

HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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<p>Comments on the ‘Core Document’ Report of the Ministry of Foreign Affairs for the Use of the UN Treaty Bodies</p>

I. Introductory remarks

The 'Core Document' report has been compiled by the Special Legal Service (SLS) of the Ministry of Foreign Affairs and is a part of the first periodical report which will be submitted by Greece within the framework of the system of monitoring the implementation of the International Covenant on Civil and Political Rights (ICCPR) of the United Nations, which was ratified by Greece in 1997 (Law 2462/1997).

The ICCPR stipulates an obligation of the Member-States to submit an initial report (within a period of one year from the coming into force of the Covenant in the case of the specific Member-State) and then periodical reports whenever the Human Rights Committee which was set up by the ICCPR (Article 40) requires this.

In its accompanying letter to the NCHR, the SLS states that, following a request in this connection of the UN High Commission for Human Rights, the report in question will be lodged with the Commission and will be used as a common introductory text in the reports to be submitted to all the organs which have been set up for the implementation of the various conventions of the Organisation in connection with the protection of human rights (Human Rights Committee, Committee on Economic, Social and Cultural Rights, Committee on the Elimination of Racial Discrimination, Committee against Torture, Committee on the

Elimination of Discrimination against Women, Committee on the Rights of the Child).

The text has been submitted to the NCHR by virtue of Article 1, para. 6(e) of Law 2667/1998, which set it up, on which is grounded the competence of the Commission to deliver an opinion on reports which Greece is to submit to international organisations on human rights issues. It should be noted that the text has been drafted in accordance with instructions (Consolidated Guidelines) which have been distributed by the UN Secretariat to the parties to the above conventions (UN Doc. HRI/GEN/Rev. 1 of 9 May 2001). In these instructions, the parties are asked to give specific information such as that cited below.

II. General comments

1. The report follows, on general lines, the instructions contained in the above document and answers the questions put concerning the structure of the country's political system and the legal framework for the protection of human rights. The text confines itself to a description of Greece's legal system, and, for the most part, does not enter into matters of implementation; this will be done in the individual reports on specific subjects to be addressed to the above organs.

This, of course, does not mean that more general problems or deficiencies due either to defective legislative regulation or omissions in the implementation of the regulations by the Administration cannot be noted. Furthermore, some of the questions which are put in the instructions cannot be answered by comments of a general nature, but require specific answers which cannot be given without examining how the system of protection currently in force is implemented in practice.

2. The instructions require the states to provide certain data in connection with the country's national and demographic characteristics and its population, such as socio-economic and cultural features (*per capita* income, gross national product, percentage of inflation,

unemployment, literacy, religion, language spoken - or languages if more than one are spoken). Certain questions, such as those referring to religion or language, have, nevertheless, remained unanswered.

Furthermore, the last part of the Report must, according to the instructions, deal with the information and publicity measures which have been taken and the efforts which are being made to inform the public and the competent services about the rights protected by international instruments. The states are required more particularly to state what measures of publicity and dissemination, for example, by means of translations of the various texts, have been taken, which government organs are responsible for the submission of reports, whether they derive their information, apart from official state sources, additionally from non-governmental organisations, and whether these reports are available to the public.

On the replies of the Report to the above questions, it is proposed that the following observations should be taken into account:

As to the training of police officers in human rights, there should be some reference to the recommendations of the NCHR. We would mention in this connection that Sub-Commission D of the NCHR (Section for the Promotion of Human Rights) drew the attention of the Ministry of Public Order, in its communication of 26 March 2001 to the Minister of Public Order, to the special importance of establishing a special teaching unit in the Hellenic Police colleges, as well as to *the immediate need to strengthen and upgrade the Ministry's Training Directorate*. The Ministry of Public Order has not so far (early 2002) replied to the above communication. Also along the same lines were the observations of the NCHR on the reception of immigrants (NCHR Report on the draft law on immigrants, December 2000), and refugees (June and September 2001), and on the improvement of the position of Roma in Greece (late November 2001). The NCHR has also taken the relevant initiatives: it has submitted to the Institute for In-Service Training of the National Centre for Public Administration a

detailed programme for the holding of seminars on human rights for civil servants. Final approval of the programme by the Institute is pending.

