

GREECE

502 ALBANIAN ROMA CHILDREN MISSING SINCE 1998-2002 INDIFFERENECE AND IMPUNITY AN UPDATE ON THE “AGHIA VARVARA” CASE TO:

The United Nations’

- Committee Against Torture,
- Committee on the Rights of the Child,
- Human Rights Committee,
- Special Rapporteur on the sale of children, child prostitution and child pornography,
- Special Rapporteur on contemporary forms of racism, racial discrimination, xenophobia and related intolerance,
- Special Rapporteur on trafficking in persons, especially women and children,
- Independent Expert on minority issues,
- Working Group on Enforced or Involuntary Disappearances



SOKADRE
Coordinated Organizations and Communities for
Roma Human Rights in Greece



Athens, Tirana and Geneva, 20 April 2012

This report was jointly prepared by four national human rights non-governmental organizations (NGOs) in collaboration with OMCT:

- ❖ The **Albanian Helsinki Committee (AHC)** was founded on 16 December 1990 and is the first non-governmental organization working on the protection of human freedoms and rights established in Albania. AHC's mission is to contribute towards higher respect for human rights, the strengthening of the rule of law, and the holding of free and fair elections, in accordance with the Constitution, international law, and laws and sublaws in Albania. For more than twenty years AHC has acted as a promoter and protector of human rights; a monitor of compliance by Albanian state structures with national and international standards on human rights and freedoms; a partner in dialogue with state authorities in order to enhance the effectiveness of respect for human rights; an expert organization that provides know-how, insights, and expertise with regard to human rights. AHC has its office in Tirana and operates a network of correspondents in seven other cities; it also has an extensive network of volunteers. For more information please visit www.ahc.org.al

For more information: Vjollca Meçaj (v.mecaj@ahc.org.al)

Etilda Saliu (e.saliu@ahc.org.al)

Address P.O. Box 1752, St.Gjin Bue Shpata, Pall 5/1,
Ap.4, Tirana, Albania

Telephone: +3556940 75732 **Fax:** +3554 2233671

- ❖ The **Coordinated Organizations and Communities for Roma Human Rights in Greece (SOKADRE)** is a network founded in 2001 by a score of Roma communities or organizations and Greek NGOs that have been working on Roma rights. It advocates for and litigates on the rights of the destitute Roma of Greece, mainly in the areas of housing and preventing evictions, education, access to social services, proper civil registration, and non-discrimination including fighting racial profiling by law enforcement agencies. It operates through a network of volunteer representatives in the 35 member communities and in several other non-member communities.

For more information: Theodore Alexandridis (theo@greekhelsinki.gr)

Address P.O. Box 60820, GR-15304 Glyka Nera Greece.

Telephone: +30-2103472259 **Fax:** +30-2106018760

- ❖ **Greek Helsinki Monitor (GHM)**, founded in 1993, is NGO that monitors, publishes, lobbies, and litigates on human and minority rights and anti-discrimination issues in Greece and, from time to time, in the Balkans. It also monitors Greek and, when opportunity arises, Balkan media for stereotypes and hate speech. It issues press releases and prepares (usually jointly with other NGOs) detailed annual reports; parallel reports to UN Treaty Bodies; and specialized reports on ill-treatment and on ethno-national, ethno-linguistic, religious and immigrant communities, in Greece, and in other Balkan countries. It operates a web site (<http://www.greekhelsinki.gr>) and two web lists covering human rights issues and comprehensive and comparable presentations of minorities in the Balkan region.

For more information: Panayote Dimitras (panayote@greekhelsinki.gr)

Address P.O. Box 60820, GR-15304 Glyka Nera, Greece.

Telephone: +30-2103472259 **Fax:** +30-2106018760

- ❖ **Minority Rights Group - Greece (MRG-G)**, founded in 1992 as the Greek affiliate of **Minority Rights Group International (MRGI)**, has focused mostly on studies of minorities, in Greece and in the Balkans. It has prepared detailed reports on ethno-national, ethno-linguistic, religious and immigrant communities, in Greece; and on the Greek minorities in Albania and Turkey. In 1998, MRG-G co-founded the **Center of Documentation and Information on Minorities in Europe – Southeast Europe (CEDIME-SE)** which operates a web site and two web lists covering human rights issues and comprehensive and comparable presentations of minorities in the region. Between 1999 and 2002, MRG-G organized in Greece training and regional seminars for minorities as well as a mentoring program for tent-dwelling Roma.

