



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Committee on the Elimination of Racial Discrimination

**Reports submitted by States parties under the article 9 of the
Convention**

Addendum

**Information received from the Government of Greece on the
implementation of the concluding observations of the Committee on the
Elimination of Racial Discrimination (CERD/C/GRC/CO/16-19)***

[17 December 2010]

A. Introduction

1. In accordance with article 9, paragraph 1, of the Convention and rule 65 of its amended rules of procedure, in its concluding observations the Committee requested Greece to provide information, within one year, on its follow-up to the recommendations contained in paragraphs 12 and 13 thereof.

2. Greece has the pleasure to provide the abovementioned information to the Committee, focusing, mainly, on important new developments, which took place during the last months. The draft text was submitted to the National Commission for Human Rights (NCHR); the present document incorporates a number of comments made by the NCHR.

B. Recommendations contained in paragraph 12¹

3. The Greek State and the competent departments of the Ministry of Citizens' Protection and the Hellenic Police Headquarters are dealing with issues related to foreign citizens, migrants and asylum seekers, with full respect for the domestic legislation in force and the country's international obligations, while showing a particular sensitivity with regard to the situation of persons belonging to vulnerable groups. Within this framework,

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being sent to the United Nations translation services.

¹ Paragraph numbers mentioned in the present document refer to the Committee's concluding observations published under symbol CERD/C/GRC/CO/16-19.

the Hellenic Police cooperates with relevant international bodies, such as the UNHCR and the Council of Europe Committee for the Prevention of Torture, national human rights institutions (Greek Ombudsman, National Commission for Human Rights), as well as with NGOs, on matters related to training and awareness-raising of police officers on issues of human rights protection and to the provision of assistance to refugees, migrants, members of vulnerable social groups and detainees.

4. The strategic goal of the Hellenic Police has always been a “*Modern and effective Police with social sensitivity, close to the citizens*”. Full respect and safeguarding of human rights, in particular of persons under police detention, continuous updating, supervision and control of the police personnel regarding the implementation of the legislation in force are matters of top priority with regard to all activities related to public order and security strategies.

5. The Ministry of Citizens’ Protection places the greatest importance on ensuring the best possible conduct of police officers vis-à-vis citizens, both Greek nationals and foreigners, and the performance of their duties with full respect for human rights, human dignity and diversity, as provided for in the legislation in force. For this reason, specific instructions have been given to all police officers and relevant circulars and manuals have been issued, while severe sanctions are foreseen for those who disrespect the above instructions and orders. The policies of the Ministry of Citizens’ Protection are guided by a clear political will and determination to fully respect human rights.

6. The situation of asylum seekers is one of the most important challenges for our country in the field of human rights. Due to its geographical position, Greece is under a great deal of pressure from the massive influx of third country nationals whose purpose is either to settle in Greece or, in the majority of cases, to relocate to other countries in the European Union. According to the latest data of Frontex (European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union), Greece now accounts for 90% of all detections of illegal border crossings in the EU. In the first 10 months of 2010, almost 110,774 persons were apprehended for illegal entry or stay in Greece. Such large immigration flows require effective and fair procedures for examining applications for international protection and suitable facilities for receiving and accommodating and, where necessary, for detaining and effectively returning immigrants who are not in need of international protection.

7. The Greek authorities recognize that existing procedures and facilities have exhausted their limits and, as a result, fall short of actual needs and have therefore decided to intervene on several fronts. These initiatives, which started in October 2009 and will gradually be unrolled over a three-year period, constitute the Greek National Action Plan on the Reform of the Asylum System and on Migration Management. The intention of the Ministry of Citizens’ Protection is the management of mixed migration flows at the entry points of the Greek territory, in a way that both secures the need for enhanced border controls to prevent illegal immigration, and ensures the provision of international protection and adequate living conditions to the persons concerned, in accordance with Greece’s international and European obligations. The abovementioned initiatives involve:

- (a) The creation of Screening Centers and the adoption of a modern procedure for screening, registering and managing aliens;
- (b) The restructuring of the asylum procedure and the creation of a new Asylum Department, independent from the Police;
- (c) The increase of the number of centers for receiving vulnerable groups and minors;

(d) The modernization of aliens' detention centers, the creation of new centers and the improvement of the return procedure.

8. Greece cannot and should not carry alone the burden of receiving the vast majority of all illegal migrants entering the European Union. Greece firmly believes that the EU policy on asylum and migration policy should be amended, in accordance with the principle of responsibility and burden sharing. It also considers imperative that Europe adopts a cohesive and integrated asylum policy, under which the promotion of binding solutions which guarantee solidarity between the Member States is everyone's primary concern. One of the measures needed in order to achieve this, is to improve the Dublin II Regulation which, in its present form, places an excessive and disproportionate burden on the first-line Member States. Measures such as the provisional suspension of transfers, at the request of the Member State responsible or the abolition of the criterion of the first point of illegal entry should be reconsidered and substantially modified. As the United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment Mr. Nowak stated following his recent visit in Greece (October 2010), this is a truly European problem which needs a joint European solution.

