

# ● Greek Ombudsman as a Specialized Body for Equal Treatment

**Vilnius, Lithuania**

**Equinet Legal Training**

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# Competence

- ✚ Under Law 3304/2005 the GO was designated as the institution responsible for the implementation and promotion of equal treatment in the public domain
- ✚ This Law incorporates into the national legislation the Directives 2000/43EC and 2000/78EC
- ✚ Under the Law 3488/2006 the GO is designated as the Body for the **monitoring** of equal treatment without discrimination on the grounds of **sex**, in both the private and public sphere (Directive 2002/73EC)
- ✚ Under the new Law 3769/2009 the GO was designated as the institution responsible for the implementation and promotion of equal treatment between men and women in the public domain

# ● Use of ADR by the G. Ombudsman Constitutes its main responsibility

- The Ombudsman mediates utilizing all “suitable means” in order to resolve a case (article 4, Law 3094/2003)
- Goal: protecting citizens’ rights, combating maladministration, ensuring respect of legality, defending children’s rights and promoting the equal treatment of all persons, irrespective of *racial or ethnic origin, religious or other convictions, age, disability, sexual orientation* or gender (article 1)

## Case – study:

### “Roma Settlement of Votanikos”

Use of ADR to resolve cases of systemic, indirect discrimination, on the ground of racial origin

Basic facts of the case:

**A) Complaints to GO-with different requests- have been submitted by**

✿ **the non-Roma citizens** of the municipality of Tavros

✿ **the owners of the land** occupied by the Roma

✿ **the Roma themselves**

✿ Local authorities too complained about absence of central government action

# GO Visit to the Camp



## “Roma Settlement of Votanikos” (2)

### **B) Subject matter of the complaints:**

- ✦ 1. A squalid settlement stands on unlawfully occupied (for about a decade) private land, near the urban centre of the city of Athens. It expands in a borderline area amongst the Municipalities of Athens, Egaleo and Tavros.
- ✦ 2. The size (and nationality) of population: appr. 800-1000 Albanian nationality individuals
- ✦ 3. The living conditions: numerous makeshift shacks made of cardboard, steel sheets and other materials, organized in rudimentary family based tiny “neighborhoods”, with no access to the water supply, electricity, sewage.

## “Roma Settlement of Votanikos” (5)

3. The inability of the land owners to use their property - despite the fact that they had gained a removal order - and the economic damage they sustain (lost profits, expensive clean up of the land)
4. Almost no access of the inhabitants of the camp to social services - especially health care
5. Very limited participation of the Roma children in education
6. The illegal operation of scrap metal shops and
7. The no-participation of the Roma in the formal labour market

# “Roma Settlement of Votanikos” (3)

## Living Conditions

The Roma subsist by utilizing extremely polluting practices such as:

- ✦ gathering of scrap and other materials
- ✦ burning of tires and wires in order to extract their metallic contents
- ✦ These practices, accompanied by the display, oftentimes, of delinquent behaviour (such as engaging in petty thefts, breaking and entering in small and medium businesses in the area, dangerous driving, use and selling of illegal substances) give rise to tensions with the non-Roma residents of the area.



οικισμός Ορφείως

Ορφείως

Δημοσφάκη

Σαλαμίνις

Πέτρου Ράλλη

Κρήτης

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## “Roma Settlement of Votanikos” (4)

Source of social tension also is:

The **magnitude** of the environmental pollution and its **short and long term affects** to the life and health all the inhabitants in the area (Roma and non-Roma):

- ✦ The local residents complain about not being able to breath the air, open their windows in the summer, and point to relevant research which entails the likely presence of dangerous substances on the ground
- ✦ The danger to the health of the Roma themselves, (especially the children) who actually live where these activities occur, is far greater

# Nature of camp



Οι Αθίνας από βρόχοιο νερό διασκορπίζουν τους Ρομά να σέρνουν τα κερατάκια, αλλά αυτό δεν είναι το πακέτο των παιδιών.  
Πρώι, και οι μεγάλοι Ρομά παίζουν ξύμα με φόντο τις στοίβες από σκουπίδια που κτίστην το τρομαγμένο βράδυ.