For more information: Nafsika Papanikolatos (nafsika@greekhelsinki.gr)

Address P.O. Box 60820, GR-15304 Glyka Nera Greece.

Telephone: +30-2103472259 **Fax:** +30-2106018760

Executive summary

Between 1998-2002, 502 Albanian Roma street children were arrested by Greek authorities for begging and accommodated to the Athens children's institution "Aghia Varvara" until their repatriation to Albania, which never occurred because, soon after their assignment there, they went missing.

Their disappearance was first made public by the Swiss NGO "Fondation Terre des Hommes" in January 2003. Despite the gravity of these allegations, neither the Ministry of Health and Welfare nor the Athens Misdemeanours Prosecutor undertook any investigation in order to ascertain how and under which conditions the children had disappeared and possibly launch proceedings. On request of the Albanian Ombudsman, the Greek Ombudsman launched a fact finding investigation which led to the publication, in March 2004, of a Findings Report confirming the disappearances.

Since the Ombudsman failed to submit the report to the Athens Misdemeanours Prosecutor, in May 2004, Greek Helsinki Monitor (GHM) filed a criminal complaint report with that Prosecutor. After a preliminary investigation, in November 2004, the Prosecutor pressed charges *in rem* for abduction of children younger than 14 years and assigned the main inquiry to an investigating judge. In December 2004, GHM's Spokesperson testified as civil claimant on behalf of all missing children and handed to the judge UN CAT's November 2004 specific recommendation asking for a judicial investigation. At the same time, the UN Special Rapporteurs (SR) on the sale of children and on trafficking sent a related letter of concern to the Greek authorities. Then, in March 2005, the UN HRC also made a specific recommendation asking for a judicial investigation. In November 2005, the UN SR met with the investigative judge who failed to inform him that, in October 2005, she had concluded the inquiry. In November 2005 the Prosecutor sent the case file to the archive of unknown perpetrators.

Meanwhile, the Albanian Ombudsman asked for and received from his Greek counterpart, in April 2005, the list of missing children. He then launched an effort to locate them or their families. Four of them were located. In November 2005, the parents of two of them authorized GHM to represent them before Greek courts. So, in December 2005, GHM asked for the reopening of the inquiry and the examination of the four children located in Albania. In March 2006, the UN SR's report with a related comprehensive section and set of recommendations was published. In June 2006, the investigating judge through the Athens Appeals Prosecutor asked the Ministry of Justice to send to

the Albanian authorities a request for judicial assistance in order for the latter to take the testimony of the four children located in Korce, Albania. Civil claimants have no evidence that this request was sent to the Albanian authorities nor have they been notified on any other action taken since then. This is the second trafficking-related criminal investigation after a GHM complaint in 2004 pending in 2012.

In its March 2012 written replies to UN CRC's list of issues, Greece falsely claimed that, following the preliminary investigation in 2004, "the file was closed, according to the provisions of article 43 of the Code of Criminal Procedure, since the commission of a criminal act could not be substantiated," and that the 502 children "left with their own will."

UN treaty based bodies and special procedures are requested to urge Greece and Albania to promptly create a bilateral commission composed of relevant Greek and Albanian authorities, the Ombudsmen of both countries and NGOs which have worked on the case, so as to coordinate the efforts to locate the children whose whereabouts remain unknown and to identify disciplinary and criminal responsibilities. Greek judicial authorities should also be urged to complete in a thorough and effective manner the pending criminal investigation for abduction of children younger than 14 years before charges become time-barred in 2013.

Background

In December 1998, the Deputy Minister of Health and Welfare Theodore Kotsonis, set up a program concerning the protection and social welfare for street children.¹ The program essentially consisted of the temporary accommodation of street children in childcare facilities of the Ministry of Health and Welfare in Athens. One of these two facilities was the children's institution "Aghia Varvara" ("Saint Barbara"). This institution which would provide shelter to street children was in fact a special boarding institution for orphan girls. It is interesting to see that, according to the ministerial decision, no special funds were allocated for the program.

