

HELLENIC REPUBLIC
GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

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Comments on the 3rd Greek Periodic Report to be Submitted to the Committee for the Rights of the Child (CRC)

The NCHR carefully examined the draft Report communicated to it by the Ministry of Foreign Affairs. The NCHR is confident that the CRC general guidelines for periodic reports will be taken fully under consideration by the Ministry at the final report to be submitted. The Report presents the positive steps that have indeed been taken for the protection of the rights of the child in Greece during the past few years. The NCHR has repeatedly dealt with children's rights and has submitted recommendations to the competent Ministries. On the basis of its previous decisions and the practice of the CRC, it submits the following comments which may enrich the Greek Report.

I. General measures of implementation of the Convention (articles 4, 42 and 44 para 6)

It would be useful for the Report to include in summary the legislation adopted for the protection of children's rights and especially the recent ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography.

Regarding the information provided for the health treatment of aliens, a distinction should be made between adults and minors.

There is no information regarding the distribution of education services in rural areas and the islands. Tables nos 2 and 3 present numbers without depicting the situation per region, as suggested by the

CRC. It would also be useful to include a table depicting the ratio between children and health services in rural areas.

Regarding the NCHR, the Ombudsman and the National Observatory for the Rights of the Child it would be useful to clarify each organ's competence, especially with reference to the guarantees of their independence.

The NCHR notes that, since April of 2007 until today, the National Action Plan for the Rights of the Child has not been implemented.

The Committee has repeatedly recommended the coordinated processing of statistical data collected with a view to facilitate the effective implementation of the Convention. The said coordination could be assigned to the National Observatory for the Rights of the Child provided it is appropriately staffed.

It is noted that the continuous training of teachers and staff in health services in areas where large numbers of Roma, minorities' members or migrant children reside does not take into consideration the content of the Convention. The translation of the Convention in Albanian to be included in an informative leaflet regarding the educational system addressed to parents is not comprehensive. On the other hand, the Ombudsman has issued a leaflet in 8 languages titled "The International Convention for the Rights of the Child in Simple Words". It is necessary to translate the Convention in Romani and to distribute it in all the country as well as to inform the teachers and parents about its content.

II. Definition of a child (article 1)

The NCHR notes the positive amendment to article 121 of the Penal Code according to which a minor is considered a person at the age of 8 up to 18 years completed.

III. General Principles (articles 2, 3, 6 and 12)

The general principles of non-discrimination, best interest of the child, and respect for the views of the child need to govern the National Action Plan for the Rights of the Child and to be reflected in all State policies. Furthermore, a precondition for the actual respect of the said principles is to train the staff of the services and authorities involved, as well as to brief all vulnerable groups.

Regarding non-discrimination, the NCHR has included in its comments on the Greek Report to be submitted to CERD extensive observations regarding the new legislation for combating discrimination and its weaknesses (Law 3304/2005) in relation to: a) its limited scope; b) the representation of victims of discrimination by legal entities and associations; c) the burden of proof, the active legalization of entities and associations and the need to amend the Codes of Civil and Administrative Procedure; d) the limited competences of the national equality bodies; e) the limited dissemination of the new legislation both to the public and civil servants.

Regarding equal access to education and health services, the NCHR has recommended the establishment of tutoring for Roma children. In relation to unaccompanied minors the NCHR has noted the need for their tutoring until they learn Greek satisfactorily and their allocation in classes on the basis of their nationality instead of their age.

In the light of article 29, para 1, the NCHR has noted that despite the establishment of intercultural education and the special provisions of the Law, the teaching of language, culture and religion of alien students has not been implemented.

In the context of article 6, the NCHR has, already since 2001, noted that the living conditions of Roma residing in encampments are particularly precarious and a very high percentage suffers from hepatitis A and B.

As far as article 12 is concerned, the NCHR notes that article 1511 of the Civil Code in conjunction with article 681C of Civil Procedure providing for the views of the child to be taken into account by the court in cases of parental custody trials is not often applied. Moreover, it stressed the need for the establishment of family courts and the social service provided for by Law 2447/1996 which will contribute to the effective protection of the child's interest.

The NCHR has recommended in the past for the Muslim weddings by proxy to be considered by Greek law as “non-existent” with regard to the proxy and the principal's “spouse” and as “null and void” with regard to the principal. Furthermore, the NCHR has adopted the view that marriages between Greek citizens and solemnized in Greece –irrespective of creed– are only valid if both members of the couple are of majority age.

