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PERMANENT MISSION OF GREECE  
GENEVA

**URGENT**

Ref. No. 6170 /42/AS 1745

**NOTE VERBALE**

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland presents its compliments to the Office of the High Commissioner for Human Rights, Special Procedures of the Human Rights Council and reference made to the latter's Verbal Note AL Health (2002-7) G/SO 214 ( 106-10) G/SO 214 (78-15) GRC 2/2012, dated 21.8.2012 (concerning racial discriminations, xenophobia, rights of migrants, physical and medical health) has the honor to convey the relevant replies provided by the Greek authorities (Ministry of Public Order and Citizen s Protection, Ministry of Interior, Ministry of Justice, Transparency and Human Rights).

The Permanent Mission of Greece to the United Nations Office at Geneva and other International Organizations in Switzerland avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 19 October 2012



To:  
**-The Office of the High Commissioner for Human Rights**  
Palais des Nations, CH-1211 Geneva 10, Switzerland  
Fax: 0041-22-917 9006

Pages attached: 7

### Contribution of the Ministry of Public Order & Citizen's Protection:

The Ministry of Public Order and Citizens' Protection, as well as the Hellenic Police Headquarters, are determined not to allow the development of a xenophobic climate or the manifestation of racist phenomena and their toleration by the Hellenic Police. They are also determined to control every illegal, abnormal or improper behavior of police officers and, therefore, every complaint or information regarding improper behavior of a police officer, even when off-duty, and generally every action or failure by police officers that contradicts to the Constitution, current laws, regulations and ethics, is deeply and meticulously examined with special attention and, if a violation of the law is ascertained, current legislation is strictly implemented.

The Hellenic Police attaches great importance to the field of human rights. This effort is not a snatchy approach to deal with the upcoming cases, but tends to create a climate of thought and respect of human rights. For this reason, the relevant directives and orders that have been sent to the regional police services, point out to all police officers the issue of their behavior to all citizens without any discrimination, as well as the need to respect citizens' personality, their personal rights and their right for equal treatment, as foreseen by domestic law (Constitution art.4, Law 3304/2005) and other international and European conventions (Convention against Torture, etc.).

Additionally, for the effective protection of the rights of the citizens against the arbitrariness of public servants, certain provisions in the penal code foresee strict penalties, e.g. provisions of law 1500/1984 (arts. 137A', 137B', 127C' και 137D' P.C.), according to which all actions of violence or insult of human dignity are described as felonies. Moreover, Internal Affairs service of the Hellenic Police, is the competent authority to investigate cases of torture and other insults of human dignity (arts. 137A-137D') by police officers. This service is independent, reports directly to the Chief of the Hellenic Police and is supervised by the District Attorney.

Apart from the penal control for potential violations of human rights, police officers are under continuous administrative control, which is ensured by a special disciplinary code. Punishment is applied almost immediately. The disciplinary code of police personnel aims at ensuring discipline in the Hellenic Police by certain procedures, for full, effective, and objective investigation of discipline issues. It must be mentioned that all actions and behavior of police personnel that constitute severe insults against human dignity, result in the officer's punishment or discharge from the Police Force.

Racist violence is a serious insult of human dignity and because of its dangerous effects, Hellenic Police makes use of every available means in order to combat racism and intolerance, thus enhancing the vision of democracy in a society where diversity should not be considered as a threat, but as a contribution to the enrichment of cultural identity.

In the framework of its prevention activities, Hellenic Police make significant efforts to ensure public peace and order, as well as improvement of security level for the citizens, treating them fairly and equally. Police authorities ensure the rights of all persons residing in Greece, including those who belong to certain groups of population και seek the development of relationships of mutual trust and respect.

Even in the framework of their repression tasks, the personnel of all Police Services respect the diversity of ideas, the different ways of life and other cultural specificities of all humans without discrimination. Abduction of persons is exclusively connected with personalized indications that occur form their behavior and makes them suspects of criminal actions and is not the result of possible prejudice of police personnel about vulnerable groups of population, such as Roma and those who have different religious beliefs from the state religion in Greece.

To this direction and in line with the spirit of the International Bodies, the Greek Government has repeatedly expressed its will for combating racist violence phenomena. An example of this is the recent (23 Aug 2012) response of the Minister of Public Order and Citizens' Protection, given at the 14<sup>th</sup> Meeting of the Hellenic Parliament, to a question raised by members of the Parliament, regarding the policy of combating such phenomena.