According to a report by the Swiss NGO "Fondation Terre des Hommes", 487 out of the 644 street children that had been accommodated in the "Aghia Varvara" institution between November 1998 and October 2001, had disappeared.² Despite the gravity of these allegations that were made public, neither the Ministry of Health and Welfare's authorities nor the Athens Misdemeanours Prosecutor (which are the competent authorities to run the program in question) undertook any investigation in order to ascertain how and under which conditions the children had disappeared and possibly launch proceedings.³ On request of the Albanian Ombudsman⁴, the Greek Ombudsman launched a fact finding investigation which led to the publication, in March 2004, of a Findings Report.⁵

In the Findings Report, the Ombudsman observed numerous deficiencies concerning both the program and the way it was implemented. Actually, it was not a program in the strict sense of the word, as it consisted merely of the assignment of children into already existing institutions. Moreover, there was a lack of funds⁶ to finance adequate projects concerning the recreation and education of the children. Furthermore, the institution was understaffed and this became a real problem when the police started transferring immediately, upon arrest, all street children to the institution (until then street children

¹ See Decision by the Deputy Minister of Health and Welfare Theodore Kotsonis, Ref. No. Γ2δ/οίκ. 4338, dated December 7, 1998.

² See Terre des Hommes report (in Greek), *Children Trafficking from Albania to Greece*, January 2003, p 27.

³ GHM, which was one of the Greek NGOs that provided assistance to Terre des Hommes for their report, is in possession of a document from the Ministry of Health and Welfare, dated October 16, 2001, in which the disappearance of the 487 children is acknowledged. It appears however that no official investigation was launched into the disappearances before GHM lodged a criminal complaint report with the Misdemeanors Prosecutor's Office of Athens.

⁴ Letter from the Republic of Albania's People's Advocate to the Greek Ombudsman's Office, Ref. No. 33, dated January 30, 2003, on file with GHM.

⁵ Ombudsman's Report on Street Children, *op.cit.*, p 10.

were detained in police stations). Moreover, initially only children up to twelve years of age were to be sent to the “Aghia Varvara” institution, but in the absence of any institution for children aged 12-17, all children up to 17 were sent to “Aghia Varvara.” This led to the lack of available rooms and space in general. Perhaps even more importantly, the absence of police officers to guard the institution, coupled with the lack of institution’s guards meant that the children could escape from the institution easily.⁷

As a result of the above shortcomings, 502 out of the 661⁸ children accommodated in “Aghia Varvara” during 1998-2002 were officially mentioned as “missing”.⁹ The number of disappeared children might in fact be even higher, as according to the Ombudsman’s Report, 22 children were taken by the Hellenic Police which undertook to take them to the Albanian-Greek border. In its report, the Ombudsman implicitly noted that the disappearance of so many children from a state institution raised concerns about the Greece’s conformity with the Convention on the Rights of the Child.

On 21 May 2004, GHM filed a criminal complaint report with the Misdemeanours Prosecutor’s Office of Athens. GHM’s criminal complaint was directed both against the “Aghia Varvara” staff that might have been implicated into the disappearance of the children, as well as against any member of the Hellenic Police that might be responsible for a variety of offences, such as breach of duty. The Misdemeanours Prosecutor ordered the Minors Department of the Police Directorate of Athens to launch a preliminary inquiry into the allegations contained in GHM’s complaint report. Unfortunately, considering that the complaint was also directed against police officers of that service and bearing in mind the concerns about the impartiality of such investigations when conducted by police officers, the investigation should have been entrusted to a magistrate as is the usual practise. GHM thus addressed a letter to the Athens Misdemeanours Prosecutor, Dimitris Papagelopoulos, explaining the reasons

⁶ It appears that during the program’s implementation, only 1,600,000 drs (approx 4,705 euros) were provided in November 1998. See Ombudsman’s Report on Street Children, *op.cit.*, p 9.

⁷ Ombudsman’s Report on Street Children, *op.cit.*, 16-18.

⁸ The small discrepancy between these numbers and the ones mentioned in the Terre des Hommes report is due to the fact that the latter referred to children accommodated in the “Aghia Varvara” institution between 1998 and late 2001.

⁹ According to the Greek Ombudsman, “The Greek Ombudsman’s investigation confirmed that, indeed, a large number of children have escaped from the care institution “Aghia Barbara” (Santa Barbara) ... and are officially “missing” as they have not been relocated by the police or other authorities”. See Letter from the Greek Ombudsman’s Office to Mr. Ermir Dobjani, People’s Advocate of the Republic of Albania, Ref. No. 2202.2/2003, dated May 6, 2004, p 2, on file with GHM.

why the investigation should be assigned to a magistrate. The request was rejected and the preliminary inquiry was launched by the police agency.

