



## International Covenant on Civil and Political Rights

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### Human Rights Committee

#### Decision adopted by the Committee under the Optional Protocol, concerning communication No. 2837/2016\*\*, \*\*\*

<i>Communication submitted by:</i>	B.Z. et al. (represented by counsel, Dorian Matlija and Theodoros Alexandridis)
<i>Alleged victims:</i>	The authors
<i>State party:</i>	Albania
<i>Date of communication:</i>	13 January 2016 (initial submission)
<i>Document references:</i>	Decision taken pursuant to rule 97 of the Committee's rules of procedure, transmitted to the State party on 21 October 2016 (not issued in document form)
<i>Date of adoption of decision:</i>	8 November 2017
<i>Subject matter:</i>	Forced eviction and demolition of housing of Roma community
<i>Procedural issues:</i>	Exhaustion of domestic remedies; substantiation of claims
<i>Substantive issues:</i>	Effective remedy; cruel, inhuman or degrading treatment; freedom of movement; unlawful and arbitrary interference with one's home and family; discrimination on the ground of ethnic origin
<i>Articles of the Covenant:</i>	2, 7, 12, 17, 23, 26 and 27
<i>Article of the Optional Protocol:</i>	5 (2) (b)

1.1 The authors of the communication are B.Z., H.Z. and K.Z., all nationals of Albania of Roma ethnicity, born in 1967, 1965 and 1984 respectively. They allege that Albania has violated their rights under articles 2, 7, 17, 23, 26 and 27 of the Covenant by forcibly evicting them from Roma settlements twice, in October and November 2015, and by failing to provide them with accommodation immediately after their eviction. In addition, they claim that their forced return to Elbasan, their city of origin, constitutes a violation of their

\* Reissued for technical reasons on 9 January 2018.

\*\* Adopted by the Committee at its 121st session (16 October–10 November 2017).

\*\*\* The following members of the Committee participated in the examination of the communication: Ilze Brands Kehris, Sarah Cleveland, Olivier de Frouville, Christof Heyns, Yuji Iwasawa, Ivana Jelić, Bamariam Koita, Marcia V.J. Kran, Photini Pazartzis, Mauro Politi, José Manuel Santos Pais, Yuval Shany and Margo Waterval.



right to freedom of movement under article 12 of the Covenant. In their initial submission of 9 November 2015, they requested interim measures to halt any further evictions.

1.2 On 14 January 2016, the authors reported that they had been provided with accommodation as a result of the efforts of a non-governmental organization and withdrew their initial request for interim measures. The authors are represented by counsel, Dorian Matlija and Theodoros Alexandridis.

1.3 On 17 March 2017, the Committee, acting through its Special Rapporteur on new communications and interim measures, decided to examine the admissibility of the communication separately from the merits, in accordance with rule 97 of the Committee's rules of procedure.

### **The facts as submitted by the authors**

2.1 The authors are members of a Roma family who were among the families evicted on 14 and 15 October 2015 from a plot of land in an expensive area currently under development, next to the artificial lake of Tirana (which is close to the city centre),<sup>1</sup> despite protests by non-governmental organizations and the Albanian ombudsman, who addressed a series of recommendations to the various authorities reminding them of the State's obligations under international law.<sup>2</sup> During their stay of approximately two years next to the lake, they had managed to erect shacks that protected them to a certain extent from the weather.

2.2 The Municipality of Tirana proceeded with their eviction without presenting any legal basis for its actions; the Roma were never served with any court order ordering their eviction, whereas it would appear that at least part of the land that they were occupying belonged to a private individual and not to the municipality. As soon as the eviction had been completed, on 15 October 2015, the municipality organized a press conference in situ where the mayor of Tirana set out his vision for the redevelopment of the area. Tensions arose when an opposition municipal councillor protested the eviction of the Roma. The authors note that the Municipality of Tirana is a member of the European Alliance of Cities and Regions for Roma Inclusion of the Council of Europe.

