

Strasbourg, 29 March 2006

CommDH(2006)13

Original version

FOLLOW-UP REPORT ON THE HELLENIC REPUBLIC (2002 – 2005)

Assessment of the progress made in implementing the recommendations of the Council of Europe Commissioner for Human Rights

**For the attention of the Committee of Ministers
and the Parliamentary Assembly**

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Introduction

1. The Commissioner for Human Rights visited Greece in June 2002 on the invitation of the Greek Government. In the resulting Report¹, the Commissioner identified a number of human rights concerns and made a series of recommendations to improve the country's effective respect for human rights. The issues addressed by the Commissioner pertained to justice and the prison system, freedom of thought, conscience and religion and the situations of minority groups and of foreigners. The Commissioner would like to reiterate his gratitude to the Government of Greece for their co-operation at the time of the visit, and again, on the occasion of the follow-up visit conducted by members of his Office² from 30 November to 2 December 2005.

2. The purpose of this report is to examine the manner in which the Greek authorities have implemented the recommendations made by the Commissioner in his 2002 report. The report follows the order of the main recommendations

and does not as a matter of principle aim to address any issues other than those included in the recommendations of the first report.

3. The report is based on information gathered during the follow-up visit³, reports by human rights experts, local and international non-governmental organisations and inter-governmental organisations and other public sources. The members of the Commissioner's Office would like to express their warm gratitude to the Greek officials in Strasbourg and Athens who organised the visit⁴ and for the assistance and openness of all those with whom they met in the course of their visit.

1. Justice and the prison system

Justice

4. In his 2002 report, the Commissioner expressed confidence and relied on the assurance that two pieces of legislation would be rapidly adopted with the aim of increasing the effectiveness of the judicial system.

5. The first laws in question were to put into effect Articles 94 and 95 of the Constitution, making it possible to resort to coercive execution against public authorities and to apply a penalty for delay in executing judgments. The Commissioner had welcomed the expected legislation, as **non-abidance by public authorities of court judgments** was a major problem in Greece. The Commissioner had been assured during his visit that the draft laws were in preparation and their tabling in Parliament was expected in any event before the end of the year 2002.

6. At the same time, the Commissioner was told that a reform of the administrative litigation system, including an extension of the jurisdiction of administrative courts of first instance and of appeal which would relieve the case load of the Council of State, would **speed up the functioning of justice** as required by the European Court of Human Rights.

Development of the situation and measures taken

7. A law opening the possibility of **penalties and coercive action against administrations** that fail to obey court decisions was adopted in 2002 (Law No 3068/2002). On 19 February 2004, the necessary presidential decree (61/2004) for their implementation followed. In December 2004, the Committee of Ministers of the Council of Europe, when supervising the execution of the European Court of Human Rights decision in the case of *Hornsby v. Greece* as well as in five other cases, expressed satisfaction with the adoption of these measures designed to remedy a structural problem of the Greek justice system.

8. In conformity with the new legislation three-member committees were established in January 2005 both in the Supreme Court and the Council of State. The committees act within one month upon a cost-free application from an interested party, by asking the authority concerned to give reasons for its non compliance with the court decision. The authority has three months to respond and/or to abide. If the authority does not respond to the committee and/or does still not abide by the court decision, fines can be imposed against the authority and disciplinary measures may be taken against individual civil servants.

9. While in 2004, the Greek Ombudsman still continued to deal with the systematic refusal of a number of administrations to comply with final or temporary court rulings, first indications relating to the work of the new mechanisms since 2005 were provided to the Commissioner's delegation by high officials of the Ministry of Justice and judges of the Supreme Court and the Council of State (the highest administrative court). The brief experience made up till now shows that, in most of the cases, the opening of the initial inquiry by the committee suffices to spur the targeted authority to implement the court decision. At the moment of the follow-up visit, the Supreme Court committee had received some 20 complaints and accepted and

investigated 10 of them. In the Council of State, there had been 165 applications of which over 90 had been examined, most of the time leading to compliance; the committee had delivered 64 final decisions on cases of non-compliance. In four cases it imposed fines in the range of 5-25,000 euros. Most cases concerned environment, employment conditions of State employees, education and expropriation.