Joint Greek-Albanian NGO action

With the kind support of the Open Society Foundation for Albania (OSFA), AHC and GHM have undertaken a joint legal initiative towards vindicating the rights of the children who were accommodated at institution of “Aghia Varvara.” In light of the palpable failure of the Greek and Albanian authorities to cooperate on this very important case, AHC/GHM are currently trying to fill in this vacuum by collecting additional evidence. To that end, AHC/GHM are making efforts to locate as many children (who have become adults and have settled in various localities in Albania) in order to inform them of their rights and collect evidence regarding the conditions prevailing at the institution.

Until now, AHC / GHM have located and interviewed three children who were accommodated in the “Aghia Varvara” institution and currently live in Korca, Albania. Two of them have already provided AHC / GHM with powers of attorney for representing them before all relevant authorities and courts, as they expressed their willingness to pursue or join pending proceedings in Greece. All three made very similar statements regarding the procedure according to which they were referred to the institution. Thus, they noted that after being arrested by the police and detained for two or three days in police stations (usually in the same cell with adult detainees), they were taken directly to the “Aghia Varvara” institution without first being brought before the Prosecutor for Minors as Greek law dictates. They also confirmed the lack of any measures to prevent them from fleeing and highlighted the ease with which they could do so. They moreover indicated that even third parties could easily gain access into the institution, without being subjected to any meaningful identity check. Regarding their stay at the institution, they stressed the absence of translators or staff members speaking Albanian, something that rendered their communication with the staff impossible as the vast majority of children did not speak Greek. They also highlighted the dearth of any social or educational programs that could have acted as an incentive for them to stay in the institution. As a result, many children soon opted to flee from the institution, a rather easy task given the lack of any security measure.

UN treaty based bodies and special procedures on the “Aghia Varvara” case

The *UN Committee Against Torture* (CAT), in its 26 November 2004 concluding observations on Greece,¹⁰ expressed its concerns at:

“l) the inadequate measures taken to offer protection to children picked-up by the Security Police and taken into State care during the period 1998 – 2003. In particular, with regard to the approximately six-hundred children taken to the Aghia Varvara children’s institution, five hundred of which went missing, according to reports, and the lack of a prompt investigation into the cases by a judicial authority;”

and recommended to Greece to

“m) review modalities of offering protection to street-children, in particular ensure that those measures protect their rights. All decisions affecting children should be, to the extent possible, taken giving due consideration to their views and concerns in finding an optimal, workable, solution. With respect to the specific case of the Aghia Varvara children’s institution, the Committee urges the State party to take measures to prevent the recurrence of such events. It should also ensure that a judicial investigation is carried out and provide the Committee with information on its outcome... within one year.”

In March 2005, the *UN Commission on Human Rights* was informed that the *UN Special Rapporteur on the sale of children, child prostitution and child pornography*, jointly with the *UN Special Rapporteur on trafficking in persons, especially women and children*, had sent,¹¹ in December 2004, an urgent appeal to the Greek government on this case. As there was no answer from the authorities, the Special Rapporteurs expressed to the Commission their “concern for the children who are still missing and exposed to a high risk of being exploited, trafficked or re-trafficked” and “reiterated their interest in receiving the reply of the Government to these allegations.”

¹⁰ [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CAT.C.CR.33.2.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CAT.C.CR.33.2.En?OpenDocument)

¹¹ <http://daccess-ods.un.org/TMP/2386075.55627823.html>

The *UN Human Rights Committee* also included a reference in its 31 March 2005 concluding observations on Greece:¹²

“The Committee urges the State party to protect unaccompanied alien children, and to avoid unsupervised release of such children into the general population. The absence of child welfare protection increases the danger of trafficking and exposes the children to other risks. The State party should conduct a judicial investigation concerning the approximately 500 children who went missing from the Aghia Varvara institution between 1998 and 2002, and provide the Committee within one year with information on the outcome.”

In March 2006, the *UN Special Rapporteur on the sale of children, child prostitution and child pornography* report on his November 2005 mission to Greece became public.¹³ It had the following section on the Aghia Varvara case:

“(b) The emblematic case of Aghia Varvara

51. *During the visit, the Special Rapporteur followed up on a case he had previously addressed to the Greek authorities by letter of 1 December 2004¹⁴ concerning approximately 500 children who went missing from the Aghia Varvara children’s institution between 1998 and 2002. The case was also examined by the Committee on Torture (CAT) and the Human Rights Committee, which both requested that Greece conduct a judicial investigation into the case and provide the Committees with information on the outcome.*¹⁵

