993, there had been nothing to stop him from expecting the situation to remain the same for himself and his family. ... In short, the Court considers that the dwelling built by the applicant and his residence there with his family represented a substantial economic interest. That interest, which the authorities allowed to subsist over a long period of time, amounts to a 'possession' within the meaning of the rule laid down in the first sentence of Article 1 § 1 of Protocol No. 1..."

²⁵ See *Mentes and Others v. Turkey*, 58/1996/677/867 and *Selcuk and Asker v. Turkey*, 12/1997/796/998-999.

²⁶ Forced evictions of Roma are a focus of the joint ERRC/Greek Helsinki Monitor Country Report *Cleaning Operations: Excluding Roma in Greece*, April 2003, available on the ERRC's Internet website at: <http://errc.org/publications/indices/greece.shtml>.

carrying four municipal police officers, visited a Romani man, Mr S.K., living in the Nea Zoe area. Mr S.K. was erecting a shed on a plot of land he owned when the bulldozer and the municipal police arrived and told him that they would have to tear his shed down. When asked, the municipal officers stated that the local Town Planning Bureau had passed a decision authorising the demolition of all illegal dwellings in the area, but it had not been issued yet. In the end, the municipal police and the bulldozer left, with officers telling Mr S.K. that he had time until Monday to tear down his shed himself, otherwise they would do so.

- On July 17 and 18, 2001, two municipal police officers and two state police officers visited one of the makeshift Romani settlements in the Municipality of Aspropyrgos, next to a refuse dump, and told the Romani families there to leave the area within three days. According to Ms Dionysia Panayotopoulou, a Romani woman who had resettled with her family next to the refuse site and a representative of the community to the non-governmental umbrella group the *SOKADRE (Co-ordinated Organisations and Communities for Roma Human Rights in Greece)*, the officers did not present any papers and threatened the families that if they did not leave within three days, they would send in their special forces to “take care of them”.

Hungary

Roma in Hungary have been subjected to forced evictions with increasing frequency in recent years. According to monitoring of the Hungarian media during the period January 1, 2003 and November 1, 2003, in 55 percent of eviction or threatened eviction cases reported, the victims were identified as Romani, while Roma account for only 1.4 percent of the total population in Hungary.²⁷ Local authorities often fail to provide alternative accommodation to forcibly evicted Roma, effectively rendering many homeless²⁸:

- On October 2, 2003, eight Romani adults were evicted from their homes in southern Hungarian city Dunaújváros following a decision by the local government. The evicted Roma reportedly moved to a homeless shelter following the eviction.
- On June 18, 2003, twenty Romani families were evicted from the homes they occupied on Szállás utca in Budapest’s 10th District, according to the *Foundation for Romani Civil Rights*. According to the June 25, 2003 newsletter of the Budapest-based *Roma Press Center (RSK)*, two small children, aged 1½ and 5, were allegedly taken into state custody on grounds that they had been raised in surroundings immediately jeopardising their physical health. On November 28, 2003, the *Foundation for Romani Civil Rights* informed the *ERRC* that the local government had provided alternative accommodation for only two of the families. The *Foundation for Romani Civil Rights* reportedly found flats for three additional families in Budapest and four people moved into homeless shelter. The remaining families moved in with relatives in the countryside;
- In May 2003, representatives of the Debrecen local government and local police evicted the family of Ms Erika Balogh from the home they occupied in the Nagy Sándor settlement. The family’s home and possessions were destroyed. Ms Balogh stated that the family had applied for social housing in Debrecen for fourteen years to no avail.
- In March 2003, the family of Ms Barnáné Balogh, which includes a number of children below the age of 18, was evicted from the home they occupied in Debrecen’s Nagy Sándor settlement, but moved back into the house shortly thereafter because they were not provided alternative accommodation and had no where else to go. The family had reportedly applied for social housing in Debrecen for more than ten years unsuccessfully.
- In March 2003, the 5-member family of Mr L.A., a 37-year-old Romani man, which includes three young children, was evicted for the second time from the flat in which they lived after they moved back into it following their initial eviction in late October 2002. Mr L.A.’s father, with whom the family had lived, had had a legal contract with the city for the flat. When Mr L.A.’s father passed away, the family remained in the flat but did not change the contract. At the time of the eviction in March 2003, Mr L.A.’s children were taken temporarily into state care.

²⁷ Data from the European Parliament’s Country Profile on Hungary. Available on the Internet at: http://www.europarl.eu.int/enlargement_new/applicants/pdf/hungary_profile_en.pdf.

²⁸ Except where otherwise noted, cases summarized are based on *ERRC* field research.

- In the summer of 2002, the 6-member family of Mr M.I., a Romani man, which includes four young children, was evicted from the flat they occupied in Budapest's 9th District. As the family was not provided with alternative accommodation, they had moved illegally into another flat with no electricity or running water in Budapest's 8th District at the time of the ERRC interview in April 2003.
- In the spring of 2002, Ms S.P., a Romani woman, and her four children, were evicted without any notice from the flat they had occupied in Budapest's 9th District for a year and a half. Because Ms S.P. and her children were not provided with alternative accommodation, at the time of the ERRC interview, they were left with no option but to illegally occupy another flat in Budapest's 8th District.
- In early 2002, Mr N.V., a Romani man, was evicted from a flat he occupied in Budapest's 8th District. Mr N.V. and his mother were living in a 26 metres squared flat without electricity or running water at the time of the ERRC interview.