2.3 The Roma, who, like the authors, were not registered in the municipal rolls of Tirana, were offered, unofficially, a sum of money as compensation as well as transport expenses to return to their city of origin (in the authors' case, Elbasan).<sup>3</sup> The authors were provided with €100 each and with free transport to Elbasan.

2.4 Despite assurances by Municipality of Tirana staff that the municipal authorities of Elbasan had been advised of their return and would provide them with assistance, this did not happen.<sup>4</sup> Without any support or work opportunities, the authors decided to return to Tirana with a view to resuming their main professional activity, namely the collection and sale of recyclable material, which is their main source of income.

2.5 Following their return to Tirana, the authors sought a place to settle. They finally settled in a house that was under construction,<sup>5</sup> in an area close to the previous settlement.

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<sup>1</sup> The authors provided a copy of Amnesty International Public Statement, "Albania: 44 Roma families desperately need adequate housing, not forced eviction", AI Index: EUR 11/2644/2015, 13 October 2015.

<sup>2</sup> The authors refer to a letter dated 8 October 2015 from the ombudsman, reference No. K1/IK118-4 Prot, which at the time was posted in English on the ombudsman's website (avokatipopullitt.gov.al).

<sup>3</sup> Only one of the authors (K.Z.) owns a small plot of land in Elbasan. Counsel have not provided information about whether the other authors own housing in Elbasan. All the authors and their families had been living in Tirana for more than five years, although they did not attempt to transfer their official residence.

<sup>4</sup> All of the authors returned to Tirana the next day, so it is not clear whether they had looked for any assistance in Elbasan.

<sup>5</sup> The authors presented photographs of the building under construction where they had lived before their second eviction on 7 November 2015. The Roma and the police can also be seen in some of the photographs.

According to the authors, they contacted the owner of the building, who allowed them to stay until 9 November 2015.

2.6 Nevertheless, on 7 November 2015, in the afternoon, both State and municipal police officials arrived at the scene and asked the authors to leave, arguing that the owner had contacted them and requested their eviction. Counsel for the authors were alerted and went to the place. Their requests to the police to produce a court decision or other documents authorizing the authors' eviction were not answered, with the police officer in command merely repeating that the owner had produced documents at the police station proving that the property was his and that he wanted to have the Roma settlement evicted.

2.7 Intimidated by the heavy police presence, the authors decided to leave at around 6 p.m., following an offer by the municipality to help them move their belongings to another informal Roma settlement in the area of Bregu i Lumit. In the late evening of 7 November 2015, the temperature dropped to 3° C. The authors consider that the difficult conditions and the lack of any infrastructure in Bregu i Lumit (literally "at the bank of the river")<sup>6</sup> demonstrate that the main motive of the municipality in helping them move there was to ensure that they would not "taint" the image of the city centre by their presence.

2.8 In mid-December 2015, the ombudsman of Albania launched a special report on the displacement of the Roma/Egyptian community established in the area of the artificial lake that corroborated the authors' allegations. The ombudsman concluded that the eviction of the Roma community was unlawful under domestic law as no administrative decision to that effect had been adopted, nor had the ownership status of the land been previously ascertained.

2.9 The authors claim that they did not have at their disposal adequate and effective remedies to challenge and suspend their eviction or obtain alternative accommodation.<sup>7</sup>

### **The complaint**

3.1 The authors submit that Albania has violated their rights under articles 2, 7, 17, 23, 26 and 27 of the Covenant by forcibly evicting them from the Roma settlements, demolishing their informal accommodation and failing to provide them with emergency alternative housing.

3.2 Concerning article 7, the authors refer to the decision of the Committee against Torture on communication No. 161/2000, in which the Committee found that the destruction of houses belonging to Roma amounted to a violation of article 16 (1) of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and constituted cruel, inhuman or degrading treatment.<sup>8</sup> The authors also refer to a growing body of international case law from various judicial bodies indicating that the destruction of houses might amount, under certain circumstances, to inhuman and

<sup>6</sup> The authors refer to a video shot in November 2014 and photographs, available on the website [www.oranews.tv](http://www.oranews.tv), that give a good indication of the conditions prevailing in the settlement of Bregu i Lumit.