52. *From 1998 to 2002, the Aghia Varvara institution was tasked to carry out the government project entitled “Protection and Social Care of Street Children”, aimed at providing accommodation, care and rehabilitation to the growing number of children in inner-city areas of Greece.*

53. *Since the beginning, the programme was not meeting its objectives, in the sense that it was not in a position to offer the care and protection envisaged. Most of the children only came for a*

¹² [http://www.unhchr.ch/tbs/doc.nsf/\(Symbol\)/CCPR.CO.83.GRC.En?OpenDocument](http://www.unhchr.ch/tbs/doc.nsf/(Symbol)/CCPR.CO.83.GRC.En?OpenDocument)

¹³ <http://daccess-ods.un.org/TMP/7569595.57533264.html>

¹⁴ E/CN.4/2005/78/Add.3, paras. 86-92.

¹⁵ CCPR/CO/83/GRC, para. 10 (b) and CAT/C/CR/33/2 para. 6 (m).

couple of days and sometimes even hours just to have a rest, and returned to the street to earn and send money to their families. Staff of the institution kept a record of children coming and leaving Aghia Varvara. The Special Rapporteur could see that most children stayed in the institution for a few days. Several passed through the institution a few times. Some registered themselves under different names. Aghia Varvara lost track of some 500 children who had visited the institution between 1998 and 2002. The judge investigating the case corrected this figure to some 250 children whose whereabouts are unknown. Most of these children were Albanian, many Roma. The judge recalled that the institution was an open facility and did not have any obligation to report on missing children.

54. *When he visited Aghia Varvara, the Special Rapporteur was informed that 90 children had returned to their families and 22 had been deported. When the Special Rapporteur was in Albania, the Albanian Ombudsman informed him that only 4 of these children had been located in Albania.*

55. *The Special Rapporteur observes that the programme was established as an emergency measure to respond to an increasing number of street children that Greece was not prepared to handle. In this regard, he shares the conclusions drawn by the Deputy Ombudsman in a report he published in 2004 on the case.¹⁶ The report underlines several gaps in the design of the educational and social methodology of the programme and the overall deficiencies of the institution in adequately responding to the challenging objective of giving protection and care to street children.*

56. *The Deputy Ombudsman notably noted that: (a) the institution was not set up to protect victims of trafficking and exploitation as it was a care home for girls; (b) there was no provision for additional funding or for special staffing required by the project; (c) the staff was inadequate, without specialized training on the rights and specific needs of this group of children; (d) there were no translation services available to facilitate communication between staff and those children who did not speak Greek. As a consequence of these deficiencies, many children escaped shortly after admission. Some children, whose families were in Albania, were repatriated. However, no*

¹⁶ “Implementation of the Protection and Social Care for Street Children programme, report by George Moschos, Olga Themeli, Stamatina Poulou and Samantha Stratithaki for the Rights of the Child Department, Ombudsman’s Office, Greece, March 2004.

procedures were followed or measures taken to guarantee their safe return to an appropriate family environment.

57. *While understanding the inherent deficiencies of the programme, which prevented its proper functioning and explained its failure, the Special Rapporteur notes that no “alarm bell” rang and that the programme went on for four long years before being discontinued. Monitoring mechanisms were deficient as well.*

58. *This is an emblematic case showing that the design and implementation of social programmes require adequate resources and expertise. If not, they cannot but fail. Monitoring mechanisms to assess the functioning and impact of social programmes are equally fundamental. The Aghia Varvara case is to be taken as a lesson for the future to avoid the repetition of similar mistakes.*

59. *The Special Rapporteur suggests the establishment of a bilateral commission with representatives of relevant public authorities and NGOs from Greece and Albania to handle in a cooperative manner, issues related to unaccompanied children and child victims of trafficking. This commission could also join with various actors both in Greece and Albania to try to locate children who went missing after having entered Aghia Varvara between 1998 and 2002. (...)*

116. *With regard to the case of the Aghia Varvara children’s home, the Special Rapporteur recommends that the Government consider the possibility of creating a bilateral commission composed of relevant Greek and Albanian authorities, the Ombudsmen of both countries and NGOs which have worked on the case, so as to coordinate the efforts to locate the children whose whereabouts remain unknown and identify institutional responsibilities. The authorities should also draw the lessons from the Aghia Varvara case in order to prevent its recurrence and set up a monitoring system for early warning if and when a programme is not working. More broadly, the Commission can be the institutional framework to handle in a cooperative manner issues related to unaccompanied children and child victims of trafficking.”*