Turkey

Of four informal Romani settlements visited by the ERRC in Turkey during field missions in 2003, all had been subjected to repeated forced evictions by state officials. Evictions had additionally in a number of cases involved police violence and destruction of property.²⁹ For example, Romani inhabitants of the tent settlement in Istanbul's District of Ataşehir informed the ERRC that they had moved to that location approximately ten years ago following the destruction of their unregistered homes by municipal authorities in the District of Küçük Bakkalköy. They had reportedly built small huts on the land, but in August 2002, the police had destroyed these along with their possessions and ID cards. The Roma reported that they had replaced their ID cards but were now forced to live in tents. One Romani woman testified,

“Four or five times a year, representatives of the municipality and the police come and we are forced to move to other places for short periods of time. But we always come back. They usually say that people are complaining about the sight of the area. The last time this happened was two or three months ago. Usually, about forty to fifty municipal workers and police are involved. During the evictions, the police sometimes curse our ethnicity. If we react at all to the eviction, the police beat us. The last time we were evicted, we were not given any notice. The police came that day and told us to pack our belongings and leave. A 16-year-old boy who does not live here anymore was injured. One of the officers cursed us and called us “Gypsies” so the boy punched the officer. Then many of the officers present began to beat the boy. They punched him and hit him with truncheons on his head and back. The officer that the boy punched also pointed his gun at him and threatened him. Later the officer apologised for cursing at us. Another woman here tried to protect her tent and another officer cursed her and hit her many times with a truncheon.”³⁰

According to Roma from the settlement, Turkish authorities have never provided them with alternative accommodation. They have rather forced the Roma to move to other locations in which they live in similar conditions for short periods of time until they are again evicted.

Similarly, the Romani residents of the one of the segregated settlements in the Yeni Sahre neighbourhood informed the ERRC that they were frequently subjected to forced evictions by local authorities and police. Ms M.D., a 25-year-old Romani woman from the settlement stated that her 7-

²⁹ The violent destruction of Romani homes by Turkish authorities violates Article 8(1) of the European Convention on the Protection of Human Rights and Fundamental Freedoms (ECHR), which states, “Everyone has the right to respect for his private and family life, his home and his correspondence.” Turkey has repeatedly been found in violation of the ECHR in cases in which authorities destroyed the property of complainants. For example, in its April 24, 1998 judgement in the case *Selçuk and Asker v. Turkey*, the European Court of Human Rights found that Turkey had violated the applicant's right of peaceful enjoyment of their property and right to respect for their homes after Turkish military forces destroyed their homes and personal possessions during a forced eviction.

³⁰ ERRC interview with Ms P.L. September 2003. Istanbul.

member family had been living in the same location for about four years, following their eviction from their previous place of residence. According to Ms M.D.:

“We are evicted from here four or five times every year. Most recently, we were evicted in August. We were given two or three days notice that we would be evicted so we gathered our belongings and left the area before we were evicted. We lived in similar conditions in another place, but we were evicted from there too, so we moved back here. We generally have to move every one or two months.”³¹

The Sormasik neighbourhood in the Umraniyë area of Istanbul is home to approximately sixty Romani families, comprising about six hundred people. Roma in the neighbourhood live in small houses and makeshift shacks made of scrap wood and metal, only some of which were built with legal permit. Mr P.N., a Romani man from the neighbourhood, told the ERRC that every summer, most recently in August 2002, municipal authorities destroyed the houses built without legal permission in the settlement. The Romani man stated that in the typical case, Roma in the neighbourhood first receive a notice from the municipality that their homes are to be destroyed. Reportedly, the army comes soon thereafter and surrounds the neighbourhood until the Roma leave their homes, at which time bulldozers come in and destroy the homes. According to the Romani man, the Roma whose homes have been destroyed were only allowed to take the personal belongings that they could gather before the bulldozers reached their home -- but that there was no time actually allotted for this. Authorities then reportedly generally collected the material that the homes were made of, in an apparent effort to ensure that the Roma would not rebuild their homes on the same area. The ERRC was informed that no alternative accommodation had ever been provided to Roma whose homes were destroyed and that many Roma have left the settlement due to the repeated destruction of their homes.³²

Substandard Living Conditions

Adequate housing is commonly understood to include the following elements: legal security of tenure; availability of services, materials, facilities and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy.³³

³¹ ERRC interview with Ms M.D. September 2003. Istanbul.

³² Findings, ERRC field mission to Turkey, March 2003, Istanbul.

³³ See CESCR. General Comment 4, paragraph 8. Paragraph 8 of General Comment 4 defines adequate housing as comprising the following elements:

"(a) Legal security of tenure. Tenure takes a variety of forms, including rental (public and private) accommodation, cooperative housing, lease, owner-occupation, emergency housing and informal settlements, including occupation of land or property. Notwithstanding the type of tenure, all persons should possess a degree of security of tenure which guarantees legal protection against forced eviction, harassment and other threats. States parties should consequently take immediate measures aimed at conferring legal security of tenure upon those persons and households currently lacking such protection, in genuine consultation with affected persons and groups;

"(b) Availability of services, materials, facilities and infrastructure. An adequate house must contain certain facilities essential for health, security, comfort and nutrition. All beneficiaries of the right to adequate housing should have sustainable access to natural and common resources, safe drinking water, energy for cooking, heating and lighting, sanitation and washing facilities, means of food storage, refuse disposal, site drainage and emergency services;

