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**Human Dimension Implementation Meeting (Warsaw, 29 September - 10 October 2008)**

**Working session 6: Tolerance and non-discrimination I (Roma)**

2 October 2008

**Greece: Written contribution on Roma pupils' school segregation or total exclusion**

**Greek Helsinki Monitor** (GHM) highlights an article in «**Eleftherotypia on Sunday**» dated 21 September 2008 on the insistence of the Greek state to the racial segregation of Roma children attending the **10th Elementary School in Aspropyrgos** (Attica) despite a conviction by the **European Court of Human Rights** (ECtHR - *Case of Sampanis v Greece* –see below the related press releases of 5 June 2008 by GHM, the **European Roma Rights Centre** and the ECtHR).

GHM notes that, until the eve of the beginning of this school year, the school annex was in abandoned and destroyed (photos below). The Roma children had stopped attending it at the end of May 2008, when they were attacked by older non-Roma children while no one –teacher or otherwise– bothered to protect or reassure them.

If it were not for **UN Independent Expert on Minority Issues Gay McDougall's** visit to Greece, the Roma children would not have attended even the racist school annex this year. On 9 September 2008, the Expert was informed by GHM (representing the Roma) and **Minority Rights Group-Greece** (MRG-G) of the apparent new exclusion of Roma children in Aspropyrgos from school and of the continuing exclusion of Roma children from school in Spata, a situation that began in 2006. Later that day, the Expert was scheduled to meet with the Ministry of Education, where she evidently asked to be informed about the fate of these children.

On the following day, the Expert first visited the Roma community in Spata and then the controversial school annex in Aspropyrgos –which she saw being repaired. She then visited the Roma settlement, where she learned that, on that same afternoon, the state had contacted **Spyros Sampanis** (of the aforementioned ECtHR ruling) to alert parents that their children would be returning to school (to the annex) the following day. As for the Romani children at Spata, the exclusion continues despite the registration of children that began with GHM's intervention on 15 September 2008, because no provisions exist for teachers or the transportation of children to the school. Also, there already appear to be objections on the part of non-Roma parents.

Last year, for example, GHM had to arrange for an article to be published in the daily «**Ta Nea**» on 26 September 2007 (<http://www3.tanea.gr/default.asp?pid=2&ct=1&artid=37387>) for repairs to be completed on the Aspropyrgos school annex destroyed at Easter 2007, so that the Roma children could begin attending it in October 2007. The annex was damaged again in January 2008.

Of course, the Roma children hardly learn anything in the annex, as one can easily discover by asking them. “*Teachers learn Romani much more than we learn Greek,*” they tell their visitors.

The Expert, at a press conference on 16 September 2008, “*expressed particular concern about the*

*lack of access of Roma to 'basic rights from the humanitarian point of view ... there is no person who is not concerned to see that these populations have no drinking water, electricity and their children do not have equal access to education.'*" ("Kathimerini" dated 17/9/2008 [http://news.kathimerini.gr/4dcgi/\\_w\\_articles\\_politics\\_1\\_17/09/2008\\_285031](http://news.kathimerini.gr/4dcgi/_w_articles_politics_1_17/09/2008_285031)).



*The destroyed school annex in Aspropyrgos on 4 September 2008: the teachers' office (left) and some of the Roma pupils in their class (note the difference in material between the two pre-fabricated structures ...)*

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### **Sunday Eleftherotypia**

21/09/2008

#### **The children of the pre-fabricated ghetto**

[http://www.enet.gr/online/online\\_print?id=70780344](http://www.enet.gr/online/online_print?id=70780344)

Panayote Bouganis

One day before the new school year, the Ministry of Education sent a circular to the school headmasters with instructions on the integration of young Romani pupils at schools. The dropout rate of these children is high, but this move had a different objective.



*Roma children in an Aspropyrgos Roma settlement*

Last June the European Court of Human Rights convicted the country for discrimination against Roma and for the violation of their right to education. In particular, for refusing to register children at an Aspropyrgos school during the school year 2004-2005 and for placing them in separate classes outside of the main school complex. It is striking that, so far, none of these children have been normally integrated into the school community!