3. Attention should be drawn to the fact that the Report does not refer to the efforts made by Greece to comply with the findings of the monitoring carried out by the non-jurisdictional organs of the Council of Europe (Anti-Torture Committee, European Social Charter Committee, European Commission against Racism and Intolerance). The NCHR has noted the action required with the aim of full harmonisation with the European *acquis* in the field of human rights in the Reports which it has adopted and forwarded to the Ministry of Foreign Affairs [see Report on legal assistance (June 2001), Report on the protection of refugees and asylum-seekers in Greece (June 2001), Report on the conditions of detention in Greece (July 2001), Report on conscientious objectors (July 2001), Report on the protection of the social rights of refugees and asylum-seekers in Greece (September 2001), Report on the main issues of racial discrimination in Greece (November 2001), and Report on the position of Roma in Greece (November 2001)].

4. The report of the Ministry of Foreign Affairs deals at length with Greece's compliance with the case law of the European Human Rights Court (pp. 10 and 17). In spite of the efforts which have been made in this direction, it should not be forgotten that from a total of 61 convictions of Greece, only 15 Resolutions of the Committee of Ministers of the Council of Europe have been issued to confirm the execution of an equal number of Judgments (data up to the end of February 2002). At this point, the special observations of the NCHR with the purpose of the country's full compliance with the, truly important, case law of Strasbourg should be borne in mind. Attention is drawn specifically to the Report on religious freedom in Greece (March 2001), the Report on the conditions of detention in Greece (July 2001), and to the recent Observations of the NCHR on the Report of the Ministry of Justice and of the Ministry of Foreign Affairs for the Committee against torture of the United Nations (UN CAT).

III. Special observations on the text

1. Page 10. The positive measures which refer to Article 116, para. 2 of the Constitution are mandatory for the State and not optional.

2. Page 14. In the list of the international Conventions which Greece has ratified, the additional Protocol of the Council of Europe on Biomedicine is quoted. It should be noted that the Protocol has not been ratified by law in accordance with the procedure of Article 28, para. 2 of the Constitution. The Protocol has been approved by Greece by virtue of Ministerial Decision 4898/21.10.1998.

3. Page 14. Following the reference to the Geneva Conventions on humanitarian law and its Protocols, it should be stated that Greece has signed and is in the process of forwarding for ratification the International Criminal Court Charter, in accordance with the proposals of the NCHR (Plenum, 7.12.2000).

4. Page 16 (fourth paragraph, in connection with the legislative ratification of international conventions). It is clear that the ratificatory law cannot alter the content of the convention, which is incorporated in its entirety precisely as it has been adopted. It is, nevertheless, possible, and occurs in practice, for it to contain reservations or interpretative statements, provided that these are permitted by the convention and are not incompatible with it. These may be submitted by the States throughout the period from its signing to its ratification (Article 19 of the Vienna Convention on the Law of Treaties).

5. Page 21. The annual report of the Ombudsman is presented to a Parliamentary Committee and not in a special session of the Plenum.

6. Page 21. The Ombudsman is chosen following a decision of the Conference of Presidents of Parliament with the aim of reaching unanimity or, at any rate, by a qualified majority of four-fifths of its members (Article 101A, para. 2, Constitution). The details of the composition and powers of the Ombudsman, which functions as an

independent authority, are laid down by law (Article 103, para. 9, Constitution).

7. Page 22. Since 2000, when it came into operation, the NCHR has concerned itself, *inter alia*, with questions of religious freedom, the protection of immigrants and refugees, the revision of the Constitution, the bearing and use of arms by police officers, conditions of detention, conscientious objectors, the elimination of racial discrimination, and the position of Roma.

8. Page 23 (fifth paragraph). It should be noted that the Bio-ethics Commission has adopted three Opinions on genetically modified plants, the use of genetical fingerprinting in criminal procedure, and the use of stem cells in biomedicine and clinical medicine.

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