"(c) Affordability. Personal or household financial costs associated with housing should be at such a level that the attainment and satisfaction of other basic needs are not threatened or compromised. Steps should be taken by States parties to ensure that the percentage of housing-related costs is, in general, commensurate with income levels. States parties should establish housing subsidies for those unable to obtain affordable housing, as well as forms and levels of housing finance which adequately reflect housing needs. In accordance with the principle of affordability, tenants should be protected by appropriate means against unreasonable rent levels or rent increases. In societies where natural materials constitute the chief sources of building materials for housing, steps should be taken by States parties to ensure the availability of such materials;

Greece

Roma in Greece frequently live in substandard or extremely substandard conditions, in makeshift shacks with little or no infrastructure, no public services such as sewage, garbage removal, and limited access to public transportation, education, or job opportunities. The Greek government is fully aware of the inadequate living conditions endured by Roma in the country. As part of a study conducted by the Greek government, the localities and living conditions of Roma throughout Greece were examined. The 1999 study conducted by the Public Enterprise for Town Planning (hereinafter referred to according to its Greek acronym, "DEPOS") divided housing facilities for Roma down into three main categories: first, the study identified what the authors term "genuine" settlements (settlements in which all living quarters are makeshift); secondly, it identified "mixed" settlements (containing both makeshift dwellings and permanent homes); the final category identified by the authors of the study is termed "neighbourhoods", i.e., constellations of houses inhabited by Roma which are essentially part of a city or village.³⁴ According to the study, more than half of the "genuine" settlements and some of the mixed settlements and neighbourhoods were located in areas unsuitable for habitation, for example, in areas prone to flooding or near landfill sites. Moreover, 15 percent of the "genuine" settlements were more than one kilometre from the nearest urban centre and only a small number had access to paved roads, with the remainder reachable only by unpaved, bumpy trails. In 7 of the 46 "genuine" settlements, there was no water supply; while in the remainder there was inadequate access to running water. Approximately one third of the "mixed" settlements were found to be without adequate supply of running water. Not a single "genuine" settlement, and only 25 percent of the

"(d) Habitability. Adequate housing must be habitable, in terms of providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural hazards, and disease vectors. The physical safety of occupants must be guaranteed as well. The Committee encourages States parties to comprehensively apply the Health Principles of Housing 5/ prepared by WHO which view housing as the environmental factor most frequently associated with conditions for disease in epidemiological analyses; i.e. inadequate and deficient housing and living conditions are invariably associated with higher mortality and morbidity rates;

"(e) Accessibility. Adequate housing must be accessible to those entitled to it. Disadvantaged groups must be accorded full and sustainable access to adequate housing resources. Thus, such disadvantaged groups as the elderly, children, the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, the mentally ill, victims of natural disasters, people living in disaster-prone areas and other groups should be ensured some degree of priority consideration in the housing sphere. Both housing law and policy should take fully into account the special housing needs of these groups. Within many States parties increasing access to land by landless or impoverished segments of the society should constitute a central policy goal. Discernible governmental obligations need to be developed aiming to substantiate the right of all to a secure place to live in peace and dignity, including access to land as an entitlement;

"(f) Location. Adequate housing must be in a location which allows access to employment options, health-care services, schools, child-care centres and other social facilities. This is true both in large cities and in rural areas where the temporal and financial costs of getting to and from the place of work can place excessive demands upon the budgets of poor households. Similarly, housing should not be built on polluted sites nor in immediate proximity to pollution sources that threaten the right to health of the inhabitants;

"(g) Cultural adequacy. The way housing is constructed, the building materials used and the policies supporting these must appropriately enable the expression of cultural identity and diversity of housing. Activities geared towards development or modernization in the housing sphere should ensure that the cultural dimensions of housing are not sacrificed, and that, inter alia, modern technological facilities, as appropriate are also ensured."

³⁴ Dimosia Epixeirisi Poleodomias kai Stegasis (DEPOS), *Meleti Sxediou Programmatos gia tin antimetopisi ton ameson oikistikon provlimaton ton Ellinon Tsinganon* (hereinafter referred to as "DEPOS Study"), Athens, July 1999, pp. 6–7. The authors of the DEPOS Study devised a rating system to assess settlements, giving factors such as distance from other settlements numerical value. Distance from other settlements, accessibility and connection to the electricity grid was assigned a value of one point. The unsuitability of an area for habitation was assigned a value of two, while the ownership status (denoting the risk of potential eviction) was assigned a value of one and a half. Access to running water was not rated on this scale as it was considered a fundamental necessity. It should be noted that the ranking system's purpose was not to rank the quality of the feature but rather the existence of a particular feature.

“mixed” settlements had electricity. Merely 9 of the 46 “genuine” settlements throughout Greece, and 6 of the 26 “mixed” settlements recorded were connected to an adequate sewage system, while less than half of the “genuine” settlements and only 70 percent of the “mixed” settlements possessed garbage removal services. Finally, in 75 percent of the “genuine” settlements public telephones were not accessible.³⁵ Recent first-hand field research by the ERRC and GHM has shown that the living conditions of Roma in Greece have changed little since the study was conducted, and may even be in a state of regression.³⁶

Hungary

Many Romani settlements in Hungary are unfit for living and fall far below the aforementioned criteria. According to the World Bank, 54.9 percent of Romani households in Hungary do not have access to hot running water, 34.7 percent do not have access to cold running, 66.6 percent do not have canalisation or sewers, 49.8 percent do not have bathrooms or showers in their homes, 50.1 percent do not have indoor toilets and 13.2 percent have one or more member sleeping on earthen floors in their homes.³⁷

ERRC research in Debrecen, Hajdúhadház, and Ózd in 2003 revealed a lack of basic infrastructure and services, including street lighting, paved roads, garbage collection, drainage and sewage systems, telephone lines, medical care, access to public transportation and access to emergency services, such as ambulance and fire. Often, electricity and gas are not available in all homes and potable water is available only at a public pump located hundreds of meters from the homes. At the time of an ERRC visit in October 2003, Roma from the Nagy Sándor settlement in Debrecen drew water from a pump located more than half a kilometre from the settlement. A Romani resident of state owned housing in Debrecen’s Domokos Márton Garden reported that she did not have access to water though she was forced to pay for it.³⁸ In Hajdúhadház, there are no public water pumps in the Irinyi, Oncsa and Márvány settlements; Roma from these settlements must walk 300 to 700 metres for potable water. In Ózd, 30 percent of the Romani homes in the segregated areas Kiserdőalja and Hétes do not have running water and 30 percent lack access to gas. Roma in these areas mainly heat their homes by burning wood. The streets are also littered with large holes.