IV. Civil rights and liberties (articles 7, 8, 13-17 and 37 (a))

The NCHR considers as a major concern the *de facto*, but not *de jure*, problem of registration of Roma in civil registers, which causes problems in many other areas such as their transactions with public services. The Ombudsman has suggested the establishment of a special registration process.

Although the practice of providing migrants' children born in Greece with a document of the civil register certifying the birth of the child but not with a proper birth certificate is not illegal, it causes problems to their registration in kindergartens and schools and to their transactions with other public services. Therefore, the Ministry of Interior should issue a circular to clarify that the aforementioned document equals the birth certificate as far as children rights are concerned.

The report should mention the decision of the European Committee of Social Rights on the merits of the complaint of *World Organisation against Torture (OMCT) v. Greece*, according to which article 17 of the European Social Charter was violated because Greek legislation does not

provide for the effective prohibition of corporal punishment and other forms of degrading treatment of children. The NCHR considers as a positive step the adoption of Law 3500/2006 on domestic violence but it has underlined several shortcomings of its provisions.

While the new legislation reflects several guiding principles of the CRC regarding the definition of basic terms such as family, school, violence, it is necessary to inform, sensitize and train all persons involved, including law enforcement personnel.

The NCHR notes that in June of 2006 a Committee for Studying and Addressing Bullying at Schools was established under the auspices of the NCHR. The aim of the Committee is to recommend preventive and suppressive measures to combat violence at schools. Members of the Committee are representatives of the Greek Federation of State School Teachers of Secondary Education, the Greek Federation of State School Teachers of Primary Education, the Greek Federation of Students' Parents, the Greek Society of Criminology, the Department of Criminology of Panteion University, the Centre of Penal and Criminological Studies of Athens University, the Deputy Ombudsman for Children's Rights, and the Marangopoulos Foundation for Human Rights.

The NCHR notes that the Report refers to the recommendation of the Hellenic Data Protection Authority to the Ministry of National Education regarding: a) the non-inclusion of religious affiliation to the degrees of elementary and secondary education schools; b) the fact that legal guardians who do not wish their children to attend the class of religion should not be asked to declare whether they are atheists or whether they adhere to another religion. Given that six months have passed since the said recommendation was issued it would be advisable for the Report to include the measures, if any, taken or planned by the State to implement it.

Law 3597/2007 regarding the operation of private radio and television stations requires that the main language of transmission or subtitles be Greek. The NCHR notes that the law should be interpreted

and implemented in accordance with the current practice in order for the operation of Turkish or other languages speaking stations is not obstructed and by extension to protect the access to information of children not familiar with Greek.

New legislation has criminalized internet use for the active or passive promotion of child pornography. However, the NCHR underlined the legislative lacuna regarding protection of children from harmful material and the effective supervision of places providing internet access.

V. Family environment and alternative care (articles 5, 18 para 1 and 2)

It is necessary that updated information regarding the percentage of the population living under the threshold of poverty which is 20% is included in the report. The NCHR, in its comments upon the Action Plan for Social Inclusion (2005-2006) of the Ministry of Employment and Social Protection, had noted that although there are various benefits for groups of high risk of social exclusion (e.g. unemployed, persons with disabilities, elderly) there is no comprehensive plan for minimum guaranteed income like in other EU States.

It would be useful for the Report to include more information regarding the so far development of the 16th action of the National Action Plan for the Rights of the Child, which aims at combating child poverty in cooperation with the organization “Volunteers’ Society”.

The NCHR notes the high percentage of Roma parents without social security. Special measures should be taken to address this issue and special departments in social services are required.

Apart from the methods of early prevention of child abuse, targeted training is required for all professionals working with children so that incidents of child abuse are effectively investigated and dealt with.

VI. Health and social care

The NCHR notes that Law 3386/2005 provides for the unconditioned access of under age irregular migrants to medical treatment in conformity with article 24 of the Convention for the Rights of the Child. It also underlines the need to increase, both in number and activities, the socio-medical centres which have produced very positive results for the Roma communities.

The NCHR notes that during the round table which it organised in cooperation with the Greek Federation of Persons with Disabilities titled “The UN Convention on the Rights of Persons with Disabilities and Greece”, representatives of the government and political parties stated that they are in favour of the ratification of the convention. During the round table the NCHR proposed the creation of a new section at the office of the Greek Ombudsman dealing with the rights of persons with disabilities. Furthermore, the ratification of the UN Convention needs to be followed by a dissemination campaign informing children with disabilities of their rights while sensitizing the public in relation to discrimination against children with disabilities.

