

**HELLENIC REPUBLIC**  
**GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS**

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<p><b>Comments on the Fourth Periodical Report of the Greek Ministry of Justice and Public Order to the UN CAT</b></p>
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Following a reading of the 4th Periodical Report to UNCAT of the Ministry of Justice and the 4th Periodical Report to UNCAT of the Ministry of Public Order, we would like to register the following observations:

By way of introduction, we note that both Reports give long accounts of provisions in force of which some of the more recent do in fact constitute progress both in the field of competence of the Ministry of Justice and in that of the Ministry of Public Order. In every other respect, both Reports are lacking in information on the implementation **in practice** of most of the provisions. Not infrequently they give a picture of absolute characterisations (e.g., absolute respect for human rights by police officers) or patriotic sentiments (e.g., para. 2, Part A of the report of the Ministry of Public Order) which do not correspond to reality not only in Greece but in any other country. More particularly in the case of the Report of the Ministry of Public Order, we also note the erroneous reference in Chapter A (d) to the National Commission for Human Rights. In actual fact, only four non-governmental organisations are represented on it, while the rest of the members have been appointed by the following agencies: a special Parliamentary Committee on Institutions and Transparency, the General Confederation of Labour, the Supreme Administration of Civil Servants' Unions, political parties recognised by the Regulations of Parliament, the Council of State, the Court of Cassation of Areios Pagos, the Greek Ombudsman, the Authority for the Protection

of the Individual from the Processing of Data of a Personal Character, the National Radio and Television Council, the National Bioethics Commission, the Ministries of the Interior, of Public Administration and Decentralisation, of Foreign Affairs, of Justice, of Public Order, of Education and Religious Affairs, of Labour and Social Security, and of the Press and Mass Media, three universities with Public Law or International Public Law departments, and the Athens Bar Association.

More specific comments follow below:

**I.** The National Commission for Human Rights recently published a comprehensive report, with observations and proposals, on the conditions of detention in Greece, which was sent to the appropriate ministries.

**II.** In connection with the description of the "new legislative measures - new developments" (pp. 1 - 4 of the Report of 26 October 2001 of the Ministry of Justice), the National Commission for Human Rights would draw the attention of the Ministry of Justice to the practical implementation of what are, in principle, positive provisions of the Reformatory Code (Law 2776/1999). It is, therefore, desirable that the manner in which the relevant provisions of Law 2776/1999 have been implemented up to the present and its practical effects on the conditions of detention should be made clear, given the recent (2001) adverse judgments for Greece of the European Court of Human Rights in the *Dougoz* and *Peers*<sup>4</sup> cases.

**III.** In connection with the "issues raised by the unpublished document of the Commission of 8 May 2001" (pp. 4 - 7 of the above Report), the National Commission for Human Rights (NCHR) would reiterate the principal proposals contained in its above-mentioned Report on conditions of detention in Greece:

1. The competent Greek authorities should comply fully with the recommendations of the competent international and European organs on the improvement of conditions of detention in Greece.

2. The competent Greek authorities should observe faithfully the deadlines for the submission of the periodical reports to the competent international organ (Committee against Torture, UNCAT), in accordance with the relevant UN convention, which Greece has ratified.

3. As to the co-operation of the competent Greek authorities with the Council of Europe Committee for the Prevention of Torture and UNCAT, the introduction of effective inter-ministerial co-ordination is necessary, so that there should be a full and clear presentation of the image of the realities in Greece to these organs.

4. It is essential that work on the construction of new detention buildings, with the strict observance of the relevant international and European standards should go ahead immediately.

5. The NCHR would stress the need for strict separation of juvenile from adult detainees.

6. It is essential that there should be a strengthening and constant training of the whole of the staff of the Ministry of Public Order which is responsible for the detention of individuals in Greece in all places of detention without exception.

7. It is proposed that Article 48 of Law 2910/2001 (*Official Journal of the Hellenic Republic A' 91*) on aliens should be immediately acted upon. According to this, special premises for the detention of aliens facing administrative expulsion which operate on the responsibility of the Region and are guarded by the Hellenic Police are to be set up.

8. There should be a new legislative regulation to ensure that the applications for asylum of detainees are examined as a matter of priority by the Administration, as the NCHR has already proposed in its observations on the draft of Law 2910/2001 (*OJHR A' 91*).

9. The NCHR is in agreement with the opinions of the Public Prosecutors of the Appeal Courts and of the Court of Cassation (Areios Pagos) on the detention of aliens after they have completed their sentence, where their expulsion is not feasible, in special detention or imprisonment

establishments, and calls upon the judicial authorities to take the appropriate action.

10. The NCHR is in agreement with the observations of the Ombudsman on the reasonable time of detention of aliens who are to be expelled, and calls upon the competent judicial and other authorities to take appropriate action.

11. The NCHR considers it obvious that there is a need to devise a plan for regular and emergency co-operation between police stations and the public hospital nearest to the places of detention, given the serious lack of medical and paramedical staff in the places of detention.

As to the annexed **4th Periodical Report of the Command of the Hellenic Police (Aliens' Directorate)** of 25 October 2001 to the United Nations Committee against Torture, the National Commission for Human Rights would note the following:

**I.** The Hellenic Police (EL.AS) should consistently continue the strict check on cases of censures of police officers for abuse - ill-treatment of citizens (pp. 6 - 7 of the EL.AS Report).