<sup>7</sup> In a supplementary submission of 18 July 2016, the authors reported that on 25 April 2016 one of their lawyers, Mr. Matlija, had filed a criminal complaint regarding the second eviction that took place on 7 November 2015, arguing that the actions of the police were illegal as they were not based on a judicial decision and were contrary to article 248 (abuse of office) and 250 (commission of arbitrary actions) of the Albanian Criminal Code. During the ensuing investigation, the prosecutor invited, among others, the property's owner to testify. In his statement, the owner (a) confirmed that he had not contacted the police to ask for their assistance to remove Roma families staying on the property without his permission; and (b) produced a copy of his title to the land on which the Roma were squatting. On 24 May 2016, the Tirana prosecutor's office issued a decision not to initiate criminal proceedings against the police officers. Although the decision could be challenged before the first instance court of Tirana or the higher prosecutor, the authors did not file a complaint as they considered that it had no chance of success. Furthermore, they do not consider that, in the context of their complaint, a criminal remedy would constitute an adequate and effective remedy that had to be exhausted before bringing their complaint to the Committee.

<sup>8</sup> *Dzemajl et al. v. Serbia and Montenegro*, decision adopted on 21 November 2002.

degrading treatment. The authors also invoke the Committee's finding that the claim of the authors of communication No. 1799/2008<sup>9</sup> under article 7 of the Covenant was admissible.

3.3 While the authors recognize the similarities between articles 7 and 17 and are aware that in the almost identical case of *Naidenova et al. v. Bulgaria*<sup>10</sup> the Committee found only a (prospective) violation of article 17, they also argue that in that case, the Committee appeared ready to examine whether the authors' eviction would constitute a violation of article 7, but that as the authors had raised their allegations only in the context of the interim measures and not in relation to the merits of the case, it declined to do so.

3.4 Regarding article 2 (1)–(3), the authors claim that there are no legal remedies they could have recourse to in order to either suspend their eviction or force the authorities to provide them with accommodation immediately after the eviction had taken place. They refer to the principle of “non-homelessness” enunciated in the basic principles and guidelines on development-based evictions and displacement,<sup>11</sup> and point out that the right to housing is not justiciable in the Albanian legal order and that the State party should enact legislation guaranteeing and promoting this right.

3.5 The authors filed a criminal complaint report on the illegal actions of the State and the municipal police in relation to their eviction on 7 November 2015. Nevertheless, they consider that this remedy is not effective as it does not have a bearing on their main complaint,<sup>12</sup> which is that it is now impossible to either prevent their eviction or force the authorities to provide them with accommodation should the eviction take place.

3.6 Concerning article 17 (1) and (2), read alone and in conjunction with article 2 (1)–(3), the authors contend that the legal and factual background that led the Committee to adopt its Views in *Naidenova et al. v. Bulgaria* are, to all intents and purposes, identical to the present complaint.<sup>13</sup> They also refer to an identical case before the European Court of Human Rights, *Yordanova et al. v. Bulgaria*,<sup>14</sup> which, the authors believe, is based on the same principles applicable in the instant case. Although they had admittedly not been living on the plot of land from which they were evicted in October 2015 or in the building from which they were evicted in November 2015 for as many years as the authors in *Naidenova*, this was because to date, the authorities have failed to ensure that they were lawfully evicted and to provide them with adequate accommodation or, at the very least, to designate an area where they could settle; on the contrary, the authorities keep evicting them from place to place. The authors submit that these repeated evictions have prevented them from developing a lasting community life.

3.7 The authors further claim that their repeated evictions and demolition of their informal settlement constitute a violation of article 23, read alone and in conjunction with article 2 (1)–(3). In this regard, they note that they have presented their communication both on their own behalf and on behalf of their families.

3.8 They also maintain that the State party has violated article 26, read alone and in conjunction with articles 27 and 2 (1) and (3).<sup>15</sup> They assert that Roma in Albania are the only social group that is frequently the victim of forced eviction, due to their particular

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<sup>9</sup> *Georgopoulos et al. v. Greece*, Views adopted on 14 September 2010.