\* The case began in the summer of 2004, when following an intervention by Greek Helsinki Monitor (GHM), it was discovered that dozens of Romani children in the Psari, Aspropyrgos settlement were not attending school. On 21 September a number of Roma went to the two schools

sharing one building in the area to register their children. But the headmasters turned them away, citing lack of instructions from the Ministry.

\* Two days later, it was decided to create a separate annex, and the search for a suitable site began. A host of bureaucratic procedures ensued, resulting in the loss of the school year.

\* At the beginning of the new school year (2005-6), things became even worse when non-Roma parents strongly protested the attendance of Romani children at the school. So, the latter were placed in special classes in the afternoon. Throughout the next month “indignant” citizens called for a boycott until the Roma pupils, who were attending afternoon classes under police guard, left the school!

\* On 13 October a massive protest by parents took place, when they forcefully prevented Roma children from entering the school. As a result the latter were transferred to a pre-fabricated ghetto annex farther away from the school and the settlement. At that time GHM together with the Roma appealed to the European Court.

\* Still, the problems did not end. Roma pupils were unable to complete the following school year (2006-7), because at Easter unknown persons defaced the building with racist slogans and burnt down the special annex.

Last May another pupil’s attack against a Romani pupil was the reason for the premature termination of that school year.

\* Then came June, when the European Court condemned Greece and asked it to pay EUR 6,000 to each parent for moral injury and 2,000 for legal costs.

GHM Spokesperson P. Dimitras notes that new appeals will be lodged “*since, despite the conviction, racial segregation continues in Aspropyrgos with the ghettoization of these children in a rudimentary school annex, which in fact was destroyed once again after the Court judgment! The state blatantly disregards the court's recommendation that it should abandon such segregated, allegedly preparatory classes except in cases where there is an objectively verifiable need.*”

\* There are other Roma communities that are denied access to school or see their children put into segregated classes. The most striking cases are in Spata, Votanikos, Riganokampos in Patras, Zefyri and Sofades in Karditsa. These problems continue to worsen, despite the fact that during the last decade universities were funded with millions of euros from Greece and Europe to develop programs aimed at integrating Roma children and at combating their exclusion.

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**PRESS RELEASE**

5 June 2008

**Greece: European Court judgment on segregated education of Roma in Greece**

**Greek Helsinki Monitor** (GHM) welcomes today's **European Court of Human Rights** (ECtHR) conviction of Greece for a segregated Romani school in Psari Aspropyrgos functioning since 2005, after a previous denial of access to school for the Romani children in 2004-2005. The related application to the ECtHR was filed by GHM on behalf of 11 parents of 18 children. The following ERRC and ECtHR releases provide a comprehensive description of the judgment and the case.

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### **ERRC Welcomes European Court Judgment on Segregated Education of Roma in Greece ECHR Confirms that Segregated Education of Roma is Illegal**

5 June 2008, Budapest: The ERRC welcomes a judgment issued today by the European Court of Human Rights (ECtHR) in the case of *Sampanis and Others v. Greece* (application no. 32526/05). The applicants, of Romani ethnic origin and residing in a settlement located in the "Psari" area of Aspropyrgos, Attica, were represented by Greek Helsinki Monitor (GHM), an Athens-based NGO. Their claims concerned the refusal of education authorities to enroll their children in the local primary school during the school year 2004-2005 and their subsequent placement in an annex to the local primary school, attended only by Roma, located five kilometres from the primary school.

This judgment, adopted unanimously, comes in the wake of the *D.H. and Others v. The Czech Republic* judgment by the Grand Chamber, a case brought by the ERRC, and draws further attention to the issue of the education afforded to Romani children. Today's judgment constitutes the most conclusive proof of the Court's statement in the *D.H. and Others* judgment that "[...] *the Czech Republic is not alone in having encountered difficulties in providing schooling for Roma children: other European States have had similar difficulties*" (paragraph 205).

