

**Mandate of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context**

REFERENCE:  
AL GRC 4/2019

14 November 2019

Excellency,

I have the honour to address you in my capacity as Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, pursuant to Human Rights Council resolution 34/9.

In this connection, I would like to bring to the attention of your Excellency's Government information I have received concerning the urgent matter of **persons living in homelessness in Greece. Homelessness is an egregious violation of the right to housing, directly connected to the right to life, and must be accorded the highest human rights priority by governments.**

According to the information received:

As of 2015 there are at least 20,000 homeless persons in Athens<sup>1</sup>, and according to Emfasis, a homelessness organization in Greece, there are 40,000 people living in homelessness across the country.<sup>2</sup>

The Greek Statistical Authority reports that there was a 25 per cent increase in homelessness between 2009 and 2011. Although this estimate has been challenged on methodological grounds, there is widespread agreement that there has been a rapid increase in homelessness in Greece. This increase has been linked to recent financial, economic and social crises in the country as well as austerity measures imposed by the Government. More recent official data on persons currently living in homelessness is to our information not available, but research by the University of Crete referenced by the European Commission shows that, in 2015, up to half a million persons in Greece were at a high risk of becoming homelessness.<sup>3</sup>

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<sup>1</sup> <https://money.cnn.com/2015/07/12/news/economy/greece-crisis-homeless/index.html>

<sup>2</sup> See <https://www.emfasisfoundation.org/en/>. For various recent estimates see as well European Commission, ESPN National Strategies to fight homelessness and housing exclusion, Greece, 2019, p.28 available at: <https://ec.europa.eu/social/BlobServlet?docId=21603&langId=en>

<sup>3</sup> European Commission, ESPN National Strategies to fight homelessness and housing exclusion, Greece, 2019, p.6, available at: <https://ec.europa.eu/social/BlobServlet?docId=21603&langId=en>

Homeless people on the streets, living in cars or in grossly inadequate conditions experience the harshest conditions lacking any basic services or necessities such as toilets, drinkable water, a place to rest and eat, and protection from the elements. People living in homelessness often contract preventable illnesses like tuberculosis, hepatitis, circulatory diseases, HIV/Aids, bronchitis, pneumonia and other respiratory diseases. They are malnourished and are exposed to life-threatening violence. People who are homeless have higher morbidity and mortality rates than housed populations. The life expectancy of people living in homelessness, particularly women, is dramatically lower than people who are housed, sometimes more than three times lower. People living in homelessness often experience discrimination, stereotyping and criminalization by public authorities and the public. These conditions are all contrary to the obligations and requirements of the right to adequate housing under international human rights law as well as the rights to non-discrimination and equality, the right to health and the right to life.

I have received reports of police taking coercive action against refugees, migrants and asylum seekers living in situation of homelessness<sup>4</sup> as well as incidents of violence perpetrated by civilians against persons living in homelessness.<sup>5</sup>

The Constitution of Greece states in article 21(4) that the State has a special duty of care to those who are homeless or living in inadequate housing. Since 2012, the Government has made attempts to address homelessness: it established a multi-stakeholder committee, which led to the legal definition of homelessness and the recognition of homeless persons as a vulnerable group by law, deserving social protection. The national action plan and strategy that should have followed the legal reform are still under development.

While I do not wish to prejudge the accuracy of the information made available to me, I wish to express my serious concern about these allegations of multiple violations of human rights, contrary to international human rights law. The number of persons living in homelessness is an indication that the right to adequate housing is not being effectively implemented. In light of the direct relationship between homelessness and otherwise preventable disease and illness and premature mortality, this would indicate that the Government's obligations with respect to the right to health and the right to life are not being met. The removal of persons living in homelessness from public spaces by force, without providing sufficient short and long term accommodation, and subjecting them to fines or imprisonment, would constitute violations of the prohibition of cruel, inhuman or

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<sup>4</sup> See for example, amnesty international, Greece and the EU must move asylum seekers to safety, 6 December 2018, and <https://www.theguardian.com/cities/2019/aug/26/athens-police-poised-to-evict-refugees-from-squatted-housing-projects>

<sup>5</sup> See <https://www.feantsa.org/download/greece-20172928673074328238317.pdf>

degrading treatment. The disproportionate impact of the above-mentioned violations on vulnerable groups would also indicate violations of the rights to equality and non-discrimination.

