



NEWS REPORT

Update of news report nr: 31 October 2010
Date: 1 July 2011
Expert: Athanasios Theodoridis
Title: Supreme Court Prosecutor's official request for a re-examination in an alleged case of alleged violation of a Roma family's rights in the field of housing.
Country: Greece
Context
Issue at stake: Cruel, inhuman and degrading treatment ; right to equality before the law ; protection of minorities ; protection of housing and family ; interdiction of discrimination
Ground of discrimination: race/ ethnic origin
Source: Decrees 64/2011 and 71/2011 of the Patras Appeals Prosecutor
Field: Housing
Legislative provisions: Articles 43 par. 3 and 47 of the Greek Code of Criminal Procedure ; International Covenant on Civil and Political Rights - I.C.C.P.R. (Articles : 7, 17, 23, 26, 27)

Content

Case development: As highlighted in the Flash Report 553-EL-22, in a View publicized on 16 October 2010 (and issued on 14 September 2010), the U.N. Human Rights Committee considered as sufficiently established the allegations of the Georgopoulos Roma family (corroborated by photographic evidence) regarding arbitrary and unlawful eviction and the demolition of their home for it significantly affected their family life and violated their rights to enjoy their way of life as a minority. For these reasons, the Committee concluded that the demolition of the Roma family's shed and the prevention of construction of a new home in the Roma Riganokampos settlement amounted to a violation of Articles 17, 23 and 27 read alone and in conjunction with Article 2, paragraph 3, of the International Covenant on Civil and Political Rights.

The Greek State argued that since appropriate criminal investigations had been completed in accordance with Patras Appeals Prosecutor Decrees 44/2009 and 56/2009 (which contested the allegations of the Georgopoulos family's (and other Roma) unlawful eviction), it complied with the requirement to provide effective remedy. The State argued that it responded sufficiently by conducting such investigations.

It is noteworthy that the Georgopoulos case is procedurally identical to the *Zeliof*¹ and *Petropoulou-Tsakiris*² cases, also submitted by the NGO "Greek Helsinki Monitor" (GHM). In the *Petropoulou-Tsakiris* case, a re-examination was ordered by the Supreme Court Prosecutor who considered the ECHR judgment on the above cases as "*new information that justify the re-examination of the case*" in application of Articles 43.3 and 47 of the Code of Criminal Procedure. Unlike the *Petropoulou-Tsakiris* case, the merits of the *Georgopoulos* case were never examined by a court, and the case was archived as inadmissible by two prosecutors. Hence, according to the *Petropoulou-Tsakiris* case, the State should have asked the Supreme Court Prosecutor to order the re-examination in this case as well, but failed to take such action.

On 26 April 2011, GHM filed with the Supreme Court Prosecutor a request for a re-examination, referring to the *Petropoulou-Tsakiris* case. On 29 April 2011, the Supreme Court Prosecutor ordered the Patras Appeals Prosecutor to carry out a re-examination. On 6 June 2011, with Decree 64/2011, the Patras Appeals Prosecutor decided that a re-examination should be carried out and ordered the Patras First Instance Prosecutor to carry out an urgent supplementary preliminary examination, not only because of "new information" as for the *Petropoulou-Tsakiris* case but also because of imminent prescription of the alleged crimes, by inviting for explanatory statements the accused, including the then Mayor of Patras. On 17 June 2011, with Decree 71/2011, the Patras Appeals Prosecutor, who was competent to adopt the Decree, decided to overturn his previous Decrees 44/2009 and 56/2009, to accept GHM's applications for review 6/2009 and 22/2009 as partly well-founded on the grounds of interdiction of discrimination and protection of housing and family, and to order the Patras First Instance Prosecutor to indict the then Mayor and two Deputy Mayors of Patras, as well as their unknown accomplices (the crews who carried out the evictions) for continuous "breach of duty"³ to enforce the law and protect housing and family between 27 July and 15 September 2006, for the demolition of the homes of eight Roma families, seven Greek-including Georgopoulos – and one Albanian).

¹ <http://cm.greekhelsinki.gr/index.php?sec=194&cid=3136> According to the ECHR, Greece violated twice Article 3 (prohibition of torture) of the **European Convention on Human Rights**, both in its substantive part (police officers ill-treated **Dimitris Zelilof**) and in its procedural part (there was no effective investigation into the ill-treatment), and must award the victim 19,900 euros for pecuniary and non-pecuniary damage, as well as costs and expenses.

² <http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=Petropoulou-Tsakiris&sessionid=9010648&skin=hudoc-en> Key facts of the case: The applicant, a Greek national of Roma ethnic origin, claimed that, during a police operation in a Roma settlement, she was forcefully pushed back by one police officer and kicked in the back by another. She felt intense pain in the abdomen and started bleeding. The applicant lodged a criminal complaint and joined the proceedings as a civil party seeking damages. The Deputy Director of Greek Police, who had been involved in the operation, interviewed five senior police officers who stated that they had not witnessed any ill-treatment of the applicant. Main reasoning/argumentation: The court was struck by the sweeping statements concerning Roma made by the Deputy Director of Greek Police and found that such comments revealed a general discriminatory attitude by the authorities which had reinforced the applicant's belief that the lack of an effective investigation into the incident had been due to her Roma ethnic origin. Key issues (concepts, interpretations) clarified by the case: The Roma ethnic origin of the applicant had influenced the attitude and behaviour of the police and judicial authorities. Results (sanctions) and key consequences or implications of the case: The court held unanimously that there had been a violation of Article 3 ECHR and of article 14 ECHR in conjunction with article 3.

³ Article 259 of the Greek Penal Code.



It is expected that a date for a trial before the Patras Three Member Misdemeanors Court will be assigned and the related summons will be served to the defendants before 27 July 2011, so that the charges do not become time-barred on that date but three years later, on 27 July 2014. The trial date is expected to be approximately in the fall of 2011⁴.

Link source and additional information: Copies of Decrees 64/2011 and 71/2011 of the Patras Appeals Prosecutor (17 June 2011) kindly submitted to Attorney at Law Athanasios Theodoridis by the Greek Helsinki Monitor.

⁴ According to the article 111 par.3 of the Greek Penal Code, misdemeanors become time-barred after the completion of five years.