The CRC has recommended to Greece to hire additional qualified staff to support children with disabilities in the fields of health and education in the framework of the general educational system. The bill titled “Special education for ensuring equal opportunities to persons with disabilities” recently drafted by the Ministry of Education and put into public consultations (unfortunately only for 10 days) constitutes an important tool to identify the needs as well as the potential impediments in the implementation of the law.

Given that the CRC refers specifically to the living conditions of Roma, especially the housing problems, the Report should mention the decision of the European Committee of Social Rights on the merits of the complaint by the *European Roma Rights Centre (ERRC) v. Greece*, according to which article 16 of the European Social Charter was violated

due to lack of permanent or temporary residences, non-facilitation of campers, forced evictions and the infliction of other sanctions at their expense. Regarding forced evictions, the NCHR has noted that usually there is care for Roma's resettlement in another location, even in an encampment. As a result the same phenomenon takes place anew in another area.

In relation to the housing loan program of the Ministry of Interior , the NCHR has further noted that two important problems need to be addressed: a) the fact that the Roma do not fully comprehend the procedure (e.g. their obligation to pay back the loan) and b) the fact that the Ministry of Interior cannot exercise control, due to legal impediments, over the handling of the funds by the local authorities. The Secretary General of the Ministry has stated that complaints regarding granting loans to non beneficiaries have been communicated to the Public Prosecutor.

VII. Education, leisure and cultural activities

The NCHR is satisfied with the clarification of the Ministry of Education that all minors living in Greece irrespective of their residence status have the right to enroll in schools of primary and secondary education.

However, the access of Roma children to education poses great challenges because of the negative attitude of both parents and teachers in spite of the efforts of the State.

The NCHR notes that the curriculum of the teachers of the minority primary schools at the Special Pedagogical Academy of Thessaloniki is a three year one, whereas that of teachers of regular schools is a four year one.

VIII. Special measures of protection

Regarding refugees and asylum seekers the NCHR has recommended a number of measures for the amelioration of the asylum procedure. It has also stressed that article 9 para 1 of PD 220/2007, which regulates minors' access to education, is more restrictive than article 28 of the Convention which does not set any restrictions upon the right to education.

In relation to unaccompanied minors, the NCHR has proposed several measures which reflect the recommendations of the CRC in General Comment N. 6, whereas it has called for the ratification of the UN Convention on the Reduction of Statelessness.

With regard to child labour, the NCHR takes the view that the considerable number of unaccompanied minors in Greece calls for the establishment of a body in charge of their care and ensuring that the laws are complied with for those minors, above the age of 15, who wish to be employed.

Furthermore, because of the important number of street children, a comprehensive policy that will take into account all the factors generating this serious phenomenon is required. More information is needed regarding the efforts to approach street children and sensitize public opinion.

The NCHR expressed its satisfaction for the ratification of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (Law 3625/2007). However, it noted that Greece has still not ratified the Council of Europe Convention on Action against Trafficking in Human Beings nor the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children.

The NCHR has recommended the establishment of a National Rapporteur on Trafficking for the systematic registration of data on trafficking and their promotion to the competent authorities for the evaluation and updating of the National Action Plan. Furthermore, it

underlined the absence of provisions for the prevention of trafficking in the anti-trafficking law.

The NCHR noted that according to article 47 of Law 3386/2005 a residence permit is provided to potential trafficking victims under the condition that they cooperate with the prosecutorial authorities. A filed complaint by the victim should suffice, though, given their fear for reprisals. Furthermore, the one month reflection period is considered as too short and should be extended to three months.

The NCHR also noted that the decriminalization of beggary has not materialized although it was recommended by the CRC.

The Report should make reference to the PD 240/2007 regarding the beneficial calculation of the days of imprisonment of juveniles in case of school and other educational institutions' attendance.

The NCHR expressed its dissatisfaction for the institutionalized treatment of juvenile offenders; it has also stressed that, according to article 5 para 1 (d) of the ECHR, appropriate infrastructures and assistance to the juvenile by specialized personnel is required, otherwise the detention is not legal. The absence of appropriate detention facilities for juveniles has also been underlined by the Ombudsman for the Child.

29 May 2008