9. In parallel, the European Council, following a Greek proposal, has decided to intensify EU's efforts to conclude readmission agreements with countries of origin of illegal migrants, such as Afghanistan, Iraq and Bangladesh, while a reference to the establishment of a mechanism assessing the implementation of the readmission agreements in force has been added.

10. Recently, the Ministry of Citizens' Protection has issued two calls for tender concerning the implementation of actions related to voluntary returns, of a total budget of 800,000 €. The above actions have been integrated into the Annual Work Programme for 2009 of the European Return Fund, co-financed by the EU and Greece. The relevant activities cover a wide variety of fields, such as the preparation and implementation of voluntary returns of third country nationals and their reception in their country of origin, as well as information campaigns about the possibility of voluntary return.

11. At the same time, the Ministry of Citizens' Protection has already undertaken multi-faceted activities to improve the human rights situation of the persons concerned, such as the release of foreigners detained for a relatively long time in police holding centers (which do not satisfy the requirements for long-term detention) and Special Alien Accommodation Sites, in cases where illegal entry in the country is the sole ground of detention.

12. With regard to the issue of hosting aliens entering illegally the country, it is expected that the establishment and operation of screening centers and supplementary hosting structures will resolve a number of problems which have been experienced in the context of the operation of the Special Alien Accommodation Sites. To this effect, a draft law has been approved by the Governmental Committee and will be submitted to the Greek Parliament, after the completion of the public consultation procedure. The abovementioned draft law provides for:

(a) The establishment of screening centers for aliens entering illegally Greece;

(b) The creation of an independent Asylum Department;

(c) The transposition into domestic law of Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals.

13. According to Law 3772/2009, if an expulsion decision has been issued, detention continues until expulsion has been executed, but in any case detention cannot exceed six (6) months. If the expulsion is delayed because the persons concerned refuse to cooperate or there are delays in obtaining the necessary documents for expulsion from their country of

origin, detention may be extended for a limited period, not exceeding twelve (12) months. In practice, in order to complete the administrative procedures for removal, the illegal migrants, whose removal is possible, are held for 15-20 days.² The NCHR, in its abovementioned comments, stresses the need for strengthening procedural guarantees in the field of expulsion.

14. As already noted, it has been decided to reform the asylum procedure in Greece, through the establishment of an independent Asylum Department, which will form part of the Ministry of Citizens' Protection as a civilian department and will not be staffed by police officers.

15. Taking into account that the creation of a new Department needs adequate time, it was deemed necessary, as a measure with immediate effect, to establish a transitional procedure for the examination of requests for international protection. The relevant Presidential Decree has already been published in the Official Gazette (22.11.2010) and will start to be implemented immediately.

16. The aim of the aforementioned Presidential Decree is to improve the procedure for the examination of requests for international protection, while resolving outstanding issues which have been accumulated in the past years both at the central and the regional levels, through concrete transitional provisions. In addition, the Presidential Decree:

(a) Improves the provisions setting out guarantees for and obligations of persons seeking international protection;

(b) Provides for a "fast-track" and a "normal" procedure, with a view of handling in an efficient manner abusive asylum requests, while granting international protection to persons in genuine need thereof. Decisions on inadmissible and manifestly ill-founded requests are taken by the competent local police director, while, in respect of requests containing elements which may lead to the conclusion that they are well-founded, the competent organ is the Secretary General of the Ministry of Citizens' Protection;

(c) Makes the procedure for conducting interviews in view of the decision at the first level more flexible;

(d) Reforms the Independent Appeals Committees (at the second-level), ensuring access to a fair and effective remedy. As members of the above Committees are appointed a senior civil servant from the Ministry of Interior, Decentralization and E-Government or the Ministry of Justice, Transparency and Human Rights, as chairperson, a representative of the United Nations High Commissioner for Refugees and a lawyer proposed by the National Commission for Human Rights. It is to be stressed that there is no hierarchical relationship between the first- and the second-level organs mentioned here above;

(e) Provides for the granting of "humanitarian status" in case of dismissal of the asylum request. To this effect, due account is taken of the objective impossibility of removal or return in the country of origin or habitual residence for reasons of force majeure, such as serious health reasons regarding the applicant or a member of his/her family, international embargo imposed on his/her country, internal conflicts accompanied with massive human rights violations, fulfillment of the requirements for the application of the principle of non-refoulement, as enshrined in article 3 of the European Convention of Human Rights and on article 3 of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;

² The above mentioned period may be extended if the issuance of travel documents by the relevant Consular Authorities is expected.

