

DECISION ON ADMISSIBILITY

23 September 2008

**International Centre for the Legal Protection of Human Rights (INTERIGHTS)
v. Greece**

Complaint No. 49/2008

The European Committee of Social Rights, committee of independent experts established under Article 25 of the European Social Charter ("the Committee"), during its 231st session attended by:

Mrs Polonca KONČAR, President
Mssrs Andrzej SWIATKOWSKI, First Vice-President
Tekin AKILLIOĞLU, Second Vice-President
Jean-Michel BELORGEY, General Rapporteur
Alfredo BRUTO DA COSTA
Nikitas ALIPRANTIS
Stein EVJU
Mrs Csilla KOLLONAY LEHOCZKY
Mssrs Lucien FRANCOIS
Lauri LEPPIK
Colm O'CINNEIDE
Mrs Monika SCHLACHTER
Birgitta NYSTRÖM
Lyudmila HARUTYUNYAN
Annalisa CIAMPI

Assisted by Mr Régis BRILLAT, Executive Secretary

Having regard to the complaint dated 28 March 2008, registered on 28 March 2008 as number 49/2008, lodged by the International Centre for Legal Protection of Human Rights ("INTERIGHTS") and signed by its Senior Lawyer Mr Iain BYRNE requesting the Committee to find that the situation in Greece is not in conformity with Article 16 of the European Social Charter ("the Charter") in light of the Preamble ;

Having regard to the documents appended to the complaint;

Having regard to the Charter and, in particular, to Article 16 as well as the non-discrimination clause of the Preamble, which read as follows:

Article 16 – The right of the family to social, legal and economic protection

Part I: "The family as a fundamental unit of society has the right to appropriate social, legal and economic protection to ensure its full development."

Part II: "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."

Preamble

"[...]"

Considering that the enjoyment of social rights should be secured without discrimination on grounds of race, colour, sex, religion, political opinion, national extraction or social origin;

Having regard to the Additional Protocol to the European Social Charter providing for a system of collective complaints ("the Protocol");

Having regard to the Rules of the Committee adopted by the Committee on 29 March 2004 at its 201st session and revised on 12 May 2005 at its 207th session ("the Rules");

Having regard to the observations of the Greek Government ("the Government") on the admissibility of the complaint received on 20 June 2008;

Having regard to the observations of INTERIGHTS received on 1 August 2008 in response to those of the Government

Having deliberated on 23 September 2008;

Delivers the following decision, adopted on the above date:

1. INTERIGHTS submits that the situation in Greece is not in conformity with Article 16 of the Charter, in light of the Preamble on the grounds that the Government continues to forcibly evict Roma without providing suitable alternative accommodation or effective remedies. Further INTERIGHTS alleges that the Roma in

Greece continue to suffer discrimination in access to housing in violation of Article 16 of the Charter.

2. The Government in its observations raises the following objections to admissibility:

– the substance of the complaint is in essence identical to that of *European Roma Rights Center v. Greece* complaint No 15/2003 decision on the merits 8 December 2004 and which is being followed up through the reporting procedure;

– the short time between *European Roma Rights Center v. Greece* complaint No15/2003 decision on the merits of 8 December 2004 and the present complaint taking into account the similar subject matter means that the present complaint amounts to an abuse of the procedure;

– the complainant organization files the complaint in collaboration with the Greek Helsinki Monitor which is a national non governmental organization however Greece has not recognized the right of national non governmental organizations to lodge complaints.

THE LAW

As to the admissibility conditions set out in the Protocol and the Committee's Rules

3. The Committee observes that in accordance with Article 4 of the Protocol, which was ratified by Greece on 18 June 1998 and entered into force for this state on 18 August 1998, the complaint has been submitted in writing and concerns Article 16 (in the light of the non discrimination clause in the Preamble) a provision accepted by Greece when it ratified this treaty on 6 June 1984 and to which it is bound since the entry into force of this treaty in its respect on 8 July 1984. Moreover, the grounds for the complaint are indicated.

4. The Committee also observes that, in accordance with Articles 1 b) and 3 of the Protocol, INTERIGHTS is an international non-governmental organisation with participatory status with the Council of Europe. It is included on the list, established by the Governmental Committee, of international non-governmental organisations that are entitled to lodge complaints.

5. The Committee considers that INTERIGHTS submitted a complaint in a field in which it has particular competence within the meaning of Article 3 of the Protocol. It is a non-governmental organisation which according to its statutes aims to promote human rights through inter alia, obtaining redress for victims of human rights abuses through litigation and international advocacy regarding the effective enforcement of human rights through the use of law.

6. The complaint is signed by Mr Iain BYRNE who is a senior lawyer at INTERIGHTS and whose competence to represent INTERIGHTS has been confirmed by the organisation's interim Executive Director, Mr Neil Jeffery, himself empowered to represent INTERIGHTS by virtue of the organisation's statutes. The Committee therefore considers that the complaint complies with Rule 23 of the Rules.

As to the Government's objections concerning the admissibility of the complaint

7. With respect to the first and second objection raised by the Government the Committee firstly notes that the fact that the same provision of the Charter was the subject of a previous complaint does not in itself render another complaint inadmissible. Further the Committee observes that the complaint concerns alleged violations of the Charter that have taken place since the case of European Roma Rights Center v. Greece complaint No 15/2003 decision on the merits 8 December 2004 or concerns alleged ongoing violations of the Charter. The above mentioned case will be followed up through the reporting system. The Committee recalls that it has previously held that "neither the fact that the Committee has already examined this situation in the framework of the reporting system, nor the fact that it will examine it again during subsequent cycles do not in themselves imply the inadmissibility of a collective complaint concerning the same provision of the Charter and the same Contracting Party" (International Commission of Jurists v. Portugal Collective complaint No. 1/1998 decision on admissibility 10 March 1999 paragraph 10).

8. Lastly, the Committee notes the current complaint has been lodged by INTERIGHTS alone, although INTERIGHTS relies on material collected by the Greek Helsinki Monitor. It is for the Committee to decide what weight to give this material, independently of its origin as long as it has been endorsed by the complainant organisation. Pursuant to Rule 25 (2) of the rules complainant organizations are entitled to be assisted by advisers. The fact that Greece has not accepted the right of national non governmental organizations to submit complaints is therefore irrelevant.

9. Consequently, the Committee considers that the objections of inadmissibility raised by the Greek Government cannot be sustained.

10. For these reasons, the Committee, on the basis of the report presented by Ms Csilla KOLLONAY LEHOCKZY and without prejudice to its decision on the merits of the complaint,

DECLARES THE COMPLAINT ADMISSIBLE

In application of Article 7§1 of the Protocol, requests the Executive Secretary to notify the complainant organisation and the respondent state of the present decision, to transmit it to the parties to the Protocol and the states having submitted a declaration pursuant to Article D §2 of the Revised Charter, and to make it public.

Invites the Government to make written submissions on the merits of the complaint by 21 November 2008.

Invites INTERIGHTS to submit a response to the Government's submissions by a deadline which it shall determine.

Invites parties to the Protocol and the states having submitted a declaration pursuant to Article D§2 of the Revised Charter to make comments by 21 November 2008 should they so wish.

In application of Article 7§2 of the Protocol, requests the Executive Secretary to inform the international organisations of employers or workers mentioned in Article 27§2 of the Charter and to invite them to make observations by 21 November 2008.



Csilla KOLLONAY LEHOCZKY
Rapporteur



Polonca KONČAR
President



Régis BRILLAT
Executive Secretary