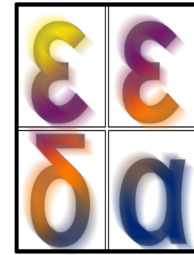


Greek National Commission for Human Rights (GNCHR)

«Implementation of the ECHR. Our common responsibility»

24 March 2015



- **THE GNCHR IN THE CASE-LAW OF THE EUROPEAN COURT OF HUMAN RIGHTS (ECtHR)**

The reports of the Greek National Commission for Human Rights (GNCHR) are quoted in a large number of European Court of Human Rights (ECtHR) judgments finding violations of the ECHR by the Hellenic Republic (22 ECtHR judgments until December 2014). Both the applicants and the ECtHR invoke GNCHR's reports regarding the establishment of the facts and the merits of the case. It is, moreover, a rather frequent practice for GNCHR's reports to be presented thoroughly in the relevant domestic law part of the ECtHR's judgments. The most frequent and extensive quotations of GNCHR's texts by the ECtHR concern matters, which are related to the use of force, detention conditions, rights of persons with a psychiatric background, rights of people living with HIV/AIDS, right to a fair trial as well as same-sex partnerships. In the relevant texts, the GNCHR not only assesses the situation concerning the respect of human rights in Greece; it also addresses recommendations regarding national legislation. It seems that the ECtHR is interested in both these aspects of the GNCHR's resolutions.

The importance of the recent ECtHR judgment *AL .K. v. Greece* (No. 63542/11), 11.12.2014, in this respect should be particularly highlighted: In this case the applicant, who had illegally entered Greece, had complained of a violation of Article 3 ECHR, alleging bad detention conditions. The ECtHR, recalled a series of previous judgments by which it had found (relying in some cases on GNCHR texts) violations of Article 3 ECHR due to bad detention conditions. Relying on these judgments and considering that the Greek Government had presented no new fact or argument, in view also of the fact that numerous similar cases were pending before it, the ECtHR concluded that there were *structural* problems in Greece regarding the functioning of the asylum authorities and the asylum procedure, and called for the *adoption of general measures* aiming at putting an end to the inhuman and degrading treatment prevailing in certain detention centers near the borders. This conclusion was inter alia corroborated by findings of the GNCHR, to which the ECtHR repeatedly referred concerning both the circumstances and the merits of the case (paragraphs 43, 53, 70).

The list of ECtHR judgments quoting GNCHR's reports, in chronological order, is available at:
http://www.nchr.gr/images/banners/2015gennarhs_nchr_citation_ECtHR_eng.pdf

- **EXAMPLES OF GNCHR ACTION REGARDING THE EXECUTION OF ECtHR JUDGMENTS**

The GNCHR has on several occasions invited competent ministers to take legal initiatives in compliance with ECtHR judgments. A typical example is provided by GNCHR action regarding the recognition of same-sex civil unions.

More precisely: Following the judgment of the Grand Chamber of the ECtHR of 7 November 2013, in the case of *Vallianatos and others v. Greece* (Nos. 29381/09 and 32684/09), the GNCHR sent a letter to the Minister of Justice, by which it recalled its previous positions regarding the necessity for legal recognition of same-sex civil unions. Also, in view of the Minister's statements during the discussion of the anti-racism bill in the competent Parliamentary Committee on the necessity for the Ministry to take into account the ECtHR judgment, the GNCHR invited the Minister to take a legal initiative for the recognition of same-sex civil unions. Moreover, the GNCHR noted that in its above judgment, the Grand Chamber of the ECtHR repeatedly quoted and took into consideration the positions of the GNCHR (see paras. 12, 15, 21-24, 87 and 89 of the judgment). The GNCHR sent a similar letter to subsequent Ministers of Justice. The current Minister has announced legislative measures aimed at complying with the above judgment.

- **PROVIDING INFORMATION ON THE ECHR SYSTEM**

On its website, the GNCHR makes available information on ECHR-related issues.

Examples:

- Information on how to apply to the ECtHR (Instructions on admissibility).
- Information on stricter conditions for applying to the ECtHR (Art. 47 Rules of the Court).
- Information on the Reform of the ECtHR (e.g. ENNHRI Contribution of 24/1/2014).

- **INFLUENCING LEGISLATIVE REFORM**

The GNCHR is regularly monitoring the implementation of ECtHR judgments against Greece and addressing several recommendations to competent state authorities concerning the compliance of Greek legislation and practice with the ECHR.

Example: Following numerous ECtHR judgments condemning Greece due to the excessive length of judicial proceedings, and the pilot judgment *Vassilios Athanasiou and Others v. Greece* (application No. 50973/08), the GNCHR has, on a number of occasions, stressed the need for this problem to be effectively addressed. It has, moreover, highlighted that the method by which the problem is increasingly addressed results in further violations of the right to a fair trial, as it mostly consists in raising court fees, i.e. in introducing barriers to access to justice. The GNCHR has repeatedly formulated proposals and recommendations on the matter¹. More recently, it has presented recommendations on the bill of the Ministry of Justice, Transparency and Human Rights on "[Just satisfaction for excessive length of judicial proceedings before the civil and penal courts and the Court of Auditors](#)", to the parliamentary Standing Committee on Public Administration, Public Order and Justice (29.1.2014). The GNCHR had already provided Parliament with a series of reports on the right to a [fair trial and to a reasonable length of proceedings](#) as well as on [the acceleration of administrative](#) and [penal proceedings](#). The parliamentary debate regarding just satisfaction, had revealed the importance of the GNCHR reports. Parliament adopted, *inter alia*, the GNCHR proposal for a reduction of certain court fees (Article 6 (8) and (9) and Article 21) of the bill which became Law 4239/2014.

¹ See GNCHR, *Comments on the Bill of the Ministry of Justice on the "Acceleration of proceedings in administrative courts and other provisions"*, Annual Report 2010, p. 58, *Recommendations regarding the Bill of the Ministry of Justice on the "Fair satisfaction due to the excess of the reasonable length of proceedings in civil and criminal courts and the Court of Audit"*, 30. 1. 2014, available at: http://www.nchr.gr/images/pdf/apofaseis/dikaih_dikh/SN%20Dikaih%20ikanopoihsh.pdf and *Written submission to the CEDAW Committee for the General Discussion on Women's Access to Justice*, 18.2.2013.