<sup>10</sup> Communication No. 2073/2011, Views adopted on 30 October 2012.

<sup>11</sup> A/HRC/4/18, annex I.

<sup>12</sup> See, by analogy, European Court of Human Rights, *Farkas et autres c. Roumanie* (application No. 3046/09), decision of 17 June 2014, para. 42.

<sup>13</sup> In that case the Committee held that the eviction of the Roma who, although having no legal title to the land, had been living there for more than 70 years without the local authorities having objected until very recently, had developed strong links with the area and had developed a community life, and that their eviction “would result in the authors’ losing their homes and that, therefore, there would be an interference with their homes. The Committee recall[ed] that, under article 17 of the Covenant, it is necessary for any interference with the home not only to be lawful, but also not to be arbitrary” (para. 14.3).

<sup>14</sup> Application No. 25446/06, judgment of 24 April 2012.

<sup>15</sup> The authors note that in its last concluding observations on Albania (CCPR/C/ALB/CO/2), the Committee examined a series of issues regarding the Roma, including that of access to housing/forced evictions, under both articles 26 and 27.

socioeconomic condition, their social marginalization, extreme poverty, unemployment and the concomitant obstacles they face in their everyday lives. They are therefore the victims of indirect discrimination, stemming from their vulnerable social and financial position within the Albanian society and the failure of the Albanian Government to take adequate measures to address it. The authors therefore believe that they are being indirectly discriminated against because of their ethnic origin, in violation of articles 26 and 27. They additionally note that the Albanian legal system does not provide adequate and effective remedies capable of addressing their complaints.

3.9 Lastly, they claim that their return to Elbasan constitutes a violation of their right to freedom of movement under article 12 of the Covenant.

#### **State party's observations on admissibility**

4.1 By note verbale dated 21 December 2016, the State party firstly provided its clarification of the facts. The State party submits that the authors' families lived in the eastern area of the artificial lake in Tirana for years and accepts that their living conditions were "totally inadequate, characterized by the lack of hygiene, which constituted a serious danger to the life and welfare of members of the community, particularly children, women and elderly". On 3 October 2015, the municipal police informed the community that they would have to leave the area within 10 days due to the implementation of the "Greening the artificial lake park" project. On 5 and 7 October, representatives of the social services of the Municipality of Tirana visited the community and carried out assessments of the social and economic conditions, with a focus on housing.<sup>16</sup> During the second assessment, the family of H.Z. was not registered, which implied that they had already left the community. On 10 October, a team composed of Child Protection Unit officers, social workers, representatives of the Municipality of Tirana and civil society organizations (SHKEJ, Save the Children, ARSIS) interviewed each family with the aim of elaborating a plan for individual intervention. Information was provided regarding social housing programmes pursuant to the law on social housing, according to which the neediest families would benefit from a refund of up to 100 per cent of the rent.<sup>17</sup> Some families were to be accommodated temporarily in the Transitional National Emergency Centre, including the three Z. families, but they refused this accommodation because of the distance, the lack of access to transport and their delicate relationship with other residents at the centre. The heads of the households of the three Z. families informed the municipality representatives that they had agreed with a lessor to be sheltered on the first floor of a property suitable for their work with recycled material. In general, the families dismantled their residences themselves and no practice of forced house demolitions was registered. On 15 October, all the Roma families were removed from the artificial lake area. On 9 November, the municipal police were informed that Roma (the authors' families) were on a private property without authorization. On 13 November, the Child Protection Unit of the Municipality of Tirana established lease contracts with the Z. families for the period from November 2015 to April 2016, which would give sufficient time to the families to apply to the municipality for access to social housing programmes. None of the three families has shown interest in completing the relevant documentation.<sup>18</sup>

4.2 Further, the State party challenges the admissibility of the communication for non-exhaustion of domestic remedies. The Albanian legislation provides for the individual's right to administrative appeal against the acts and actions of the Albanian State

<sup>16</sup> Given the fact that some families had declared that they were in possession of land and housing in their cities of origin but which needed to be repaired, representatives of the Municipality of Tirana sought the cooperation of the municipalities where those families were registered to facilitate their transfer.