The Court found a violation of Article 14 (prohibition of discrimination) of the European Convention on Human Rights, in conjunction with Article 2 (right to education) of Protocol 1, regarding the applicants' claims that their children were placed in a segregated school following a short period of time when they attended classes at the local primary school, due to the reaction of local non-Romani parents who did not want their children to attend the same school with Romani children and had in fact staged numerous protests, including preventing their children from attending school. The Court held that it was necessary to take into account these "incidents of a racist character" that had taken place and concluded that these events had an impact on the authorities' decision to send the Romani children to the segregated annex school housed in prefabricated containers.

Considering domestic legislation and the vulnerable position of Roma in Greece which may require special measures to ensure the full enjoyment of their rights, the Court held that the failure of the state authorities to enroll the Romani children during the school year 2004-2005 was attributed to them and hence their responsibility was engaged.

Regarding the segregated school environment, the Court emphasised that the placement of the Romani pupils in the annex school was not the result of special and adequate testing; it emphasised the need to put in place an adequate system of assessment for children facing educational challenges which ensures the avoidance of ethnic minority children being placed in special preparatory classes based on discriminatory criteria.

Lastly, the Court reiterated principles espoused in the *D.H. and Others* judgment regarding uninformed consent, and noted that one of the applicants had explicitly stated that he had effectively to choose between sending his children to the local primary school and jeopardising their physical integrity at the hands of "indignant" non-Romani persons and sending them to the "ghetto school".

The ERRC welcomes this judgment, which reinforces the position stemming from the *D.H. and Others* case that the segregation of Romani children in inferior schools and classes is illegal and that European governments must take responsibility for this.

The full text of the judgment is available in French on the Court's website at:

<http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=836273&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>.

Information on *D.H. and Others v The Czech Republic* is available on the ERRC website at: <http://www.errc.org/cikk.php?cikk=2945>

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## EUROPEAN COURT OF HUMAN RIGHTS

5.6.2008

Press release issued by the Registrar

### CHAMBER JUDGMENT SAMPANIS AND OTHERS v. GREECE

<http://cmiskp.echr.coe.int/tkp197/view.asp?item=1&portal=hbkm&action=html&highlight=&sessionid=8938375&skin=hudoc-pr-en>

The European Court of Human Rights has today notified in writing its Chamber judgment in the case of *Sampanis and Others v. Greece* (application no. 32526/05).

The Court held unanimously that there had been

- **a violation of Article 14** (prohibition of discrimination) of the Convention in conjunction with **Article 2 of Protocol No. 1** (right to education), on account of a failure to provide schooling for the applicants' children and of their subsequent placement in special classes because of their Roma origin;
- **a violation of Article 13** (right to an effective remedy) of the European Convention on Human Rights.

Under Article 41 (just satisfaction) of the Convention, the Court awarded each of the applicants 6,000 euros (EUR) in respect of non-pecuniary damage and EUR 2,000 for costs and expenses. (The judgment is available only in French at <http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=836273&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>)

### 1. Principal facts

The 11 applicants are all Greek nationals of Roma origin living at the Psari authorised residential site near Aspropyrgos (Greece).

The case concerns the authorities' failure to provide schooling for the applicants' children during the 2004-2005 school year and their subsequent placement in special classes, in an annexe to the

main Aspropyrgos primary school building, a measure which the applicants claimed was related to their Roma origin.

On 21 September 2004 the applicants visited, with other Roma parents, the premises of the Aspropyrgos primary schools in order to enrol their minor children. Their action followed a press release issued in August 2004 by the Minister for Education in which he had stressed the importance of integrating Roma children into the national education system. There had also been, on 10 September 2004, a visit by the State Secretary for the education of persons of Greek origin and intercultural education, accompanied by two Greek Helsinki Monitor representatives, to the Roma camps in Psari, for the purpose of ensuring enrolment of all school-age Roma children.