(f) Assigns the consideration of asylum requests to 13 Security Departments of the Hellenic Police throughout the territory;

(g) Covers the period until the establishment and the operation of the new Independent Asylum Department.

It is to be noted that the NCHR in its comments focuses on the need for strengthening the competent authorities with adequately trained personnel, as well as interpreters.

17. With regard to the treatment of unaccompanied minors, the following should be stressed.

18. Greece is more a transit country than a country of destination for unaccompanied minors, a large proportion of whom are not registered or are not registered as minors because they do not ask for protection from facilities designed for minors and are eager to reach their final destination (another European country, in most cases) where they will probably find members of their family environment.

19. The Hellenic Police, through its competent department, pays close attention to the major issue of the treatment of unaccompanied minors, which is considered as a matter of great importance and is handled with sensitivity and attention in order to provide the best protection to this sensitive social group.

20. Each case of irregular entry of a foreign national into our country, as well as of any unaccompanied minor, is made known to the Prosecuting Authorities through the Ministry of Citizens' Protection (article 83, Law No. 3386/2005 and article 19, Presidential Decree 220/2007).

21. In the accommodation sites for foreign nationals who have entered irregularly the country, all unaccompanied minors are separated from the rest of the migrants, until the procedures regarding the determination of their age (i.e. whether they are minors or not), country of origin and asylum status and the relevant information of the competent judicial authorities have been completed.

22. Article 19 of the Presidential Decree 220/2007 sets the basis for the solution of a chronic problem, concerning the treatment of unaccompanied minors and in particular those who have applied for political asylum. The competent authorities take immediately all necessary measures to guarantee the legal representation of the minors. The Public Prosecutor of the Juvenile Court or the competent Public Prosecutor of the local Court acts as temporary guardian and proceeds to the required actions for the appointment of guardian for the minors, as well as for their transportation to the Institute of Social Welfare (operating under the supervision of the Ministry of Health and Social Welfare) where they are hosted. In the case of unaccompanied minors who are seeking asylum the competent authorities ensure that the housing needs of the minor are met by accommodation close to adult relatives, foster families, Reception Centers which provide special infrastructure for minors or other accommodation establishments suitable for minors and that such an arrangement is sufficient enough to protect the child against the threat of human trafficking and exploitation. Care is also taken to ensure that siblings are housed under the same roof by taking into consideration the age, maturity and the best interest of each minor. At the same time, the authorities strive to locate the members of the minor's family as soon as possible. The personnel employed for cases of unaccompanied minors, are specially trained regarding the minors' needs. It is to be noted that the NCHR, in its comments, refers to practical problems with regard to the operation of the institution of the guardian appointed for unaccompanied minors.

23. Regarding the treatment of the minors, the responsible department of the Hellenic Police is closely cooperating with the competent department of the Ministry of Health and Social Solidarity as well as other relevant stakeholders. There is also cooperation with the

Police Authorities of the neighboring countries both in bilateral level and within the framework of the United Nations, while the issue of the exploitation of minors is also handled at the European Union level. In cooperation with the responsible Ministries, the Ministry of Citizens' Protection makes every effort to create additional facilities for hosting unaccompanied minors. In this context, the participation and cooperation of NGOs is needed in order to achieve the maximum level of protection of minor aliens who find shelter in our country.

24. The matter though is exceptionally complicated as many of the above minors wish to travel to another European country where their families live. The relevant hostels face a number of challenges and are not in a position to provide services to a large number of unaccompanied minors. Efforts to relocate unaccompanied minors to other EU countries, which are their final destination anyway, as well as the reform of the fostering and guardianship system and the establishment of accommodation centers are measures which could drastically improve the situation.

25. Statistics, according to gender and age, of the unaccompanied minors who have been arrested and deported are not maintained. However, from the relevant actions undertaken so far, the conclusion could be drawn that most unaccompanied minors who come to our country are between 15-17 years old.

C. Recommendations contained in paragraph 13

26. The conduct of the police personnel is closely monitored, with full transparency. The Ministry of Citizens' Protection and the Hellenic Police Headquarters do not allow the development of a xenophobic atmosphere or discrimination phenomena within the Hellenic Police and control any illegal, antisocial or unethical behavior of police officers. Moreover, the Hellenic Police Headquarters have issued a number of circular orders on the need for good and fair conduct of the police personnel towards all citizens, without exceptions, with full respect for the person and the individual rights of everyone, with no discrimination based on race, ethnic origin or any other grounds, as provided for in article 4 of the Constitution, Law 3304/2005 on the "Implementation of the principle of equal treatment regardless of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation" and article 5 (3) and (4) of the Code of Police Ethics (presidential decree 254/2004). Taking into account that persons of Roma origin belong to a vulnerable social group, the Hellenic Police Headquarters have sent instructions and guidelines to all police services, stressing the need for a socially sensitive and tactful handling of issues affecting Roma citizens.