Written replies of Greece to the list of issues concerning additional and updated information related to the second and third combined periodic report of Greece (CRC/C/GRC/Q/2-3/Add.1)¹⁷ – Excerpt on “Aghia Varvara”

“Question 15

99. *The “Aghia Varvara” institution is a unit of the 2nd Regional Health and Welfare System of Attica (it is a legal entity of public law) and operates as a decentralized and independent unit, with administrative and financial autonomy. At present, this institution provides accommodation for teenage girls (13-18 years old), whose parents have particular health, social or financial problems or who are totally deprived of a proper family environment. In exceptional cases (either by court order or by order of the Public Prosecutor of Athens for Minors), the foundation may provide shelter to teenage girls who have committed offences in the past.*

100. *From 1998 to 2002, the institution of “Aghia Varvara” was responsible for carrying out the government project entitled “Protection and Social Care of Street Children”, aimed at providing accommodation, care and rehabilitation to the growing number of children in inner-city areas of Greece.*

101. *The aforementioned protection program for children living in the streets was implemented with the cooperation of the Ministries of Public Order and Justice. The realization of the program was assigned to the National Welfare Organization by decision ref. no.G2/oik4338/7-12-1998.*

102. *During the implementation of the program (i.e. from December 1998 until July 2002), 661 children were gradually hosted, among whom:*

90 were delivered to their parents

47 were housed in Children’ Cities

22 were taken in charge by the Minors’ Police.

502 left with their own will

¹⁷ <http://www2.ohchr.org/english/bodies/crc/docs/CRC.C.GRC.Q.2-3.Add.1.pdf>

103. It is noted that, following a preliminary investigation, ordered by the Public Prosecutor's Office of Athens on 25.05.2004, an investigation was carried out by the Sub-Directorate of Minors' Protection/Directorate of Security of Attica, in order to ascertain whether criminal acts, such as abduction of minors, human trafficking and breach of duty against minors by the said Institution had taken place. The material collected was submitted to the competent authority on 18.10.2004. Subsequently the file was closed, according to the provisions of article 43 of the Code of Criminal Procedure, since the commission of a criminal act could not be substantiated.

104. The Special Rapporteur on the sale of children, child prostitution and child pornography, Mr Juan Miguel Petit, who visited Greece in November 2005, looked into the case of Aghia Varvara and makes explicit reference to this institution in his report (E/CN.4/2006/67/Add3) about his Mission to Greece. He mentions that the institution was an open facility and did not have any obligation to report on missing children. The Special Rapporteur notes that the programme of Aghia Varvara was established as an emergency measure to respond to an increasing number of street children. In this regard Mr Petit shares the conclusions drawn by the Deputy Ombudsman who underlined several deficiencies of that program. He concludes that the case under review is to be taken as a lesson for the future to avoid repetition of similar mistakes.

105. In his Report Mr Petit refers also to many other good practices such as the children's home "the Smile of the Child", the "Anogeia Centre", the "Filoxenia reception centre" in Thessaloniki, the bilateral agreement with Albania regarding protection and assistance of children victims of trafficking and exploitation (signed 27/2/2006) etc."

The following information presented in Greece's written replies are erroneous:

1. "502 left with their own will." It has been showed above that these children –who ended up in the institution in the first place after being arrested by Hellenic Police to be deported back to their countries- went missing and did not leave on their own.
2. "Subsequently the file was closed, according to the provisions of article 43 of the Code of Criminal Procedure, since the commission of a criminal act could not be substantiated." As reported above, on the contrary, in 2004 and after the completion of the preliminary investigation carried out by the

Hellenic Police's Sub-Directorate of Minors' Protection, criminal charges were pressed by the Prosecutor and a main judicial inquiry was assigned to an investigating judge which has yet to be completed.

3. *"The Special Rapporteur... mentions that the institution was an open facility and did not have any obligation to report on missing children."* The SR in fact mentioned that the Greek *"judge recalled that the institution was an open facility and did not have any obligation to report on missing children:"* this was not the SR's position.
4. Finally, Greece fails to mention the SR's recommendation (paragraph 116) for a *"bilateral commission"* to be created to inter alia *"coordinate the efforts to locate the children whose whereabouts remain unknown and identify institutional responsibilities,"* a recommendation that Greece has ignored, just as it ignored the UN CAT's and the UN HRC's recommendations mentioned by the SR: *"both requested that Greece conduct a judicial investigation into the case and provide the Committees with information on the outcome."*