**II.** It is thought desirable that it should be made clear, on p. 8 of the EL.AS Report, whether the printed information leaflets of 24 October 2000 on the rights of detainees and aliens to be expelled were posted at conspicuous points in the places of detention of aliens, as stipulated by the order of the Directorate of Organisation of the Command of the Hellenic Police and have in practice been used by the detainees.

**III.** In connection with the appointment of an advocate in the event of financial hardship of a detainee (p. 8 of the EL.AS Report), the National Commission for Human Rights recently published a report on the institution of legal aid in Greece, with observations and proposals on the adjustment of Greek legislation and practice to the relevant European Principles. The National Commission would reiterate its main proposals in this connection, contained in its above report, which chiefly concern the task of the Ministry of Justice:

**(a)** Legal aid should be available from the State to all needy individuals without any discrimination.

**(b)** It is desirable that particular attention should be paid to the legal aid and protection of needy alien immigrants, asylum-seekers, and refugees, because of the particularly socially vulnerable character of these individuals and the recent adverse judgments for Greece of the European Court of Human Rights.

**(c)** Legal aid should in principle be provided for the above individuals before all the courts (civil, criminal, and administrative).

**(d)** Legal aid should in principle be provided in connection with all proceedings (consultative, preliminary, and judicial) in which the provision of legal protection is necessary for the proper administration of justice and the effective functioning of the modern rule of law.

**(e)** More particularly in the case of proceedings before courts martial, there should be collaboration between the Ministries of National Defence and of Justice on the provision of effective legal aid to those before the courts who are without means.

**(f)** In order to prevent the abuse of the institution of legal aid, it is thought desirable that the criterion of whether the recourses of the applicants are in principle well-grounded (screening) should be introduced, as is the case in various states of the European Union where the provision of legal aid depends on whether the relevant recourse has reasonable or well-founded chances of succeeding.

**(g)** As to the cases of violation of Law 927/1979 '*Concerning the punishment of acts or actions with the purpose of racial discrimination*', as amended by Law 1419/1984, two views were expressed in the Plenum of the NCHR: according to the first view, the criterion of whether the recourse is in principle well-grounded should not be applied here, given that a particularly vulnerable category of individuals is involved, and also because the above law has never been implemented up to the present, chiefly because of difficulties in relation to the provision of legal aid. According to the second view, there is no need for differentiation.

(h) The anachronistic condition of reciprocity of Article 195, para. 1 of the Code of Civil Procedure should be struck out, in accordance with the mandates of modern human rights law.

(i) It is desirable that the Ministry of Justice, in collaboration with the appropriate Bar Associations, should take the necessary measures to eliminate the existing serious malfunctioning of the *proprio motu* appointment of advocates by the criminal courts.

(j) Finally, it is desirable that data bases should be introduced by the Ministry of Justice, in close collaboration with the appropriate Bar Associations, in which the specialisation of the lawyers who are willing to provide legal aid should be entered, with a view to the proper and effective functioning of the institution.

IV. In connection with the training of police officers in human rights (p. 9 of the EL.AS Report), the Fourth Sub-commission of the National Commission for Human Rights (Promotion of Human Rights) drew the attention by its communication of 26 March 2001 to the Minister of Public Order to the special importance of introducing a special teaching unit in the EL.AS colleges, as well as the immediate need to strengthen and upgrade the Ministry's Training Directorate. However, we are informed that such lessons are already taught in the Police Colleges, and that particularly at the National Security College, a special programme is taught throughout the year.

V. As to the "published reports of rough treatment of Roma" by police officers (p. 10 of the EL.AS Report), the National Commission for Human Rights recently (late November 2001) sent to the competent ministries its report on the state of Roma in Greece. In its report, the National Commission stresses particularly (*in fine*) the need for the State to take all the appropriate measures for the education and sensitisation of the whole of society, and particularly of public functionaries, so that the rights of Roma are not violated.

VI. In connection with issues of the "arrest - detention - expulsion of illegal aliens" and the places of detention (pp. 10 - 12 of the EL.AS Report), the National Commission would refer to its above-mentioned report on the conditions of detention and to its relevant proposals noted above.

VII. As to alien asylum-seekers (p. 13 of the EL.AS Report), the National Commission for Human Rights has already submitted to the competent ministries detailed proposals for the modernisation of the protection of the individual and social rights of refugees and asylum-seekers in Greece. The National Commission would like to express its concern at the denunciations of 11 December 2001 of international non-governmental organisations, such as Amnesty International and the World Organisation against Torture, concerning the "enforced return" by the Greek authorities of asylum-seekers to Turkey without these individuals being allowed to submit an application for asylum. Also, the National Commission would draw the attention of the Ministry of Public Order to the Comments of the United Nations High Commission for Refugees, Athens (November 2001) on the Protocol of 8 November 2001 on the implementation of Article 8 of the Co-operation Agreement between Greece and Turkey on combating crime and, *inter alia*, illegal migration (Law 2926/2001). The National Commission would stress that the relevant Protocol (on readmission) should expressly provide for the special, favourable treatment of asylum-seekers and refugees in accordance with the principles of international law and, particularly, the fundamental principle of non-refoulement.

13 December 2001