I call on the Government to commence the urgent collection of data on the current number of persons in homelessness, with particular attention to vulnerable groups, and to take immediate life-saving action to tackle their situation of emergency. The imminent arrival of winter exacerbates the risks faced by thousands of persons in homelessness. I also encourage your Excellency's Government to approve and implement the national action plan and strategy to address the issue of homelessness, supported by the necessary resources, and based on a human rights-based approach in keeping with my report on rights-based housing strategies A/HRC/31/54. Rights-based housing strategies and action plans must contain clear goals and timelines, as well as set out the responsibilities of all levels of government and of other actors for the implementation of specific, time-bound measures and must be supported by the necessary resources required for implementation. This process should involve consultation with, and participation by, persons living in homelessness.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is my responsibility, under the mandate provided to me by the Human Rights Council, to seek to clarify all cases brought to my attention, I would be grateful for your observations on the following matters:

1. Please provide any additional information and any comment you may have on the above-mentioned allegations.
2. Please explain what urgent measures are in place to ensure access to adequate shelter and housing for persons who are currently homeless, regardless of their migration status.
3. By what date and through what measures do you anticipate eliminating homelessness as required by international human rights law and SDG Goal 11, Target 11.1?
4. Please indicate what measures you have in place to prevent the causes of homelessness.
5. Please provide information on measures taken to collect reliable data on homelessness and kindly share most recent official estimates disaggregated by gender, age, nationality, ethnicity or other social indicators.

6. Please provide details of any measures to provide accommodation to families and individuals who have lost their homes, and to prevent them from experiencing homelessness as a result of evictions or demolitions.
7. Please provide information on measures to ensure active participation of persons living in homelessness in designing housing policy that affects them.
8. Please provide more information as to whether persons without an official address may be excluded from accessing social or housing benefits, social housing, medical care or medical insurance, or excluded from participating in national elections. What measures have been put in place to address these issues?
9. Please provide more information on any laws or regulations that would allow removing persons from public spaces against their will or prohibit persons eating, cooking or sleeping in public spaces. Please clarify under which circumstances such laws or regulations impose fines or detention on persons who stay in a public space, as well as the consequences of non-payment of such fines. Please clarify whether such regulations also authorize the confiscation or destruction of personal belongings, including sleeping bags, tents or other materials used for shelter. Please provide information on the safeguards in place and their efficacy.
10. Please provide information on strategies to prevent stigmatization of persons living in homelessness.
11. Please indicate whether someone living in homelessness can claim the right to housing in court or through other human rights or complaint mechanisms.

This communication and any response received from your Excellency's Government will be made public via the communications reporting [website](#) within 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

While awaiting a reply, I urge that all necessary interim measures be taken to halt the alleged violations and prevent their re-occurrence and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations.

I intend to publicly express my concerns in the near future as, in my view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. I also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that I have been in contact with your Excellency's Government's to clarify the issue/s in question.

Homelessness is a human rights crisis of a global scale; I am also sending similar letters calling the attention of other Governments to the situation of homeless persons in their respective countries.

Please accept, Excellency, the assurances of my highest consideration.

Leilani Farha

Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context

**Annex**  
**Reference to international human rights law**

In connection with the above, and without prejudice to the accuracy of these allegations, I would like to draw the attention of your Excellency's Government to the relevant international norms and standards.

I wish to draw the attention of your Excellency's Government to its obligations under article 11.1 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), ratified by Greece on 16 May 1985, which states that "[t]he 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 [...]." Pursuant to article 2.2 of the ICESCR, it is the obligation of States Parties to guarantee that Covenant rights will be exercised "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth *or other status* [emphasis added]." The Committee on Economic, Social and Cultural Rights has stressed in General Comment No. 4 that the right to adequate housing includes affordability, accessibility, and legal security of tenure.

