

HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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<p>Comments on the Report of the Ministry of Foreign Affairs on Racism, Intolerance and Xenophobia to the Committee of Ministers of the Council of Europe*</p>

1. The Committee of Ministers of the Council of Europe recently established a Monitoring procedure regarding racism, intolerance and xenophobia for which the above Report has been produced. This new procedure, as pointed out also in the Note for the File of the Greek Foreign Ministry (6622/81/AS709), attached to the draft Greek Report, will have as a consequence the devaluation of the European Commission against Racism and Xenophobia (ECRI). There may be no doubt that the work produced so far by ECRI, an independent body of the Council of Europe, has been extremely significant for combating racism and xenophobia in our continent. Any attempt to transfer the competences of ECRI to a purely political body of the Council of Europe is bound to result into serious risks. In our view the Council of Europe should avoid the practice followed by the United Nations, which has led to the gradual weakening of expert committees, to the detriment of their independence in the adoption of decisions subject to their competence. Consequently it is submitted that the Greek State should exert its utmost influence so that ECRI remains the sole body of the Council of Europe competent for all issues relating to combating racism, intolerance and xenophobia in Europe.

* Rapporteurs: Alice Yotopoulos-Marangopoulos, President; Nikos Frangakis, Vice-President; Nikos Sitaropoulos, Legal Officer, NCHR.

2. **Page 1, para 2 (of the Greek Foreign Ministry draft report):**

Greece should proceed to the ratification of both the European Framework Convention for the Protection of National Minorities, as well as Protocol No 12 of ECHR on the prohibition of all Forms of Discrimination. Greece should also proceed to the domestic enforcement of the EU Directive 2000/43 *implementing the principle of equal treatment between persons irrespective of racial or ethnic origin* and EU Directive 2000/78 *establishing a general framework for equal treatment in employment and occupation*. It is worthy to be emphasised that the principle of race equality in the Greek legal order regulates not only relations between the State and persons under its jurisdiction but also relations among individuals, in accordance with Article 2 para 1 of the Greek Constitution 1975/1986/2001 enshrining the fundamental principle of protection of the "value of human being".

3. **Page 1, para 4:** Anti-discrimination Law 927/1979, as amended by Law 1419/1984 and by Law 2910/2001, may not be regarded as able to live up to the challenges of contemporary Greek society. The recent (in 2001) increase of instances of serious forms of intolerance by Greek citizens against alien immigrants residing legally in Greece attests to the need for the immediate elaboration of a new, integrated anti-discrimination legislation in Greece, taking into account, inter alia, the above-mentioned EU Directives pertaining to non-discrimination. The Second and Third Sub-Commissions of NCHR have already undertaken a pertinent study with a view to submitting to the Greek Authorities relevant legislative proposals.

4. **Page 2, para 6 and page 4:** The **National Commission of Greece for Human Rights (NCHR)** was set up by Law 2667/1998 and has a consultative status with the Greek State regarding issues of human rights protection and promotion. NCHR started to operate in January 2000 when it was inaugurated by the Greek Prime Minister. In late 2000 NCHR submitted to the competent Greek Authorities a series of proposals regarding major aspects of the draft Immigration (Aliens) Law 2910/2001

and their compatibility with international and European standards of human rights protection. Even though many of the NCHR recommendations were taken into consideration by the competent Ministry (of Interior), the above Law, as finally approved by the Parliament, contains provisions that may not stand up to contemporary human rights standard scrutiny. For example, as emphasised also by the Greek Personal Data Protection Authority in its Opinion 86/2001 of 19.06.2001, Article 54 para 2 of Law 2910/2001 which provides for the obligation of hotel and clinic, inter alia, managers to report to the Aliens Department the arrival and departure of all aliens staying in the above premises, is a statutory provision that directly contravenes the principle of non-discrimination and should consequently be amended.

In June 2001 NCHR submitted to the competent Greek Authorities another series of proposals regarding the development of a modern asylum (refugee protection) framework in Greece, with particular reference to the protection of refugees and asylum-seekers' civil rights. In September 2001 NCHR submitted to the competent Greek Authorities another series of proposals for the development of the regime regarding refugees and asylum-seekers' social rights. It is also to be noted that in June 2001 NCHR submitted to the Greek Ministry of Justice its recommendations for the development of legal aid in Greece, in accordance with the contemporary European human rights standards. Provision of legal aid to vulnerable aliens in need (including immigrants, refugees and asylum seekers¹) is to be applied in Greece, as a fundamental element of the administration of justice, to every person without any discrimination whatsoever, in the context of the Rule of Law ².

In July 2001 NCHR also submitted to the Greek Authorities its proposals for the amelioration of the detention conditions in Greece, given the relevant convictions of Greece by the European Court of Human Rights ³ and the Reports of the 1993, 1997 and 1999 visits to Greece of the European Committee for the Prevention of Torture and Inhuman and Degrading Treatment or Punishment. A substantial part of those

proposals concerns the detention of aliens under administrative or judicial deportation from Greece. Aliens detained in Greek prisons are estimated to constitute approximately 45% of the current Greek prison population.

5. **Page 5 para 3:** In March 2001 NCHR submitted to the Greek Authorities proposals on the subject of religious freedom in Greece, with special reference to the harmonisation of relevant Greek law and practice with the case law of the European Court of Human Rights. Particular emphasis was placed by NCHR on the issues of the Greek legislation relating to proselytism, to the establishment of churches or places of worship and to the treatment of non-Orthodox religious communities, which need to be urgently reviewed by Greece.

6. **Page 6 paras 2-3:** NCHR has undertaken the study of the issue of protection of Roma in Greece, with a view to submitting its relevant proposals to the competent Greek Authorities.

7. **Page 6 para 4:** In its above-mentioned proposals of March 2001, NCHR included a separate section on issues relating to the Muslim minority in Thrace and especially to the institution of Mufti, that should be subject to review by the Greek State.

8. **Appendix to the draft Greek Report:** It is advisable that the Greek Foreign Ministry clarify the exact status of signature and ratification of each individual human rights treaty enlisted in the Appendix.

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¹ See *Twalib v Greece*, judgment of the European Court of Human Rights (ECtHR) of 09.06.1998, *Reports 1998 IV*, No 77, *Biba v Greece*, judgment of ECtHR of 26.09.2000.

² See also European Commission against Racism and Intolerance, *Second Report on Greece adopted on 10 December 1999*, Strasbourg, 27.06.2000, paras 10-12.

³ See *Dougoz v Greece*, judgment of ECtHR of 06.03.2001, *Peers v Greece*, judgment of ECtHR of 19.04.2001.