Additionally, with the aim to fully and effectively combat such phenomena, the establishment of a comprehensive mechanism for registering and reporting incidents of racism, as well as the establishment of an integrated database, in order to achieve the immediate update of international organizations and monitoring the progress of the relevant cases, are ongoing.

The establishment of these mechanisms has been assigned to the Ministry of Justice, Transparency and Human Rights, while the Hellenic Police is obliged to submit data reported and recorded by its services.

The procedure of reporting incidents of racist violence that occur across the country by individual persons as well as organized groups, has been already in operation and for this purpose, a circular order has been sent to all competent services, giving directions for the reporting procedure. Moreover, Police Officers have been assigned as Official Contact Points with communities in the country and international organizations, who act as coordinators for gathering data from the Hellenic Police.

The registration of the aforesaid incidents takes place in the cases which have been reported to the Hellenic Police and a case file has been established for known or unknown perpetrators, as well as in cases where there is some kind of complaint regarding the involvement or failure of police officers. In this case, an additional investigation identifies whether it has been a penal or disciplinary case.

These data are registered twice a year, starting from January 1<sup>st</sup> to June 31<sup>st</sup> and from July 1<sup>st</sup> to December 31<sup>st</sup>. They are submitted to the aforesaid Division of the Headquarters within July and January, respectively, together with the update of the data of the previous semester and are sent to the Ministry of Justice, Transparency and Human Rights.

It must also be mentioned that the Minister of Public Order and Citizens' Protection, responding to the mentioned question raised by members of the Parliament, announced the establishment of a Special Department within the Division of State Security, which will deal with these phenomena in a more sophisticated manner, recording and evaluating all data.

More specifically and regarding incidents of racist / xenophobic violence, in which police officers are involved or seem to be involved, it must be highlighted that under Law 3938/2011, the Office for Combating Incidents of Arbitrariness is directly subordinated to the

Minister of Public Order and Citizens' Protection and constitutes an independent and effective mechanism of investigating complaints against officers of the law. Its mission is to collect, record, evaluate and further investigate actions of power abuse of officers of the Hellenic Police, the Hellenic Fire Department, and the Hellenic Coast Guard which took place during performing their duties. It will also act in cases where a condemnatory decision has been issued by the European Court of Human Rights. Until now, the operation of this Office has not been possible, due to the fact that there has been no interest for recruiting members of the judicial authorities and other persons, as foreseen in Law 3938/2011.

Moreover, participation of citizens on the anti-crime policy is of great importance. For this reason the Hellenic Police Headquarters has given priority to the establishment of consultation procedures with representatives of crime affected socially vulnerable groups, as well as representatives of affected professional groups. What is expected by these procedures is to sensitize these groups into taking basic protection measures of their own and to proceed on further research on the problems they face, so that the operational activities of the Hellenic Police can be properly planned. Consultation takes place through regular meetings with representatives of these groups, at local and regional levels.

From late 2009 until today, Greece has launched certain initiatives regarding the reform of the National Asylum System. More specifically:

(i.) National legislation regarding the procedure of providing the status of international protection has been modified, with the insertion of provisions that ensure guarantees and transparency of the procedure.

(ii.) The procedure of receiving applications, interviews and issuance of decisions has improved. The competent personnel receives continuous training and has access to information on countries of origin, in order to suggest a decision which will be fair for those who need international protection.

(iii.) The cooperation with UNHCR has been enforced regarding refugees, at all stages of the procedure.

(iv.) A National Action Plan has been submitted to the European Commission, aiming to reform the asylum system.

(v.) An Action Plan has been co-signed with the European Asylum Support Office, aiming to send a group of experts coming from the Member States to provide know-how and best practices.

(vi.) A new Asylum Service has been established, which will examine the asylum applications, so that the Hellenic Police can be disengaged from this procedure and competence.

In addition, it must be highlighted that Greece fully implements the principle of non-refoulement, since no asylum applicant is deported before his/her asylum application submitted to the Hellenic Authorities is finalized.

Furthermore, both the Ministry of Public Order & Citizen's Protection and the Hellenic Police Force are especially conscious of the need to ensure sanitary and safe

conditions in and around the detention areas, despite the large number of the detainees. Moreover, constant efforts are made in order to maintain the facilities of the premises in perfect working order, so that the needs of the detainees are addressed in the best possible way. Food is provided in adequate quantity and quality, medication is administered as indicated and sanitary controls are carried out regularly. Also, the Headquarters of the Hellenic Police Force have been instructed to assist the work of various NGOs and other bodies that provide legal aid and psychological / social support to minors and to those asking for international protection. All the above ensure the protection of the detainees' human rights, dignity, respect for diversities among people and non-marginalization.

