

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

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Neofytou Vamva 6 (3<sup>rd</sup> floor), GR 106 74 Athens, Greece, Tel: +30 210 7233221-2;  
fax: +30 210 7233217; e-mail: [info@nchr.gr](mailto:info@nchr.gr), website: [www.nchr.gr](http://www.nchr.gr)

<p><b>Comments on the Draft Initial Report of Greece concerning the Implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography</b></p>
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## **I. Introduction**

The National Commission for Human Rights has repeatedly dealt with issues falling under the scope of the UN Convention on the Rights of the Child addressing recommendations to the competent Ministries. It has also commented on the Draft 3<sup>rd</sup> Periodic Report on the implementation of the UN Convention on the Rights of the Child and the Draft Initial Report on the Optional Protocol to the Convention on the involvement of children in armed conflict.

The Ministry of Foreign Affairs sent to the NCHR the Draft Report requesting its comments in accordance with article 1, par. 6 (e) of its founding Law 2667/1998. The NCHR submits the following comments which may contribute to the improvement of the Report.

## **II. General Comments**

The Draft Report under consideration is the first Report that Greece submits before the UN Committee on the Rights of the Child (hereafter the Committee) regarding the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (hereafter the Protocol). According to

article 12 par 1 of the Protocol the initial Report must be submitted within two years following the entry into force of the Protocol for a State Party.

The Protocol entered into force for Greece on 22.03.2008. Therefore, the initial report should have been submitted by 22.03.2010. There is a delay of more than one year. However, this delay does not absolve the State Party from the obligation to cover also the time period until the submission of the Report, which is not the case.

The Draft Report is quite analytical and there has been a considerable effort to be drafted in accordance with the Revised Guidelines regarding Initial Reports of the Committee. However, it does not comply with all General Guidelines. For example it does not contain a full description of the process of preparation of the Report, and in particular it does not refer to any contributions made by NGOs and competent (independent or not) authorities, such as the Ombudsman for the Child or the Labour Inspection Body. Furthermore, there is no evaluation of the contribution of the measures taken to the implementation of the Protocol, as required by the Guidelines.

The NCHR considers necessary to repeat that the analysis of the existing legislation and infrastructure for the protection of each rights does not suffice. It needs to be combined with a clear description of the problems in the field in order for reality to be depicted accurately and to render easier the seeking for solutions regarding omissions of the regulatory framework and its implementation.

Moreover, the NCHR needs to observe that the data provided do not respond fully to the information required by the Committee both in substance (e.g. ascertained number of children who work forcefully, data disaggregated by age, sex, nationality) and in time. According to par. 2 the Draft Report covers the time period until December 2010. However, some of the information covers only 2009 (e.g. minor trafficking victims (par. 5), employment permits for minors (par. 18), fines by the Labour Inspection Body for illegal employment of minors (par. 24)). Data should be updated – up until the time of submission- and enriched. Where there are no data,

this should be made clear and the reasons for the absence of such data (e.g. no relevant complaints or inexistence of complaints mechanism) should also be provided. It is noted that the Committee in its 2002 Concluding Observations recommended that Greece strengthens its efforts to develop data collection systems and indicators consistent with the Convention and covering all children up to the ages of 18 years, with an emphasis on those who are particularly vulnerable.

### **III. Special comments**

**Par. 4-5:** The titles “General Guidelines” and “Data” are not compatible with the content that follows or with the Guidelines. In particular, the Chapter titled “Data” refers to the legislation on minors’ employment and the relevant inspection mechanisms. On the contrary, the Chapter of the Guidelines titled “Data” refers to the kind of data that each State Party should include in its Report i.e. regarding all activities prohibited by the Protocol and not solely forced labour. Thus, the data provided should either a) be presented all in one chapter, or b) distributed in the different chapters of the Report according to the specific thematic presented each time. That way the structure of the Report will respond better to the Guidelines, and will enable the reader to have a clearer picture of the situation at hand.

**Par. 10-19:** The analysis of the legislation on minors’ employment should be moved to another chapter. It also needs to be noted that some provisions of Law 1837/1989 transposing Directive 94/33/EC on the protection of young people at work do not fully comply with the Directive. For example while the Directive (article 10) requires a minimum rest period of 14 consecutive hours, the Law provides for only 12 hours (par. 13 of the Draft Report).

Law 3863/2010 “New social security system and relevant provisions, regulation of labour relations” (OG A 115), which modifies the framework of minors’ employment needs also to be mentioned. In particular,

according to article 74 par. 9 of the Law, minors employees 15-18 years of age are exempted from the minimum protection of the National General Collective Labour Agreement regarding minimum wage and employment terms. On the basis of the said provision minors 15-18 years of age may be employed on contract of apprenticeship with 70% of minimum wage, with low social security and with full exemption from the biggest part of labour law which protected them until recently. This provision will have an impact on the correct implementation of the ILO Convention concerning Minimum Age for Admission to Employment (no. 138). The NCHR notes that the above issue is included in the communication of the Greek General Confederation of Labour (GSEE) addressed to the Committee of Experts of the ILO with regard to the legislative measures implemented or to be implemented by the end of 2010 by the Greek Government in the framework of the mechanism to support the Greek economy.

Besides, the NCHR has already stressed that the presence of numerous unaccompanied minors during the past few years in Greece, who are extremely vulnerable to exploitation, requires the establishment of an institution which will be in charge of child care and will ensure that law is strictly applied for those minors above 15 years of age who wish and are able to work.

**Par. 20-25:** It's worth to be underlined that the drafters of the Report sincerely note that the ascertained breaches of the law regarding minors' employment do not reflect fully the size of the problem. It would be useful at this point if the Report referred to the insufficient staffing and lack of infrastructure of the Labour Inspection Body, which as the NCHR has on several occasions noted hinder its effective supervision of the compliance with labour law.