<sup>17</sup> As to the families not registered in Tirana, it was explained that they had to make a formal request for the transfer of their residence and that the documents required for the social housing programme had to be completed within one month.

<sup>18</sup> In May, September and December 2016, the Department of Defence and Social Inclusion verified at the Directorate of Social Housing that the authors' families had not applied for any social housing programmes in the Municipality of Tirana.

administrative bodies according to the Code of Administrative Procedures<sup>19</sup> and, further, for the right of appeal to the court. The State party affirms that the authors' claim that they did not have at their disposal adequate and effective remedies to challenge and suspend their eviction or ensure the provision of alternative accommodation is unfounded.

4.3 The State party explains that the Constitution of the Republic of Albania and the domestic legislation guarantee the fundamental rights and freedoms, equality before the law and the right of individuals to appeal acts before the administrative and judicial bodies. Specifically, the Constitution provides that "the fundamental rights and freedoms are indivisible, inalienable and inviolable and stand on the foundations of the entire legal order". The public bodies, in accomplishment of their duties, must respect the fundamental rights and freedoms and contribute to their implementation (art. 15). According to article 18 of the Constitution, everyone is equal before the law, without any discrimination. Limitations of the rights and freedoms stipulated in the Constitution can be imposed only by law for the public interest or for the protection of others' rights. The restriction must be proportionate to the situation that has dictated it (art. 17). Under article 42 of the Constitution, the rights recognized by the Constitution and by the law cannot be infringed without an appropriate legal process. In defence of their legal and constitutional rights, freedoms and interests, or in the case of charges brought against them, everyone has the right to a fair and public hearing within a reasonable period by an independent and impartial court defined by the law. Article 43 of the Constitution guarantees the right of individuals to appeal against a court decision to a higher court, unless otherwise provided by the Constitution.

4.4 The State party maintains that after receiving the notifications and information from the Municipality of Tirana, according to the Albanian legislation the authors had the opportunity to challenge, administratively and legally, the acts and actions undertaken by the municipality. The authors have not exhausted the necessary remedies to legally and administratively challenge the acts and actions carried out by the structures of the municipality.

4.5 The State party further submits that the Code of Administrative Procedures is applied by all the bodies of public administration performing acts in the exercise of their functions. According to the code, the local government bodies which perform administrative functions are also public administration bodies. Anyone who has a legitimate interest has the right to participate personally and/or be represented in the administrative proceedings. Pursuant to the code, the administrative bodies take decisions concerning all cases within their jurisdiction submitted by private citizens, i.e., cases dealing directly with private citizens; and any petition, request or claim concerning a violation of the Constitution and the law or the protection of public interests. In connection with the present communication, no petition, request or claim has been submitted by the authors to the Municipality of Tirana.

4.6 The Code of Administrative Procedures contains provisions in relation to administrative proceedings.<sup>20</sup> The authors of the present communication, as interested parties, have the right to initiate an administrative proceeding before the Municipality of Tirana. In relation to administrative appeal, article 135 of the code provides that private persons have the right to seek revocation, repeal and modification of administrative acts in accordance with the rules established by the code. This right may be exercised through an informal request to the body responsible for the act or through an appeal to the authority which issued the challenged act. Under article 137 on administrative appeal, any concerned party has the right to appeal against an administrative act. The administrative body to which the complaint is addressed reviews the legality and appropriateness of the challenged act. In principle, the parties concerned may address the court after having exhausted the administrative recourse.

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<sup>19</sup> Adopted by law No. 8485 of 12 May 1999. The code was in force until 28 May 2016, when the new Code of Administrative Procedures, adopted by law No. 44/2015 of 30 April 2015, entered into force. The new Code of Administrative Procedures was published in *Official Gazette* No. 87 of 28 May 2015 and entered into force one year after its publication.

<sup>20</sup> Part V, General provisions of administrative proceedings, arts. 46 ff.