According to the applicants, the headteachers of two schools had refused to enrol their children on the ground that they had not received any instructions on this matter from the competent ministry. The headteachers allegedly informed them that as soon as the necessary instructions had been received they would be invited to proceed with the appropriate formalities. However, the parents were apparently never invited to enrol their children.

The Greek Government claimed that the applicants had simply approached the schools to obtain information with a view to the enrolment of their children, and that the headmistress of the tenth primary school of Aspropyrgos had told them what documents were necessary for that purpose. Subsequently, in November and December 2004, a delegation of primary school teachers from Aspropyrgos had visited the Psari Roma camp to inform and persuade the parents of minor children of the need to enrol them, but that action had been unsuccessful as the parents concerned had not enrolled their children for the current school year.

An informal meeting of the competent authorities was convened by the Director of Education for the Attica administrative district on 23 September 2004 in order to find a solution to the problem of overcrowding in the primary schools of Aspropyrgos to cater for further enrolments of Roma children. It was decided, firstly, that pupils at the age of initial school admission could be taught on the existing premises of the Aspropyrgos primary schools, and secondly, that additional classes would be created for older children, to prepare them for integration into ordinary classes.

On 9 June 2005, on the initiative of the Association for coordination of organisations and communities for human rights of Roma in Greece (SOKARDE), 23 children of Roma origin, including the applicants' children, were enrolled for the school year 2005-2006. According to the Government, the number of children came to 54.

In September and October 2005, from the first day of the school year, non-Roma parents protested about the admission to primary school of Roma children and blockaded the school, demanding that the Roma children be transferred to another building. The police had to intervene several times to maintain order and prevent illegal acts being committed against pupils of Roma origin.

On 25 October 2005 the applicants signed, according to them under pressure, a statement drafted by primary school teachers to the effect that they wanted their children to be transferred to a building separate from the school. Thus, from 31 October 2005, the applicants' children were given classes in another building and the blockade of the school was lifted.

Three preparatory classes were housed in prefabricated classrooms on land belonging to the municipality of Aspropyrgos. Following a fire in April 2007, the Roma children were transferred to

a new primary school set up in Aspropyrgos in September 2007. However, on account of infrastructure problems, that school was not yet operational in October 2007.

## **2. Procedure and composition of the Court**

The application was lodged with the European Court of Human Rights on 11 August 2005.

Judgment was given by a Chamber of seven judges, composed as follows:

Nina **Vajić** (Croatian), *President*,  
Christos **Rozakis** (Greek),  
Khanlar **Hajiyev** (Azerbaijani),  
Dean **Spielmann** (Luxemburger),  
Sverre Erik **Jebens** (Norwegian),  
Giorgio **Malinverni** (Swiss),  
George **Nicolaou** (Cypriot), *judges*,

and also Søren **Nielsen**, *Section Registrar*.

## **3. Summary of the judgment**

### **Complaints**

The applicants, relying on Article 14 (prohibition of discrimination) taken together with Article 2 of Protocol No. 1 (right to education) and Article 13 (right to an effective remedy), complained that their children had suffered discrimination in the enjoyment of their right to education on account of their Roma origin.

### **Decision of the Court**

#### Article 14 taken together with Article 2 of Protocol No. 1

The applicants argued that their children had been subjected, without any objective or reasonable justification, to treatment that was less favourable than that given to non-Roma children in a comparable situation and that this situation constituted discrimination contrary to the Convention.

#### Existence of evidence justifying a presumption of discrimination

The Court observed that it was not in dispute between the parties that the applicants' children had missed the school year 2004-2005 and that preparatory classes had been set up inside one of the primary schools in Aspropyrgos.

The Court noted that the creation of the three preparatory classes in question had not been planned until 2005, when the local authorities had had to address the question of schooling for Roma children living in the Psari camp. The Government had not given any example prior to the facts of the case of special classes being created inside primary schools in Aspropyrgos, even though other Roma children had been enrolled there in the past.

In addition, as regards the composition of the preparatory classes, the Court noted that they were attended exclusively by Roma children.