The homes in which Roma live are typically makeshift constructs. In Debrecen, most of the Romani homes are one-story buildings made of brick or mud, which do not have interior sanitary facilities. However, some of the Roma with whom the ERRC met during its research, such as those living in the Nagy Sándor settlement, live in homes made of cardboard or other scrap materials and do not have solid walls. The approximately one hundred Romani residents of state-owned housing, a number of which were legally registered, in Debrecen’s Domokos Márton Garden, were forced to share one toilet located in a yard. The homes in which many Roma live in Hajdúhadház are made of cardboard, wooden planks, scrap metal and other miscellaneous materials. In Ózd, the home of one Romani man with whom the ERRC met was, in the early spring, declared life-threatening by the local government.³⁹ In Budapest’s 8th District, which houses a large portion of Roma in the city, the flats in which the Roma with whom the ERRC met had running water though not hot water. Those Romani families that were living in flats without legal permission either did not have access to electricity, gas or hot water, or stole it from common lines running through the buildings. Some Romani families in Budapest’s 8th District with legal tenancy similarly did not have access to public utilities, apparently as a result of accrued debt.

³⁵ DEPOS Study, pp. 7-9.

³⁶ Detailed reports on the living conditions endured by Roma in Greece are available on the ERRC’s Internet website at: <http://www.errc.org/publications/indices/greece.shtml>.

³⁷ Revenga, A. et al. 2003, p. 34.

³⁸ ERRC interview with Ms Lászlóné Varga, October 2003, Debrecen.

³⁹ ERRC interview with Mr L.D., April 2003, Ózd.

The homes in which Roma were found to be living in Hungary were disproportionately small, given the number of people per household. Most of the Romani homes in Debrecen's Nagy Sándor settlement were only one room of between 5 to 10 metres squared. Roma in the segregated areas of Ózd live, on average, 3.5 tenants per room. Out of twenty-eight families surveyed in Ózd, twenty-six lived in a one-room flat. Roma with whom the ERRC met in Budapest's 8th District were mostly found to be living in flats measuring around 20 metres squared. In the majority of cases, four or more people were found to be living in such flats. In extreme situations, families of more than six people were living in such flats, while other flats were less than 10 metres squared. For example, Ms S.P. lived in a 9 metres squared flat with her four children,⁴⁰ while Ms S.L. lived with her six children in a 26 metres squared flat.⁴¹

The hygienic conditions of the Romani settlements visited by the ERRC in Hungary were generally found to be poor. In all of the Romani communities visited, garbage littered the streets and rancid odours emanated through the areas. In Romani settlements in Debrecen, inhabitants are forced to burn their garbage because local authorities do not collect it. In the Hétes Romani settlement in Ózd, for example, at the time of the ERRC visit in early 2003, mud reached ankle-height in the streets due to poor drainage and garbage, partially brought into the settlement from other areas of the city covered the streets. The unhygienic conditions of the settlement lead to an outbreak of Hepatitis-A in September 2003. According to a report by the Budapest-based *Roma Press Center (RSK)*, the chief medical officer of Borsod-Abaúj-Zemplén County, to which Ózd administratively belongs, attributed the outbreak to the lack of very basic hygienic and living requirements in the local Romani settlements.⁴² According to the report, 75 percent of the Hepatitis-A cases registered in Hungary in 2002 were in the County.

Turkey

At the time of an ERRC field mission in September 2003, the Roma-only tent settlement in the Istanbul's Ataşehir District consisted of twenty tents in total, constructed of scrap materials including wood, metal, cardboard, carpets and plastic. There was no electricity or access to gas in the settlement and no running water. The residents had reportedly built a well from which to draw water without permission and otherwise obtained water from people living in houses in the district. The settlement also lacked a sewage-removal system and garbage littered the area. In the Yeni Sahre neighbourhood in the Istanbul's Kadıköy District, the ERRC also visited two settlements inhabited completely by Roma. Both settlements were situated in what appeared to be a mixed neighbourhood, but were markedly inhabited by Roma only. The first settlement consisted of about ten makeshift shacks in very bad condition. Some of the homes had cement foundation and walls, with scrap wood, metal, plastic and brick roofs. Others of the homes were made entirely of collected materials. There were visible holes in the walls of the homes and no glass in some of the windows. The area was littered with garbage and there were horses grazing in a small field next to the shacks and manure everywhere. The condition of the settlement generally appeared to be very unhealthy. There were about fifteen shacks in the second settlement. A few of the shacks had cement frames, some of which looked as if they had been partially bulldozed and rebuilt with scrap materials. The other structures were actually tents made of plastic and scrap wood. One of the "shacks" was merely a wooden frame with hanging carpets. There was electricity in the settlement but no source of potable water or sanitary facilities. Some of the shacks had cement floors, while the tents had dirt floors. Garbage was scattered throughout the settlement and broken glass and bricks from half-demolished homes were strewn everywhere. None of the Romani residents of these settlements visited by the ERRC possessed legal security of tenure, rendering them under a standing threat of forced eviction.