4.7 The State party underscores that, based on the Code of Administrative Procedures, the authors had the opportunity to challenge the acts and actions of the Municipality of Tirana, and they have not exhausted the available remedies. Likewise, the parties have had the opportunity to complain to court after exhausting the administrative remedies. Based on law No. 49/2012 on the organization and functioning of the administrative courts and adjudication of administrative disputes, the administrative courts are competent for: (a) disputes arising out of individual administrative acts, normative legal acts and public administrative agreements issued during the administrative activity undertaken by the public body; (b) disputes that arise due to illegal intervention or omission of a public body. This law provides the conditions for the exhaustion of administrative appeals, and claims against the challenged act can be raised only after the exhaustion of administrative appeal.

4.8 The State party adds that in 2015, the Ministry of Urban Development<sup>21</sup> informed the Municipality of Tirana of the implementation of the project “Greening of the artificial lake park”, financed by the Albanian Development Fund and designed to revitalize the area in the public interest, notably in order for the inhabitants of Tirana to have more public green spaces. A joint assessment of the situation was required by the Ministry in the same letter regarding the number of concerned Roma settlements, their technical conditions, etc. On 3 October 2015, the municipal police<sup>22</sup> informed the community about the need to leave the area within a 10-day period due to the implementation of the project. On 5 October, representatives of social services of the Municipality of Tirana visited the community to assess the social and economic conditions, with a special focus on the issue of housing.

4.9 The State party also maintains that the authors have failed to transfer their official residence from Elbasan to Tirana, even though the authorities offered to help them. As a result, they cannot benefit from any of the social assistance measures that are available only to homeless individuals registered in the particular locality.

#### **Authors’ comments on the State party’s observations on admissibility**

5.1 On 9 March 2017, the authors submitted their comments on the State party’s observations on admissibility. They welcome the State party’s acknowledgment that they had been living in Tirana “for years” and that their living conditions were appalling. Nevertheless, the authorities did not take any measure to improve their living conditions, but rather proceeded to evict them. In this respect, they consider that the State party acknowledges that no prima facie imperative reason of public interest called for the authors’ immediate eviction. The authors note that the State party merely refers to the need to implement a landscaping measure. The decision for the eviction was communicated to the Roma community on 3 October 2015 (a Saturday). The first representatives of the social services met with the Roma only on 5 October and their eviction was scheduled for 13 October. Even if it were accepted that the authorities could provide the Roma with meaningful assistance, that would take more than 10 days, and therefore the assistance, if any, would be provided to the Roma after their eviction had taken place. The authors submit that the municipal authorities should have taken all these measures earlier.

5.2 As to the existence of effective domestic remedies, the authors argue that in their submission they adduced conclusive evidence to the effect that the Albanian legal order is not endowed with effective legal remedies. They reiterate that in the April 2016 policy dialogue between the European Union and the Government of Albania on Roma inclusion, one of the conclusions related to the need to adopt a law on forced evictions reflecting the relevant United Nations and Council of Europe standards, as under domestic law there existed no legal basis for challenging an eviction or requesting a stay of execution.<sup>23</sup> This was also the assessment of the Albanian ombudsman, as noted in his email of 3 March 2017 to the legal counsel for the authors. The State party does not make any reference to the ongoing process of amendment of the law on social housing programmes, a process supported by the presence of the United Nations Development Programme in Albania. The authors submit that one of the highlights of the new draft law will be the introduction of the

<sup>21</sup> By letters No. 1258/1 of 15 June 2015 and No. 3603/1 of 30 June 2015.

<sup>22</sup> Acting in accordance with art. 13, para. 6, of its Internal Regulations.

<sup>23</sup> Matrix of recommendations, p. 5, contained in the file at annex 8.

principle of security of tenure and the provision of judicial protection in cases of forced eviction. In the interests of transparency, legal counsel for the authors note that one of them was commissioned by the Council of Europe as an expert in the context of the progress review report on the Council of Europe Programmatic Cooperation Document for Albania, 2015–2017, and contributed to the drafting of the law which aims at introducing into the Albanian legal system key elements and standards contained in general comment No. 4 (1991) on the right to adequate housing of the Committee on Economic, Social and Cultural Rights.