10. It was generally acknowledged, by NGOs and the Greek Ombudsman, that the efficiency and responsiveness of the administration to members of the public had improved since the Commissioner's original visit.

11. As to the **length of proceedings in administrative law cases**, observers have also noted improvement, although the problem is far from settled. In addition to the possibility of spreading cases between various jurisdictions, measures and means are being considered by the Government, with a special emphasis on speeding up and improving the clerical and material part of the work. In 2002, 680 new posts for court's administrative staff were created, 29 posts for judges were added to the administrative jurisdictions in 2003, and in 2004 the number of judges in the Council of State was increased by seven. In 2002, the administrative court of Athens and the court of appeals of Thessaloniki were relocated in better premises, in 2004 the same happened with the court of first instance of Thessaloniki; in the course of the year 2006, the completion of construction of the courts of Trikala and Oresteias is expected. A project to computerise the services of the Council of State and the lower administrative courts is expected to improve the efficiency of these jurisdictions.

Conclusions

12. The Commissioner notes with great satisfaction that the Greek Government has kept to its undertaking to adopt adequate legislative and practical measures to tackle the problem of **non abidance by court decisions by certain Greek authorities**. The enforcement mechanisms set up by both the Supreme Court and the Council of State in conformity with new legislation are already producing significant results. While it is too early to assess whether the measures taken will definitively resolve the problem, it is very likely that the situation will now rapidly improve.

13. The many legal and practical measures taken to cope with the problem of **excessive length of proceedings**, especially before the administrative jurisdictions, are promising.

Prisons

14. In his report of 2002 the Commissioner examined the overcrowding in the Greek prison system and the distressing conditions of detention he encountered and was informed of. He was informed that there was a scheme to build 17 new prisons in order to cope with the problem. Instances of local opposition to constructions were an obstacle that still had to be dealt with in some cases. The Commissioner pointed out that such resistance was encountered in several European countries, but that it could be overcome by dialogue and resolve of the Government. He recommended that efforts be continued in order to apply in its entirety the scheme for the 17 new prisons.

Development of the situation and measures taken

15. Overcrowding in Greek prisons has not diminished; it has increased. The Ministry of Justice informed that new peaks with up to 10,000 inmates have been reached, while there is currently space for only 5,300. As at the time of the Commissioner's visit, the percentage of foreign inmates is still at an average of more than 40 %, half of them coming from Albania.

16. The Commissioner's delegation was informed at the Ministry of Justice that the Greek authorities have taken several measures to reduce the number of prison inmates. By implementing a law adopted back in the year 2000, a programme was started in 2005 with the co-operation of some local authorities. It has allowed 860 prisoners to benefit from alternative sentences. In addition, 350 persons have benefited from the decriminalisation of certain types of offences (like debt to social services). However, efforts to transfer Albanian citizens to prisons in their country have been unsuccessful and the Ministry of Justice maintained that an offer to help Albania build a new prison had been rejected.

17. At the moment of the follow-up visit in December 2005, none of the 17 new prisons had been completed (which meant that no new prison had been inaugurated in Greece since 2001). But the delegation was informed by the Secretary General of the Ministry of Justice that the building programme has not been abandoned. He said that a number of changes have occurred. For example, fewer, but larger prisons will be constructed in some cases, and there will be an additional prison for women. He assured that three constructions will be completed in 2006.

18. In the context of the critical situation in Greek prisons, it was brought to the attention of the Commissioner's Office that local and international independent human rights observers are no longer consistently permitted access to prisons (and police detention centres). But it is now established that the prison prosecutor has the duty to offer legal counselling to detainees.