With regard to the incident that took place in Athens on 12 August 2012, in which an Iraqi migrant was found seriously injured, following an attack by five unknown perpetrators, it should be noted that the competent police authority immediately launched a preliminary inquiry procedure, according to the penal code, in order to collect every possible evidence about the incident and to ensure the identification of the perpetrators and other witnesses as well as any related evidence. The injured man passed away shortly after he was transported to hospital.

Another migrant stated that he also had been assaulted by five motorcycle riders, a few minutes prior to the above incident, in a street nearby. According to testimonies received by the police, no racist motivation can be proved at this stage, for either case. Nevertheless, the inquiry is still ongoing and the competent authorities make every effort to investigate the cases thoroughly.

#### Contribution of the Ministry of the Interior:

**Question 6: Information on the measures taken to prevent the recurrence of racist and xenophobic acts, to guarantee their rights and freedoms without discrimination and to foster tolerance, mutual understanding and social harmony between citizens and non-citizens, and promote respect for cultural diversity.**

A. The national law 3386/05 (*on the entry, residence and social integration of third country nationals in the Hellenic Territory*) provides for transparent procedures relating to the entry of migrants and the renewal of their residence permits, prohibits both direct and indirect racial discrimination and guarantees the exercise of fundamental migrants' rights and their specificities within a system based on social justice. Please find below the most important legislative provisions in this framework:

- According to Art. 71, par. 4 of law 3386/05 offences provided for in articles 1 to 3 of Law 927/1979 (*on punishing acts or activities aiming at racial discrimination*), as amended by law 3304/2005, shall be prosecuted ex officio.

- According to the same Art., par. 2 of the above mentioned law, migrants who reside legally in Greece are subject to the relevant social security system and enjoy the same rights as natives.

- Additionally, according to par. 3 of the above mentioned Art., migrants being detained shall be informed about their rights and obligations in a language they understand, directly after their entry in a penitentiary institution.

- According to Art. 72, migrants who legally reside in Greece, are subject to obligatory school attendance, like Greek nationals. Minor migrants, who attend all levels of education, have, without any restriction, access to school and educational community activities. These rights are not restricted for minors who are under the refugee status or under the protection of the United Nations High Commissioner for Refugees, or they have submitted an application for asylum or they live in Greece, even if their legal residence status is still pending.

- According to Article 84 of the aforementioned law, migrants legally residing in Greece have access to the national health system. Hospitals, health centres and clinics are obliged to supply their services to foreigners and members of their families who need urgent hospitalization.

- Law 3875/2010, which ratified the United Nations Convention against Transnational Organized Crime and its three Protocols (the Palermo Convention) amended the provisions of law 3386/05 in order to expand the protection of trafficking victims. In addition, the protection of law has been broadened also to victims of migrant smuggling.

- Following a recent amendment of law 3386/2005 by law 3907/26.11.2010 "*Establishment of an Asylum Service and of a First Reception Service and transposition into greek legislation of the provisions of the Directive 2008/115/EC on common standards and procedures in Member States for returning illegally staying third-country nationals*", the criteria concerning the issuance and / or renewal of residence permits for humanitarian and exceptional reasons are clarified and determined, with special care for minor migrants.

- Furthermore, law 4018/2011 provides, in the framework of the ongoing administrative reform, for the re-organization and simplification of the system of the issuance of residence permits under terms of high security, in order to implement the obligations arising from *Regulation 380/2008 on laying down a uniform format for residence permits for third-country nationals*. In this context the competent authorities are establishing "one-stop shops" for immigrants (this is related to the implementation of the residence permit as an electronic card) at the seat of each decentralized authority (ex-prefecture) of the country, providing faster procedures and more efficient services. At this stage, a number of "one-stop shops" is already in operation.

**B.** In terms of programs and actions, a number of actions have already been implemented by the Ministry of Interior, Responsible Authority of the European Fund for the Integration of Legally Residing Third-Country Nationals (E.I.F). These actions are part of the Annual Programmes (A.P.) of the E.I.F. and are aiming - inter alia - at combating discrimination and intolerance in Greek society.