**Par. 35-37:** In order for the answer to the question on the bodies with the primary responsibility for the implementation of the Protocol to be more complete, the Anti-Trafficking Units of the Greek Police should be mentioned, as well as their activities and the results of their operations.

**Par. 56:** Apart from NGOs' activities on combating human trafficking sponsored by the Ministry of Foreign Affairs, the general contribution of NGOs in combating children trafficking, child prostitution and child pornography should be mentioned, in accordance with par. 13 (h) of the Guidelines.

It is quite surprising that the Draft Report does not mention at all the Ombudsman for the Child, neither the NCHR, institutions which may contribute to the implementation of the Protocol via their recommendations and activities (see for example the Ombudsman's recommendations on interstate adoptions).

**Par. 61:** Par. 61 refers to the categories of children who are placed under care. However, the Guidelines request information on the methods used by Greece to locate particularly vulnerable children and any relevant measures taken for their protection. However, it is striking that there is no mention to street children and unaccompanied minors, two particularly vulnerable groups, given also the relevant recommendation of the Committee in its 2002 concluding observations on street children.

**Par. 67-73:** The extensive analysis on the functioning of the schools –which concerns all children and solely those belonging to vulnerable groups- does not meet the requirements of the Guidelines.

**Par. 74:** Firstly, the title used “migration policy” does not correspond to the content of the paragraph which refers to the legislative framework on trafficking victims' protection. Moreover, the draft Report refers to the preexisting framework (Law 3386/2005). However, the relevant provisions have been modified by Law 3907/2011 “Establishment of Asylum Service and First reception Service, adjustment of Greek legislation to the provisions of Directive 2008/115/EC on common standards and procedures in Member States for returning third-country nationals staying illegally, and other provisions” (OG A 7) and 3875/2010 “Ratification and implementation of the United Nations Convention against Organised Transnational Crime and its Protocols, and relevant provisions” (OG A 158). Therefore, the necessary changes need to be made.

Moreover, it is quite limited the mention of the issue of unaccompanied minors. Given that unaccompanied minors is one of the most vulnerable groups-potential victims of the acts prohibited by the Protocol, the Draft Report should refer to all measures taken for their protection, irrespectively of whether they have been trafficking victims, and to existing problems in the field. Thus, the Accommodation Centres, falling under the competence of the Ministry of Health and Social Solidarity, and their limited capacity which do not suffice to cover the needs, as well as the problematic institution of legal guardianship should be included in the report. In the light also of the ECtHR's judgment in the *Rahimi* case, these issues may not be left out.

**Par. 76-78:** NCHR considers inadequate the analysis of issues concerning Roma children, which is limited to the Loaning Program for Housing. Parts of the Integrated Action Plan for the Social Inclusion of Greek Roma –such as the socio-medical centres should be mentioned as well as problems that urgently need to be addressed, such as education, and any potential measures.

**Par. 91-96:** A serious problem is the advertisement of violent films by TV channels during time zones that children watch television, or during shows that they watch.

**Par. 120:** It would be useful to provide information on the arrests that have taken place the past few years of rigs on illegal adoptions and babies trafficking, given that such information is requested by the Guidelines (par. 10 (d)).

**Par. 134:** Further analysis in the provisions of the Code of Criminal Procedure on extradition is required, given the importance attributed to it by the Guidelines (par. 24).

**Par. 149:** At this point the NCHR would like to remind its observations regarding the constitutionality of article 8 of Law 3625/2007 which provides for the disclosure by the prosecutor of the data concerning prosecution or convictions related to crimes, felonies or offences of intent, in particular against life, sexual liberty, financial exploitation of sexual

life, personal freedom, property, rights related to property, violations of the legislation related to drugs, conspiracy against public order as well as offences committed against minors. The NCHR had noted that “Given that the amended provision does not stipulate clearly enough the data to be disclosed, it is probable for the disclosure to lead to information related to the minor. Therefore, the disclosure cannot be considered the most appropriate measure to protect the rights and interests of child victims”.

**Par. 150:** More information is needed regarding the public or private institutions which provide protection, rehabilitation and similar services to minor victims, irrespective of whether they have been removed from their domestic environment, in accordance with the Guidelines (par. 32).

**Par. 157-160:** The mention of Law 3838/2010 (OG A 49) “Modern Provisions Regarding Greek Citizenship and Political Participation of Aliens of Greek Origin and Migrants Residing Legally in Greece” does not appear to be relevant with the scope of the Protocol nor with the information requested by the Guidelines in par. 36 (any differences between the assistance provided to children who are nationals or presumed to be nationals of the State party and those who are not nationals, or whose nationality is unknown). Moreover, the passage according to which “the new arrangements: [...] encourage such children to remain within the school environment; enable Greek schools to freely educate them, just like any other Greek child, making them recipients of a common socio-political culture;” might be misunderstood by the Committee; because it might be perceived to imply that: a) the acquisition of Greek nationality functions in reality as a prerequisite for the materialisation of the right to education, and b) the acquisition of Greek nationality entails the possibility to group children in a homogeneous manner, which is not necessarily compatible with article 29 par 1 (c) of the CRC according to which: “the education of the child shall be directed to: [...] (c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values

of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;” Thus, the NCHR takes the view that these paragraphs should be omitted.

**Par. 175-180:** These paragraphs refer to the Anti-Trafficking Plan of the Greek Police called “ILAEIRA”, which began in 2006. It concerns a an organized operation –both at national and international-transnational level- aiming at the suppression and combating of women and child trafficking for the purposes of exploiting sexual life. This information is extremely useful. However, it would be better placed in par. 35-37 of the Report, which refer to the activities of the Police, and in the next chapter regarding international assistance and cooperation.

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