Conclusions

19. It is disappointing and of increasing concern, given the continuing rise in the prison population, that not a single new prison has been completed in the more than three years since 2002. It is true that there has been a change of government in the Hellenic Republic in between and that any new government has to be given some time to reassess and implement commitments taken by its predecessor. The new Greek Government has acknowledged the need to make progress in this area and it is essential for the dignity and proper treatment of prisoners, but also of the prison personnel, that the new building programme be implemented quickly.

2. Freedom of thought, conscience and religion

Proselytism

20. In his 2002 report, the Commissioner addressed the fact that proselytism in Greece was still subject to criminal sanction under laws promulgated before World War II. Though aware of no recent prosecutions under these provisions, the Commissioner found that the mere existence of the said criminal law provisions puts needless pressure on religious or spiritual groups wishing to share their convictions in a law-abiding manner, without recourse to subversive, coercive, deceptive or improper methods. Consequently, the Commissioner recommended accepting the proposal by the Greek National Commission for Human Rights to repeal the applicable provisions in force on proselytism.

Development of the situation and measures taken

21. The 1939 law under which criminal sanctions can be imposed for proselytism is still in place, but no cases are brought before the courts.

Conclusions

22. The Commissioner regrets that, for the sake of legal certainty, the manifestly obsolete legislation under which criminal sanctions can be imposed for proselytism has not yet been repealed.

Places of worship

23. In his 2002 report, the Commissioner dealt with several issues regarding places of worship. His first concern was again related to the aforementioned 1938 law and the 1939 Royal Decree for its implementation, which provide that the use of any place for purposes of worshipping is subject to approval by the Ministry of National Education and Religious Affairs, who invariably seeks the **opinion** of the local Orthodox bishop. Although that opinion was not binding and cases of refusal were extremely rare, the Commissioner thought it would be desirable to amend the relevant legislation so as to vest the Secretary General for Religious Affairs with sole authority responsible for applying an administrative procedure that could comprise a public enquiry. During the public enquiry the local bishop, like all other interested parties, would have a chance to be heard.

24. The second concern of the Commissioner was the lack of suitable and official **places of worship** for the several thousand Muslims who live in Athens, most of them foreigners. These worshippers met in clearly unsuitable places such as flats, basements, garages and other private premises. The Commissioner received the assurance of Archbishop Christodoulos that the latter had no objection to the building of a mosque, but invoked potential local resistance. He appealed to the solidarity, spirit of tolerance and good will of all concerned to pick out a place readily accessible to worshippers on which to build a mosque for Muslims established in the Athens District.

25. The Commissioner also noted that there was no **special cemetery** for Muslims wishing to bury their dead in accordance with their religious traditions. Consequently, the dead bodies had to be transported to Thrace, the region where the Muslim minority recognised by the 1923 Lausanne Treaty is concentrated. The Commissioner asked for a more satisfactory solution to be found.

Development of the situation and measures taken

26. Since the publication of the Commissioner's report in 2002, the Committee of Ministers has adopted a series of resolutions acknowledging that Greece has duly executed judgments of the European Court of Human Rights in which a violation of Article 9 of the European Convention on Human Rights (freedom of thought, conscience and religion) had been found.

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27. There are no changes with respect to the privilege of the local Orthodox bishop to issue a non binding **opinion** on plans for the use or the construction of places of worship, including of non-Orthodox communities. But there seem to be no cases where the Orthodox bishop would have expressed a negative opinion.

28. As regards the **places of worship** for Muslim believers, the Greek government's reply to the Commissioner's report in 2002 indicated that the authorities had taken all the necessary measures for the construction of a mosque in Athens. It was going to be built at Paeania, where the Government had granted a large lot to this end. However, the construction of the mosque has not yet even started and the Muslim worshippers are still obliged to use unsuitable venues in Athens, many of them illegal (for lack of an authorisation which, in many instances has not been sought, as many of the worshippers may have fears because of their irregular residence status⁴). Besides, the site of Paeania does not seem to correspond to what the Commissioner called a "readily accessible" place for the Muslim worshippers of Athens, as it is located some 25 kilometres outside the city of Athens, close to the airport.