In this framework, the following indicative actions were implemented under E.I.F.:

- Information and awareness raising of the receiving society through a campaign to be launched by the Media with a view to avoiding eventual anachronistic stereotypes, phenomena of racism and xenophobia, promoting diversity, the value of interculturalism in the Greek society and tolerance for diversity (A.P. 2007);

- Workshop to sensitize journalists to address phenomena of racism and xenophobia (A.P. 2008);
- Organization of a football tournament between Greek football teams and third country nationals' teams, as well as a cricket tournament among third country nationals' teams (A.P. 2008);
- Information campaign for the promotion of smooth integration of immigrants in local societies (A.P. 2009);
- "The Arts: A Channel for the Integration of Immigrants" programme - painting, photography and theatre workshops (A.P. 2009);
- "Intercultural mediation" supporting access to housing and social services (A.P. 2010);
- Festivals on immigration and integration: this action intends to motivate young talented people, both natives and immigrants, to produce and present artistic works to the wider public and transform art into a communication channel between immigrants and the receiving society (A.P. 2010);
- Art and Interculturalism: the aim of this action is to give both third country nationals and Greek nationals the opportunity to jointly produce various works of art (theatre performances, documentaries, etc.) which would highlight the contact with different cultures and promote intercultural dialogue and interaction between the receiving society and the immigrant population (A.P. 2010).
- Finally, the following indicative actions are planned to be implemented under A.P.2011:
  - Interactive awareness-raising campaigns at schools, targeting groups of immigrant and native pupils and their parents through events. The final aim of these campaigns would be the creation of a more inclusive school environment eventually leading to both sensitization of the receiving society and empowerment of immigrants;
  - Sports as a means to promote equality: sports programme for immigrant children.

**Question 7: Information on the measures taken to guarantee the enjoyment of the right to physical and mental health of migrants.**

With a view to enable access of immigrants to social and health services, the following indicative actions were implemented under E.I.F.:

- "Intercultural Mediation" programme in selected hospitals of the country: The purpose of this programme is to highlight the value of interculturalism in the healthcare sector, through the unimpeded access of immigrants to health services regardless of their sex, ethnic or cultural origins (A.P. 2008, 2009 and 2010).
- Creation of a printed multilingual Guide for Preventive medicine, to inform and sensitize immigrants: The guide provides information about indicative health check-ups and

their frequency as well as other medical care topics, addressing gender and age issues. Information is also provided on access to the National Health System at both the first and second level of healthcare provision (A.P. 2010).

### **Contribution of the Ministry of Justice, Transparency & Human Rights:**

The Minister of Justice recently announced his intention to amend the provision of par.3 article 79 P.C., so that penalties for hate crimes committed on racial or religious grounds, or because of different sexual orientation will be more than three years, thus demonstrating the social disavowal of the act.

The Hellenic Police Headquarters has transmitted to us a list of cases with potential racist motivation, which have been recorded by the police authorities. These cases were sent to the competent Public Prosecutors' offices and according to the information received in the year 2012 we had 10 prosecutions for other offences (i.e. causing dangerous physical injury, causing significant damage to a third party's property), 1 conviction and 1 acquittal. Most of the cases referred to in the above list are pending to be assigned to the prosecutors.

More specifically, regarding the incident of 12 June 2012, when foreigners of Egyptian nationality were attacked by a group of persons in their house in Perama, 5 Greek nationals have been prosecuted for causing severe physical injury, causing simple physical injury, disruption of household peace, causing simple damage and significant damage to a third party's property. The case is pending, since 13-8-2012, at the Division of Decrees at the Public Prosecutor's Office in Piraeus.

Finally, because of the increase of attacks, physical assaults and controls conducted by organized citizens' group with members of Parliament against migrants concerning migrants' entry and residence in the country, as well as their commercial activity, the Public Prosecutor of the Supreme Court issued on 18 September 2012 a circular to the prosecutorial and police authorities of the country. According to this circular order, whoever commits the crime of usurpation of authority and conducts controls, should be arrested and brought before the public prosecutor. If members of Parliament have participated and committed a felony, they should also be arrested and led to the court for "in flagrante" crimes. If members of Parliament have committed a misdemeanour, the prosecutorial authorities should perform any investigative act is provided for and deemed necessary, except for acts "which can be considered to offend parliamentarians' status". If these crimes are committed by Greek citizens and foreigners, they should be arrested immediately and brought before the court for "in flagrante" crimes.