The Committee on Economic, Social and Cultural Rights has previously recognized that a State party to the ICESCR in which a significant number of individuals are deprived of basic shelter and housing is, *prima facie*, failing to discharge its obligations under the Covenant. States parties are required to demonstrate that every effort has been made to use a maximum of available resources in an effort to discharge their obligations. Furthermore, I wish to direct your Excellency's Government to my report on homelessness and the right to adequate housing (A/HRC/31/54), in which I note that homelessness constitutes a serious violation of the right to adequate housing to which must respond to homelessness with the highest level of urgency. National and sub-national governments must immediately repeal any laws or measures that criminalize, impose fines on or restrict persons living in homelessness or behaviour associated with being homeless, such as sleeping or eating in public spaces. Governments also have an obligation to combat and prohibit any law or practice that serves to discriminate, stigmatize and negatively stereotype persons living in homelessness.

I also draw your attention to article 6 of the International Covenant on Civil and Political Rights which protects the right to life which is understood as "the supreme right from which no derogation is permitted" and, "the effective protection of which is the prerequisite for the enjoyment of all other human rights and the content of which can be informed by other human rights."<sup>6</sup> The Human Rights Committee specifically states that "The duty to protect life also implies that States parties should take appropriate measures

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<sup>6</sup> Human Rights Committee, General Comment No. 36 para. 2.

to address the general conditions in society that may give rise to direct threats to life or prevent individuals from enjoying their right to life with dignity. These general conditions may include ... homelessness.” The Committee also states that the measures called for to address adequate conditions for protecting the right to life include, where necessary, “measures designed to ensure access without delay by individuals to essential goods and services such as food, water, shelter, health care ...” [emphasis added].<sup>7</sup> Violations of the right to life must be treated with the utmost seriousness and urgency. There is little doubt that homelessness triggers right to life interests.

Article 12(1) and (3) of the International Covenant on Civil and Political Rights further specifies that everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movements and freedom to choose his residence and that this right shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order, public health or morals or the rights and freedoms of others. Imposing fines and criminalizing people who are homeless is a disproportionate response to any threats of public order, health or morals that may be caused by people living in public places.

I also call your attention to article 27.1 of the Convention on the Rights of the Child, ratified by Greece on 11 May 1993, which states that “States Parties recognize the right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development.” Article 27.3 states that “States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing, and housing.” It is widely acknowledged that inadequate housing has an adverse impact on the physical health, well-being and development of children. Any increase in the number of children living in homelessness is incompatible with the Convention.

I recall article 5(e)(iii) of the International Convention on the Elimination of All Forms of Racial Discrimination, ratified by Greece on 18 June 1970, which states that “States Parties undertake to prohibit and to eliminate racial discrimination in all its forms and to guarantee the right of everyone, without distinction as to race, colour, or national or ethnic origin, to equality before the law, notably in the enjoyment of the following rights: [...] the right to housing.” These provisions are particularly important in light of the treatment of homeless refugees in Greece referenced above.

I note that through Agenda 2030 for Sustainable Development, the Government of Greece has committed itself to eliminating homelessness. Target 11.1 requires all States to ensure access for everyone to adequate, safe, and affordable housing by 2030. This necessarily means eliminating homelessness by 2030. To this end, States must adopt

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<sup>7</sup> Human Rights Committee, General Comment No. 36 para 26.

rights-based housing strategies with the aim of eliminating homelessness by that date. I refer you to my report on human rights-based housing strategies (A/HRC/37/53) in which I identify ten key principles for the strategies' effective development and implementation. According to these principles, States must ensure the political participation of persons living in homelessness in the design, implementation, and monitoring of rights-based housing strategies. Strategies should also work to combat stigmatization and discrimination against persons living in homelessness.