29. According to the Greek government's reply to the Commissioner's report in 2002, his proposal for an **Islamic cemetery** would be considered by the governmental authorities. At the moment of the follow-up visit, no such cemetery had been made available in the Athens area, according to the information received. In the meantime, the Greek authorities had underlined that Muslim believers, just like followers of all other religions, have a right to bury their dead in the existing (predominantly Greek orthodox) cemeteries, which are under the jurisdiction of the municipal authorities. As explained by the Muslim community, there are, however, two problems in practice. The first is that the high costs for burial places in the Athens areas are very hard to afford for many Muslims living there, who often find themselves in a financially precarious situation. The second is that the Muslim religion forbids exhuming the bodies after a few years, in order to free space, while Orthodox believers do have that possibility and more and more often resort to it.⁷

30. At the time of the follow-up visit the Commissioner's delegation was informed that the Greek Orthodox Church was considering helping out graciously with respect to the question of an Islamic cemetery. To that effect intensive talks were being held with the Greek authorities.

Conclusions

31. It is regrettable that the status quo regarding the asking of the **opinion** of the local Orthodox bishop on places of worship for all religions has been maintained. It is all the more so since the information provided in October 2005 by the Greek Government to the Committee of Ministers of the Council of Europe in the context of the execution of *Manoussakis* judgment (where a refusal of a place of worship under the legislation in question had been found in violation with Articles 13, 1 and 2 and 9, 1 and 2 of the ECHR) stated that "close attention was paid by Greece" to the recommendations made by the Commissioner on this issue.

32. The Commissioner deeply regrets the fact that no tangible progress has been made for offering the important number of Muslim believers in Athens suitable and recognised **places of worship**. The project of one single big mosque to be built with foreign capital at Paeania - in spite of the many disadvantages which have been pointed out by many in Greece - would have been or would be an important step ahead. The fact is, however, that this project has long been announced without any actual construction work ever starting.

33. This situation is bound to oblige Muslim worshippers in Athens to gather covertly in all kinds of unsuitable places for their prayers for many more years. This situation is far from conducive to smooth and mutually respectful relations between the religious communities in Greece. A practicable solution providing for the opportunity of public worship must be found - for the right to freedom of religion of the Muslim community in the

capital to be effectively respected. Much the same considerations would apply to the issue of an **Islamic cemetery** in Athens, in respect of which progress must also be made. However, the Commissioner has learned with great appreciation that the Holy Synod of the Orthodox Church of Greece has very recently announced its decision to cede use of land in the area of Schistos near Athens to the competent municipality for the purpose of establishing a Muslim cemetery.

Conscientious objectors

34. In 2002 the Commissioner had much welcomed the fact that revised Greek Constitution was now guaranteeing a right to conscientious objection, but he found that an extra term of 18 months for such objectors constituted a disproportionate measure in practice. He advised to reduce the duration of alternative service to an equitable term in comparison with military service and to work along the lines of recommendations from the Greek Ombudsman in order to rectify the disproportionate character of the present legislation. The Commissioner also recommended the transfer of responsibilities for granting conscientious objector status from the Ministry of Defence to an independent civilian department.

Development of the situation and measures taken

35. In response to the Commissioner's 2002 report, the Greek authorities indicated that the question of the term of alternative military service was considered by the State authorities in the framework of the governmental reforms that were being discussed for the structure of the armed forces.