## “Roma Settlement of Votanikos” (6)

- ✦ The residents of the Tavros Municipality had also appealed to the European Committee in regards to the issues of environmental protection
- ✦ The case of “*Demir Ibishi and Others*” is pending on the European Court of Human Rights
- ✦ The Ombudsman appeared for this issue on the “*Special Permanent Parliamentary Committee on Equality, Youth and Human Rights*”

# GO Intervention

- ✦ For many years, especially since 2004, the GO intervened by indicating to the involved public services (the Municipality of Athens, the Prefecture of Athens, the Region of Attica and of the Ministry of the Interior), the increasingly aggravating problems facing all the residents of the area
- ✦ always underlined the need to implement, from their part, the procedure provided by in the law for the sheltering and for temporary encampment of travelers

# GO Intervention (2)

- ✦ Despite the efforts of the Ombudsman no positive action ensued from their part
- ✦ The Ombudsman in April 2009, issued a “Report on Facts”, where emphasized the fact that the persistent failure of the domestic authorities to resolve this unacceptable situation raises questions as to the compliance of the aforementioned services to both, the Greek Constitution and the article 3 of the European Convention for Human Rights and Fundamental Freedoms

# GO Intervention (3)

## New initiative

Since 2009 the community has grown in terms of numbers and the aforementioned problems have intensified

- ✦ The presence of other immigrants in the area (from Pakistan, Bangladesh, Africa), who also subsist in gathering/selling scrap creates new tensions-competition for use of available materials

- ✦ Confronted with the danger of intensified tensions amongst the different groups and the fear of further damage to public health

the GO began a new initiative.

# GO Intervention (4)

The GO sought to bring all involved services together, in a face-to face meeting, in its premises, so as to:

- ✦ Make each public body aware of their areas of competence and responsibilities in regards to the issue
- ✦ Exchange ideas about practical, attainable solutions, to the different aspects of the situation, based on existing legislation
- ✦ Make them commit, in the presence of others, to take action and co-operate on concrete interdependent plans

# GO Intervention (5)

It was acknowledged that a two way process had to be followed:

- ✚ a) Identification of **urgent needs** which had to be accommodated immediately (i.e. **stop the burning of tires, supply water, pick up garbage**, etc.) so that an immediately relief should occur for all residents and avoid social unrest
- ✚ b) Begin the process of **long term resolution**: either by legally **relocating** the camp or by finding other ways to **permanently house** its residents

# GO Intervention (6)

In the **three successive meetings** of all invited relevant public bodies, that took place in the premises of the Ombudsman, in the summer of 2011, it became apparent:

- ✘ **the reluctance** from their part to carry out the commitments they had agreed to in these meetings. Various excuses were given for the unwillingness to move forward. Every time a solution was found a corresponding obstacle was identified.
- ✘ **The failure to undertake other initiatives** in order to advance the set goals.

# GO Intervention (7)

## Examples of failure:

- ✘ When the Ombudsman requested that there should be an examination of the legal status of available lands (specified in a formal study done by TEDKNA, on a request by the municipality of Athens, for the purpose of identifying suitable lands for the relocation of the camp) none of the public services competent to do this was willing to carry it out.
- ✘ The “Regional Administration”, which is responsible for identifying such land, when the municipal authorities fail to do so, refused to do it (perhaps due to the fear of political fallout which could ensue from the part of the residents of proposed locations).

# GO Intervention (8)

## Outcomes

- ✦ The responsible, for resolving this bad situation, services were not activated, as the Ombudsman hoped they will be, despite the fact that they all recognized the severity of the imminent dangers hanging over the residents of the area, in real life and social terms.
- ✦ Nevertheless, some acted on resolving some aspects of the situation.

# GO Intervention (9)

## Outcomes

These are:

- ✦ The efforts to engage the Roma children to the educational procedure (e.g. some actions of the University of Athens and the Children's Rights Ombudsman)
- ✦ The on-going effort of the *Special Secretary of Energy & the Environment* of the Ministry of Environment, Energy and Climate Change (YPEKA).

# GO Intervention (10)

## Outcomes

YPEKA action:

- ✦ The Ombudsman participates in the ‘Work Team’ which the *Special Secretary of YPEKA* has formed, in order to bring about an end to the dangerous practice of burning of tires.
- ✦ Besides the Ombudsman, the team is comprised, among others, by representatives of bodies who are responsible for the control and the licensing of scrap shops, of the control and prevention of environmental pollution, of health inspectors, the mayor of the municipality of Tavros, the police, the NGO ‘Klimaka’ which offers services to Roma and industries which could absorb/utilize the scrap gathered by the Roma.

# GO Intervention (11)

## Outcomes

This effort is seen as a transitional move:

- ✦ To engage the Roma in moving into the path of formal labour market by stopping the burning and instead selling the scrap they gather to the industries (through the mediation of the aforementioned NGO).

# GO Intervention (12)

## Outcomes

This effort continues:

- ✚ There are many obstacles ahead and I don't know if in the end this effort it will bring about any essential change to the situation, or at least open a door to finally find an end in what has been described as “a hell on earth”, which is what this camp is at the moment.
- ✚ The recent EC decision on the case of “*Yordanova and others vs Bulgaria*” I believe it could help, since the situation in Votnikos seems to be a lot like the one the Court already examined.

# Conclusive remarks

## ***The GO strives for:***

- ✦ Successful completion of a case utilizing all available means
- ✦ Implementation of law
- ✦ Articulate proposals for legislative and organizational change when necessary