Denial of Access to Social Housing

⁴⁰ ERRC interview with Ms P.P., May 2003, Budapest.

⁴¹ ERRC interview with Ms S.V., April 2003, Budapest.

⁴² Roma Press Center (RSK), "Hepatitis-A has been Diagnosed in Ózd", September 16, 2003.

The post-communist transition in Hungary has given rise to a complex of issues which have in recent years combined to render the housing situation of many Roma in Hungary at crisis proportions. In the first place, as income disparities widen, Roma frequently find themselves among the poor or extremely poor. Secondly, local authorities have in a number of years sold off public (including social) housing stocks in order to compensate for declining revenues, creating a situation in which Hungary may not be able in practice to meet the housing needs of the poor and/or extremely poor. In addition, as detailed below, a number of local authorities have adopted very arbitrary rules as to eligibility for public (including social) housing, rules which in practice may preclude many Roma from eligibility. Finally, unfortunately, widespread anti-Romani sentiment in Hungary means that unfortunately, allegations of racial discrimination in the allocation of public housing are often plausible.

In many cases, Roma in Hungary have in recent years been blocked from accessing social housing, despite manifest need. Many Roma are excluded from access to social housing in Hungary as a result of decisions taken by local authorities. There are very widespread allegations of discrimination in the allocation of public housing -- including social housing -- in Hungary. According to ERRC research, many local governments have enacted provisions barring persons caught arbitrarily occupying property from having access to social housing for a number of years,⁴³ generally between 3 and 5 years,⁴⁴ though in an extreme instance, a representative of the Debrecen local government stated that illegal occupants are denied access to social housing for a period of 10 years.⁴⁵ While on its face such a provision does not seem discriminatory, many more Roma than ethnic Hungarians are apparently unable to afford even nominal housing costs, forcing a disproportionate number of Roma to occupy homes without legal permission. As a result, many persons with the greatest need for social housing are effectively denied access to such. For example, out of twenty-eight Romani families surveyed in segregated settlements in Ózd, seventeen, or 60 percent, reported that they could not apply for social housing because they had previously been caught illegally occupying property in the city. In Budapest, Ms N.T., a 50-year-old Romani woman, told the ERRC that she had applied several times for social housing from Budapest's 8th District authorities, but was rejected because the family had occupied housing several times without permission. Ms N.T.'s 10-member family, including 6 children below the age 18, illegally occupied a 24-square-metre flat in Budapest's 8th District at the time of ERRC research. The family had also reportedly been rejected financial aid by the local government.

Often, local governments place arbitrary conditions on eligibility for housing assistance, with the effect that Roma do not qualify to receive public housing, including social housing. For example, some local governments reportedly require applicants for social housing to possess large amounts of money before their applications for social housing are considered. The local governments of both Budapest's 8th District and Ózd impose such conditions. During interviews with members of the local

⁴³ For example, Decision 41/2003 of Budapest's 8th District Government on social housing states, in Article 6(1), "A new contract cannot be made with those person who: [...] (b) occupied any flat arbitrarily or by trespass in the last three years [...]." Decision 43/2003 entered into force on September 1, 2003. Unofficial translation by the ERRC. Amongst the other districts in Budapest that responded to the ERRC's request for information, the term is 3 years in the 21st District and 5 years in Budapest's 1st, 3rd and 10th Districts.

⁴⁴ According to the World Bank, 40.3 percent of Romani households live in absolute poverty compared to only 6.9 percent ethnic Hungarian households (see Revenga, A., Ringold, D., and Tracy W.M. "Poverty and Ethnicity: A Cross-Country Study of Roma Poverty in Central Europe". In Ringold, D., Orenstein, Mitchell A., and Wilkens, Erika. "Roma in an Expanding Europe: Breaking the Poverty Cycle". The World Bank: Washington, D.C. 2003, p. 28).

⁴⁵ According to Ms Zsuzsa Feczák, Head of the Civis Ház Housing Department "[...] squatters have no chance at all to get a legal rental contract. Obviously, the local council would like to know that the flats it owns are in the hands of the rightful tenants. Squatters, as we all know, do not look after their surroundings or houses." (ERRC interview with Ms Zsuzsa Feczák. October 2003. Debrecen.) At the same time the local government in Debrecen refuses to enter legal rental contracts with Roma arbitrarily occupying social housing, it forces them to pay a "user's fee", which, according to ERRC research, can be as much or more than the cost of regular rental fees. (ERRC interview with Mr Attila Szilágyi, Head of the Civis Ház Legal Department. October 2003. Debrecen.) Civis Ház is a corporation commissioned by the Debrecen local government to manage city property.

government in Ózd, it was revealed that the local council reportedly gives preference to families who can prove savings in advance and who will be able to fund their own housing in a few years, with the help of a state-subsidised loan. This all but excludes persons who are unemployed and/or relying on social welfare or otherwise in situations of poverty and/or extreme poverty -- as is the situation of many Roma in Ózd -- from accessing social housing. A similar situation was found in Debrecen.