5.3 On 3 May 2017, the authors submitted further information on available domestic remedies in relation to forced evictions. They report that on 12 April 2017, the Council of Ministers adopted the draft law on social housing as proposed by the Ministry for Urban Development. They consider that through this draft law, the Ministry acknowledges the Council of Europe’s input in introducing for the first time in the Albanian legal order an express prohibition of forced evictions if not accompanied by the provision of alternative housing. The authors believe that the documents submitted constitute the most conclusive evidence that at the time of the events described in their communication, they did not have access to a remedy insofar as the right to housing and its concomitant entitlement to protection from forced eviction did not exist in the Albanian legal order.

### **Issues and proceedings before the Committee**

#### *Consideration of admissibility*

6.1 Before considering any claim contained in a communication, the Committee must decide, in accordance with rule 93 of its rules of procedure, whether the communication is admissible under the Optional Protocol.

6.2 The Committee has ascertained, as required under article 5 (2) (a) of the Optional Protocol, that the same matter is not being examined under another procedure of international investigation or settlement.

6.3 The Committee takes note of the State party’s argument that domestic remedies have not been exhausted because, after receiving the notifications and information from the Municipality of Tirana, the authors could have challenged the acts undertaken by the municipality, pursuant to the Code of Administrative Procedures. The Committee notes the State party’s assertion that in connection with the present communication, no petition, request or claim has been submitted by the authors before the municipality. It takes note also of the authors’ argument that these administrative law proceedings would be ineffective. The authors have argued, in particular, that there does not exist in the domestic legal order a remedy that would allow them to challenge their forced eviction or to request the immediate provision of housing. The Committee notes the authors’ claim that the right to housing is not justiciable in the Albanian legal order and that the State party still has not enacted legislation that guarantees and promotes the right to housing. It also notes that, in the meantime, on 12 April 2017, the law on social housing, which provides for the express prohibition of forced evictions if not accompanied by the provision of alternative housing, was adopted.

6.4 The Committee recalls its jurisprudence stating that, although there is no obligation to exhaust domestic remedies if they have no chance of being successful, authors of communications must exercise due diligence in the pursuit of available remedies and that mere doubts or assumptions about their effectiveness do not absolve the authors from exhausting them.<sup>24</sup> In the present case, the Committee notes the State party’s argument that the authors should have submitted a complaint to the municipality against their eviction and that they should have appealed further through the administrative court in place. The Committee further notes that the information provided by the authors in that regard does

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<sup>24</sup> See, *inter alia*, communications Nos. 2072/2011. *V.S. v. New Zealand*, decision of inadmissibility adopted on 2 November 2015, para. 6.3; No. 1639/2007, *Vargay v. Canada*, decision of inadmissibility adopted on 28 July 2009, para. 7.3.; No. 1511/2006, *García Perea et al. v. Spain*, decision of inadmissibility adopted on 26 March 2009, para. 6.2; and No. 560/1993, *A v. Australia*, Views adopted on 3 April 1997, para. 6.4.

not demonstrate that the remedies of reference would have been unlikely to bring effective relief. It further notes that the administrative body to which the complaint could have been addressed can review the legality and appropriateness of the challenged act and, in case of disagreement, the parties concerned can further appeal to the administrative court. In this connection, although an express prohibition of forced eviction if not accompanied by the provision of alternative housing was not part of the legislation at the time of the authors' eviction, the actions of the municipality as an administrative body could have been challenged under general administrative proceedings. The Committee further notes that the authors instead filed a criminal complaint against the actions of the police in relation to their eviction, but observes that this complaint is not related to the issue of the eviction as such but as to the way the police authorities carried out the process. In the light of the foregoing, the Committee concludes that the authors have not exhausted domestic remedies in relation to their claims that their forced eviction and the demolition of their dwellings constituted a violation of their rights under articles 2, 7, 17, 23, 26 and 27 of the Covenant.

7. The Human Rights Committee therefore decides:

- (a) That the communication is inadmissible under article 5 (2) (b) of the Optional Protocol;
  - (b) That the present decision shall be transmitted to the State party and to the authors.
-