27. The implementation of the above circular orders is continuously monitored and further action is taken, where necessary.

28. In cases of potential violation of human rights, police officers are subject to continuous administrative control, ensured by particularly strict disciplinary law provisions (Presidential Decree-PD 120/2008) and any violations are punished with the maximum possible speed.

29. Pursuant to article 23(1) of PD 120/2008, disciplinary offences allegedly committed by police officers against citizens are prioritized over other disciplinary offences, while pursuant to article 10(1)(c) of the same PD, acts that constitute torture or other offences against human dignity, within the meaning of article 137A of the Penal Code, are punished by dismissal from service. Disciplinary proceedings are not initiated by the Directors of Services at the level of Police Directorates, but by their superiors in hierarchy (article 22(1) of PD 120/2008), while disciplinary interrogations are mandatorily assigned to offices of other Directorates (article 26(4) of PD 120/2008), with the exception of the General Police

Directorates of Attica and Thessaloniki, where interrogations are assigned to special Sub-directorates of Administrative Inquiries, to which the accused police officers do not belong from an administrative viewpoint.

30. Disciplinary offences are established, not only by decision of the body responsible for initiating disciplinary proceedings, but also following a report by another police officer or documents of other public or judicial authorities or reports by natural or legal persons or in any other legitimate manner, such as publications in the press or press reports (article 21(1) of PD 120/2008). Disciplinary procedures are reopened, under the conditions set out in the relevant Presidential Decree, in cases where the police officer concerned has been found guilty by means of a final court judgment and no disciplinary sanctions –or lower only sanctions- had been imposed.

31. As already explained in our periodic report and our written replies to the list of questions prepared by the Committee, the seemingly large number of complaints about ill-treatment by members of the police personnel investigated during the period 2005-2009 constitute isolated cases, thoroughly and without exception investigated by the competent services, which attach primary importance to the protection of human rights. In all cases where the complaints were substantiated, the appropriate disciplinary measures, provided for in the relevant legislation, were taken, with full respect for the principles governing disciplinary proceedings. The absence of criminal aspect in a number of cases (132 out of 264 cases) is explained by the fact that either the alleged victims did not file a criminal complaint against the police officers concerned or that, following the administrative investigation of the cases, which found that no criminal offense, prosecuted *ex officio*, had been committed, copies of the relevant files were not transmitted to the competent Prosecutor's Office.

32. The Ministry of Citizens' Protection is currently drafting provisions on the establishment of an Office, subject to the Minister, responsible for handling alleged instances of abuse. The aim of the Office is to review in an effective manner instances of ill-treatment of individuals or violations of human dignity by police officers. The mission of the Office will be to collect, register, assess and further refer for investigation complaints about acts of Police, Coast Guard and Fire Brigade officers in the exercise of their duties or in abuse of their officers' status. Furthermore, it will investigate cases for which a violation has been found by the European Court of Human Rights. Complaints will be assessed, as to their admissibility and credibility, by a three-member Committee, composed of an honorary Judge of the Supreme Court, as Chairperson, the Legal Counselor of the Ministry of Citizens' Protection and an honorary Public Prosecutor at the Supreme Court or a Court of Appeals. The Committee will either refer the relevant complaint to the competent authorities for investigation or will dismiss it as inadmissible.

33. Police authorities are under the obligation to investigate the existence of racist motives in penal and administrative cases, in which foreign citizens or persons belonging to vulnerable groups are involved. Furthermore, a 2008 amendment to the Criminal Code provides that the commission of an offence motivated by ethnic, racial or religious hatred, or hatred on account of a different sexual orientation, constitutes an aggravating circumstance. Relevant judgments of the European Court of Human Rights against Greece are forwarded to all police services, so as to ensure full implementation thereof, as well as the harmonization of policies and practices with the case-law of the Court. The same applies to the views adopted by the Human Rights Committee of the International Covenant on Civil and Political Rights on relevant communications against Greece.

34. Finally, with regard to the issue of the integration of more members of the Roma community into the police, it is to be stressed that recruitment in the Police Academy is made in accordance with the system of general examinations for the entrance into tertiary education institutions, organized by the Ministry of Education, Lifelong Learning and

Religious Affairs. Other categories of police personnel are recruited according to the system of objective criteria, provided that the candidates fulfil the requirements prescribed by the law. All recruitment procedures are open to persons of Roma origin, under the same conditions as for all other Greek citizens.