Another manner in which many Roma who qualify for social housing are denied access to this right in practice is the distribution of social housing by local governments via public auction. According to ERRC research in Debrecen, social flats available for rent are advertised in the local media with bids ranging between 18,000 and 40,000 Hungarian forints (approximately 70 to 155 Euro). The bids are often too high for Roma in Debrecen to afford. Ms Ildiko Batizi, leader of the Debrecen-based non-governmental organisation *Provisional Home of Families* explained, "It is very hard to get a social flat in Debrecen because of the bidding. Only a person who offers the highest price gets the flat. Nowadays, social flats can cost up to 40,000 forints per month. Many Roma who most need such flats have no possibility to pay this amount."⁴⁶ In Hajdúhadház, social flats are also let through public auction, though such auctions are often not advertised. Reportedly, most flat auctions are announced only to a select few, usually those with ties to the local government. Romani residents in Hajdúhadház report that they do not receive notification that social flats will be auctioned off, with the exception of those flats in poor condition and located near Romani settlement. There are currently around one hundred social flats in Hajdúhadház, according to Mr Levente Kis of the *Association for Hajdúhadház*, but not a single Romani family occupies a social flat in the city.⁴⁷

When applying for social flats, Roma report that non-Roma receive preferential treatment in the allocation of social housing. Mr László Botos, a Romani man from Debrecen, stated, "The authorities always say the waiting list is long. But non-Roma always receive flats first."⁴⁸ Mr Gábor Balogh, also a Romani man from Debrecen, stated, "Local authorities won't do anything for us. Even in the mayor's office they don't see us, they always find an excuse. [...] So, how could I solve my flat problems?"⁴⁹ Mr V.I., a Romani man living in Budapest's 8th District with his wife and four small children, claimed that he often visits the local government to apply for social housing but is told that there are no available flats. Mr V.I. stated, however, that he knows the location of available flats. In the meanwhile, he and his family illegally occupy a 24-square-metre flat.⁵⁰ Mr P.A., a 37-year-old Romani man, stated that since being evicted in March 2003 from a flat he and his family illegally occupied, he had been promised assistance by the Budapest's 8th District local government upon filling out the requisite paperwork. However, Mr P.A. stated that he does not understand how to do this and local authorities have not offered him any help in this or given him any instructions. In the interim, his wife and children live with his mother and he lives in a four-square-metre shelter in a courtyard.⁵¹

Summary: Racial Segregation

Due to the factors described above, as well as because of long-term, historic racial segregation of Roma in the countries at issue, large numbers of Roma today in all three of the countries under review live segregated from non-Roma, in violation of international human rights norms banning racial segregation.⁵² Widespread discrimination against Roma, coupled with governmental policies that

⁴⁶ ERRC interview with Ms Ildiko Batizi, April 2003, Debrecen.

⁴⁷ ERRC interview with Mr Levente Kis, April 2003, Hajdúhadház.

⁴⁸ ERRC interview with Mr László Botos, April 2003, Debrecen.

⁴⁹ ERRC interview with Mr Gábor Balogh, April 2003, Hajdúhadház.

⁵⁰ ERRC interview with Mr V.I., April 2003, Budapest.

⁵¹ ERRC interview with Mr P.A., May 2003, Budapest.

⁵² The International Convention on the Elimination of All Forms of Racial Discrimination unequivocally bans segregation: Article 3 states, "States Parties particularly condemn racial segregation and apartheid and undertaken to prevent, prohibit and eradicate all practices of this nature in territories under their jurisdiction."

indirectly discriminate against Roma and/or the failure of public officials to act effectively to counter anti-Romani actions, prevent Roma from integrating into the majority population and, indeed, reinforce their segregation from majority society.⁵³ Roma frequently live in informal housing settlements that are outside the official ambit of local administration, providing a convenient excuse for local authorities that do not wish to assist Romani residents. Roma living in segregated, informal settlements are in practice not afforded the legal protection residents of formal housing, for example protection from forced evictions, and in many cases also do not have access in practise to public services such as electricity, heating and potable water, sewage and solid waste removal, or inclusion on urban grids for the purposes of public services such as public transportation or provision of adequate schooling.

Large numbers of Roma in Greece live segregated from non-Roma. Many Romani communities visited by the ERRC/GHM have experienced multiple relocation on the basis of decision by municipal authorities. Greek authorities routinely distinguish between Romani settlements and the rest of the urban plan, frequently placing the housing inhabited by Roma outside legal and administrative arrangements. Romani residents, who in many cases lack security of tenure, of such settlements therefore are not afforded legal protections against housing rights violations and are not provided public services such as such as decent roads leading to the settlements, connections to the electricity grid, clean water supply, sewage removal systems and public transportation services. Furthermore, relocated Roma often are deprived proximity to schools, businesses and other services, which severely limits their education and employment opportunities.

ERRC research in Hungary has revealed extensive segregation in the field of housing, segregation which is reportedly growing more severe in a number of areas. In one recurrent scenario, Roma in a number of municipalities have in recent years been forcibly moved to peripheries or offered a range of incentives to leave town centres voluntarily, often as part of "urban renewal" programs. As a result, many Roma moved from the centre of Hungarian cities have ended up in substandard housing on urban peripheries, in worse conditions than the housing they left, or even moved out of the given locality completely. For instance:

- ERRC research in the eastern Hungarian city Debrecen in April and October 2003 revealed that approximately 60 percent of the city's Romani population, or 5,000 people, live on the periphery of the city in so-called "Gypsy colonies", named Nagy Sándor, Domokos Márton, Biczó István and Bayk András. Similar settlements exist in the centre of Debrecen; the Kishegyesi Street and Hadházi Street settlements are almost exclusively Romani. One lawyer with whom the ERRC spoke stated that such settlements only came into existence after 1992. At this time, the local government reportedly conducted large-scale evictions of Roma from the city centre under the guise of a "cleaning programme";
- In the eastern Hungarian city Hajdúhadház, 95 percent of the Romani population, or between 3,000 and 4,000 people, live at the edge of the city in five separate settlements – Irinyi, Vasúti, Szőlős, Oncsa, and Márvány; the last three inhabited completely by Roma. According to ERRC research, settlements appeared or enlarged after 1990. At that time, many Romani families moved to the town in an attempt to solve their housing problems. The local government reportedly settled many Roma on the periphery of town.⁵⁴
- In the northern Hungarian city of Ózd, almost 40 percent of the Romani population live in Kiserdőalja and Hétes, segregated Romani settlements, or primarily Romani streets. In recent years, the Ózd Property Management Office has advanced the segregation of Roma in the city by demolishing two social tenement blocks, which housed approximately one thousand two

⁵³ The Committee on the Elimination of Racial Discrimination (CERD), which monitor's States' compliance with the ICERD stated, in its General Comment 19 on racial segregation and apartheid, that racial segregation can "arise without any initiative or direct involvement by the public authorities. It invites States parties to monitor all trends which can give rise to racial segregation, to work for the eradication of any negative consequences that ensue, and to describe any such action in their periodic reports." CERD. General Comment 19: Racial segregation and apartheid (Art. 3). August 18, 1995, paragraph 4.

⁵⁴ ERRC interviews with Mr József Hortó, President of the Hajdúhadház Roma Minority Self-Government, and Mr Levente Kis of the *Association of Hajdúhadház*, April 2003, Hajdúhadház.

hundred and sixty people, the majority of whom were Romani. Many Roma were displaced within the city to segregated settlements because following the destruction of their flats, they were unable to secure legal housing.

- ERRC research in the central Hungarian city of Veszprém revealed that a targeted campaign of the local authorities has virtually cleansed the city of Roma during the last four years. Mr István Schmidt of the Veszprém Property Management Office told the ERRC that the aim of the programme was to abolish the deteriorated conditions in the Old Town and the Castle District and to increase the comfort level of city residents, particularly those living in the Castle District.⁵⁵ In 1998, approximately two hundred Romani families reportedly lived in Veszprém; at the time of ERRC research in 2003, only around fifty families remained.⁵⁶ Romani families living in poor conditions were made lucrative offers by the local government to leave their homes in the city. Aside from five to eight families, the families legally occupied their homes but had reportedly incurred large debts to the public utilities company.⁵⁷ Those who resisted the local government's offer were reportedly pressured to accept it or face forcible eviction. In exchange for leaving their homes, their debts were forgiven and the families each received between 150,000 and 5 million Hungarian forints (approximately 580 and 20,000 Euro). According to Mr Erdelyi, most Roma who wished to remain in the city were unable to do so because the sum received from the government was not enough to cover the high property prices in the city, forcing them to move to surrounding villages.

In the extreme case, the policy of segregating Roma in Hungary has resulted in a construction of a segregating wall blocking a Romani community from the view of tourists. In October 2003, the ERRC met with Roma from a settlement just outside the central Hungarian town Keszthely on the highway to Hévíz in front of which stood a wooden wall, approximately 8 to 10 feet tall and about 100 feet in length. Local Roma testified that the wall had been constructed about two months earlier, without either their knowledge or consent. Subsequent to media coverage and pressure from Roma rights organisations, including the ERRC, the local government of Keszthely destroyed the wall on October 10, 2003.⁵⁸

Several ERRC field missions to Turkey have revealed that many Roma in Turkey live segregated from non-Roma. In the extreme case, the ERRC is aware of at least one community in which the segregation of Roma in Turkey has manifested in the construction of a segregating wall around the community. Roma in the Gundogau Romani settlement in the Yakupulu area of Istanbul lived in a recently constructed block of three-room flats provided by the state at the time of an ERRC visit in March 2003. A segregating wall approximately two metres in height surrounded the settlement. In the architectural drawings of the site, which the ERRC viewed, the wall was not visible, but the company employed by the local authorities built it nonetheless. There was only one entrance through the wall into the settlement.⁵⁹ In addition, at the time of an ERRC field mission in September 2003, there existed a Roma-only tent settlement in the Istanbul's Ataşehir District. The settlement was located in an open field just off a highway, at least one kilometre away from any buildings aside from an auto shop. In the Yeni Sahre neighbourhood in the Istanbul's Kadıköy District, the ERRC also visited two settlements inhabited solely by Roma. Both settlements were situated in what appeared to be a mixed neighbourhood, but were inhabited by Roma only.⁶⁰

⁵⁵ ERRC interview with Mr István Schmidt, Representative of the Veszprém Property Management Office, April 2003, Veszprém.

⁵⁶ ERRC interview with Mr Bela Erdelyi, President of the Veszprém Roma Minority Self-Government, April 2003, Berhida.

⁵⁷ ERRC interview with Mr János Babai, Representative of the Berhida Roma Minority Self-Government, April 2003, Berhida.

⁵⁸ ERRC telephone interview with Mr Ferenc Zámankovics, Deputy Mayor of Keszthely, October 2003.

⁵⁹ Observations from ERRC field mission to Turkey, March 2003, Istanbul.