The Court noted that even though the incidents of a racist nature that took place in front of Aspropyrgos primary school in September and October 2005 could not be imputed to the Greek authorities, it could nevertheless be presumed that those incidents influenced the decision to place pupils of Roma origin in an annexe to the primary school.

The Court considered that the evidence adduced by the applicants and other evidence in the case file could be regarded as sufficiently reliable and revealing to create a strong presumption of discrimination and that it was therefore for the Government to show that this difference in treatment was the result of objective factors, unrelated to the ethnic origin of the persons concerned.

#### Existence of objective and reasonable justification

The Court observed that the material in the case file did not show that the applicants had met with an explicit refusal, on the part of the Aspropyrgos primary school authorities, to enrol their children for the school year 2004-2005.

The Court considered, however, that even supposing that the applicants had simply sought to obtain information on the conditions of enrolment of their children at primary school, there was no doubt that they had explicitly expressed to the competent school authority their wish to enrol their children. Given the Roma community's vulnerability, which made it necessary to pay particular attention to their needs, and considering that Article 14 required in certain circumstances a difference of treatment in order to correct inequality, the competent authorities should have recognised the particularity of the case and facilitated the enrolment of the Roma children, even if some of the requisite administrative documents were not readily available. The Court noted in this respect that Greek law recognised the specific nature of the Roma community's situation, by facilitating the school enrolment procedure for their children. In addition, domestic legislation provided for the possibility of enrolling pupils at primary school simply by means of a declaration signed by someone with parental authority, provided birth certificates were then produced in due course.

This obligation should have been particularly clear to the Aspropyrgos school authorities as they were aware of the problem of providing schooling for the children living in Psari camp and of the need to enrol them at primary school.

As regards the special classes, the Court considered that the competent authorities had not adopted a single, clear criterion in choosing which children to place in the preparatory classes. The Government had not shown that any suitable tests were ever given to the children concerned in order to assess their capacities or potential learning difficulties.

In addition, the Court noted that the declared objective of the preparatory classes was for the pupils concerned to attain the right level so that they could enter ordinary classes in due course. However, the Government had not cited any examples of pupils who, after being placed in a preparatory class – and there were over 50 of them – for two school years, were then admitted to the ordinary classes of the Aspropyrgos primary school. Moreover, the Government did not mention any assessment tests that Roma children should have been periodically required to sit in order for the school authorities to assess, on the basis of objective data rather than approximate appraisal, their capacity to follow ordinary classes.



The Court stressed the importance of introducing a suitable system for assessing the capacities of children with learning needs, to monitor their progress, especially in the case of children from ethnic minorities, to provide for possible placement in special classes on the basis of non-discriminatory criteria. In addition, in view of the racist incidents provoked by the parents of non-Roma children, the setting-up of such a system would have given the applicants the feeling that their children had not been placed in preparatory classes for reasons of segregation. The Court, whilst admitting that it was not its role to rule on this issue of educational psychology, considered that this would have been of particular help in the integration of Roma pupils, not only into ordinary classes but into local society as a whole.

Moreover, the Court was not satisfied that the applicants, as members of an underprivileged and often uneducated community, had been able to assess all the aspects of the situation and the consequences of their consent to the transfer of their children to a separate building.

Reiterating the fundamental importance of the prohibition of racial discrimination, the Court considered that the possibility that someone could waive their right not to be the victim of such discrimination was unacceptable. Such a waiver would be incompatible with an important public interest.

The Court concluded that, in spite of the authorities' willingness to educate Roma children, the conditions of school enrolment for those children and their placement in special preparatory classes – in an annexe to the main school building – ultimately resulted in discrimination against them. Accordingly, there had been a violation of Article 14 of the Convention taken together with Article 2 of Protocol No. 1 in respect of each of the applicants.

### Article 13

The Court found that the Greek Government had not adduced evidence of any effective remedy that the applicants could have used in order to secure redress for the alleged violation of Article 14 of the Convention taken together with Article 2 of Protocol No. 1. Accordingly, there had been a violation of Article 13.

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***The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.*

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