Evidence indicates that Greece, Hungary and Turkey have broadly failed to take all steps necessary to ensure access to adequate family housing to Roma living on their respective territories. Many Roma with whom the ERRC has met in Greece, Hungary and Turkey live in segregated settlements in substandard conditions. The majority of the residents of such settlements do not enjoy legal security of tenure, placing them in a position vulnerable to forced evictions. In fact, forced evictions of Roma have taken place on numerous instances in all three countries in recent years. As a general rule, segregated Romani settlements lack basic infrastructure, including, but not limited to, potable water supply, gas for heating and cooking, canalisation and public transportation services. The location of segregated settlements at the periphery of most cities limits means that the Romani inhabitants are far from most schools, shops and services available in the city. This impacts greatly the educational and employment opportunities of residents. The segregation of Roma in housing settlements perpetuates their exclusion from the rest of society and provides a foundation from which the denial of access to other fundamental rights and freedoms flows. Those Roma who seek to leave settlements characterised by a high degree of racial segregation have in some instances been blocked by local non-Roma -- sometimes with the implicit or explicit assistance of local authorities -- from moving out of substandard, segregated settlements. Finally, due to a high degree of anti-Romani sentiment around the region now, even those Roma not living in exposed settlements cannot be fully guaranteed that their housing rights will be fully respected. The failure of all three states at issue in this submission to adopt comprehensive anti-discrimination laws in conformity with European standards has meant that for these persons as well Article 16 guarantees have not yet been fully realised.

Recommendations

The ERRC and COHRE urge the European Committee on Social Rights to recommend that:

1. The Greek government provide adequate reparation for Roma that suffered loss or other harms during the period that the 1983 Ministerial Decree, entitled “Sanitary provision for the organised relocation of wandering nomads”, was used by public authorities to forcibly evict Roma.
2. The Greek government establish mechanisms to ensure that the 1983 Ministerial Decree, or other provisions permitting forced evictions, are not arbitrarily or indiscriminately applied to Roma.
3. The Hungarian government take steps to reverse retrogressive tenancy legislation removing protections for tenants during forced evictions, in particular by empowering courts to suspend evictions, particularly where a tenant may be rendered homeless by an eviction.
4. The Turkish government repeal discriminatory sections of its 1934 Settlement Law that excludes various minorities from its provisions.
5. The Greek, Hungarian and Turkish governments ratify, without delay, Protocol 12 to the European Convention on Human Rights which, once in effect, will provide a comprehensive ban on discrimination in the realisation of any right secured by law;
6. The Greek, Hungarian and Turkish governments ensure that they have implemented a comprehensive anti-discrimination framework including the transposition of current European and international standards, in particular European Council of the European Union Directive 2000/43/EC “implementing the principle of equal treatment between persons irrespective of racial or ethnic origin” and General Policy Recommendation No 7 of the European Commission against Racism and Intolerance, establishing an effective enforcement body (in accordance with General Policy Recommendation No 2 of the European Commission against Racism and Intolerance) with administrative independence and sufficient resources.

⁶⁰ Observations from an ERRC field mission to Turkey. September 2003. Istanbul.

7. The Greek, Hungarian and Turkish governments use all appropriate means to protect and promote the right to housing and guarantee protection against forced evictions including ensuring that:

- (a) Evictions do not result in individuals being rendered homeless or vulnerable to other human rights abuses;
- (b) Evictions only proceed where there is a justifiable reason for doing so, in accordance with international human rights law;
- (c) Security of tenure is guaranteed to Romani occupants of houses and land, ensuring, *inter alia*, a general protection from forced evictions;
- (d) Evictions conducted for discriminatory reasons or carried out in a discriminatory fashion are prohibited;
- (e) Due process in accordance with international standards is guaranteed in relation to any forced eviction, including (i) opportunity for genuine consultation; (ii) adequate and reasonable notice; (iii) full disclosure of information concerning the eviction, including purpose for which land or housing will be used; (iv) presence of government officials during eviction; (v) proper identification of those carrying out eviction; (vi) evictions not to proceed in bad weather; (vii) provision of legal remedies; adequate pecuniary and non-pecuniary civil compensation as well as comprehensive criminal and administrative redress in cases of illegal forced evictions; and (ix) provision of legal aid where possible for those seeking redress in courts;
- (f) Adequate alternative housing, resettlement or access to productive land is made available to those affected by evictions who are unable to provide for themselves.

8. Greek, Hungarian and Turkish authorities prosecute public officials responsible for, or who acquiesced in the carrying out of, forced evictions of Roma in breach of national and international law.

9. The Greek, Hungarian and Turkish governments take immediate steps to improve the living conditions in Romani settlements, including:

- (a) Ordering local authorities to provide, without delay, adequate potable water, electricity, waste removal, public transport, road provisions and other public infrastructure to those Romani settlements which presently lack one or more of the above;
- (b) In the interest of empowering Roma to take control of their own housing fate, provide an executive “amnesty” for the so-called “illegal” Romani settlements currently existing on state-owned land, granting title to land and property to persons factually resident on a particular plot, and establishing a “year zero” for the purposes of zoning and future regulation.

9. The governments of Greece, Hungary and Turkey ensure that Roma are not denied access to social services, including social housing.

10. The governments of Greece, Hungary and Turkey ensure that adequate legal assistance is available to victims of discrimination and human rights abuse, including forced evictions, by providing free legal services to indigents and members of weak groups, including Roma.

11. The governments of Greece, Hungary and Turkey conduct systematic monitoring of access of Roma and other minorities to social and economic rights -- the right to adequate housing in particular - - and establish a mechanism for collecting and publishing disaggregated data in these fields, in a form readily comprehensible to the wider public.

12. The governments of Greece, Hungary and Turkey conduct public information campaigns on human rights and remedies available to victims of human rights abuse, including such public information campaigns in the Romani language.

13. At the highest levels, officials of all three countries at issue in this submission speak out against racial discrimination against Roma and others, and make clear that racism will not be tolerated.