36. As a contribution to that discussion, the Greek National Commission for Human Rights proposed to the Government in 2004 that the duration of the alternative social service be longer than that of the regular military service by 50%; that the duration of the unarmed military service be longer than the regular military service by 30%; that the instigation of continuous and repeated prosecutions for refusing to perform military service be abolished; that, as far as the competence of the Supervisory Body for Conscientious Objectors is concerned, it should be initially the responsibility of the Ministry of National Defence, on the condition that, when conscientious objectors are removed from the Enlistment Register, there would be a joint responsibility of the Ministry of the Interior and the Ministry of Health on the matter; that rejections by the Committee for the Examination of Objections of Conscience be justified in detail; that the composition of the aforementioned Committee be strengthened with two more State representatives, one from the Ministry of the Interior and one from the Ministry of Health; that a special list of public benefit NGOs in which conscientious objectors may serve be drafted by a joint ministerial committee; that the geographical criterion for the completion of the alternative unarmed or social service be brought to conform to the same rules that apply to regular armed military service and that the Council of Europe Resolution providing for long-term and elderly conscientious objectors to meet their military obligations be implemented.

37. The Commissioner's delegation discussed these matters with high ranking officers of the Greek Army. Subsequently to the adoption of new legislation in 2004 the situation is now the following: Regular military service lasts 12 months. It can be served in all parts of the country and is indeed quite demanding, especially when served in remote border regions. For conscientious objectors there are two regimes. The "unarmed military service" lasts 6 months more than the armed service and is served within the military compounds. Presently nobody in Greece has chosen that option. The "alternative service" lasts now 11 months longer than the regular service whereas, at the time of the Commissioner's visit, it was still 18 months longer.⁸ Some 1,000 conscripts are presently doing alternative service, out of 40,000 conscripts annually. Under the law, they are barred from serving in the six biggest urban areas. This rule, as well as the additional time of service, are considered to compensate for the facts that the alternative service is generally much less uncomfortable than the military service and that conscripts do not spend the nights confined in their workplace (the Defence Ministry grants them a small sum as a contribution to costs for housing and food). As to the body which makes the recommendation on whether or not to accept granting the status of conscientious objector to an applicant, it is composed of a majority of civilians (one assistant judge of the Legal Council of the State, two university professors, two members of the military) and 98 % of its advisory opinions are accepted by the Ministry of Defence, the conscript having the possibility to appeal before the administrative courts.

38. Naturalised immigrants who have completed military service in another country cannot be granted the status of conscientious objector and have to serve a three-month military service in Greece as long as they are aged under 35; if they are older, they are exempted.

Conclusions

39. The Commissioner is pleased to note that the conditions of the alternative service offered to conscientious objectors in Greece have significantly improved since his visit in 2002 with the adoption of new legislation in 2004, especially as regards the length of such service. It can, however, still be subject to discussion whether an alternative service which lasts almost twice as long as the regular armed service has a punitive character or is genuinely equivalent to military service in terms of hardship and constraints. The Commissioner recommends that the Greek authorities grant conscientious objector status to persons who have already performed a military service in another country if they had no realistic possibility to refuse it or when their experience has been traumatic.

3. Minority groups in Greece

The Muslim minority in Thrace

40. During his visit in 2002, the Commissioner examined the treatment of the only officially recognised minority of Greece, the "Muslim minority", the vast majority of which lives in Thrace in the north east of Greece, defined on the basis of religion. It is composed of 50% of Turkish speakers, 35% of Pomaks and 15% of Roma/Gypsies. The status of the Muslim minority is essentially defined in the 1923 Treaty of Lausanne. The Commissioner made no specific recommendation with respect to the status or the treatment of that minority by the Greek authorities, but

he recommended that Greece ratify the Framework Convention for the Protection of National Minorities, and sign and ratify the European Charter for Regional or Minority Languages.

The right to identify oneself as one sees fit

41. In his 2002 report, the Commissioner echoed a concern of the European Commission against Racism and Intolerance (ECRI), according to which members of the Turkish-speaking community in Thrace were prevented from designating themselves as they wish, a factor which had to be seen as an impediment to their freedom of expression. The Commissioner noted that it has been generally observed in the past that Greek citizens belonging to groups defined by linguistic or cultural criteria could meet difficulties in exercising their right to freedom of expression or association and to identify themselves as they wish, a right secured in Article 3 of the Framework Convention for the Protection of National Minorities signed by Greece on 22 September 1997 but not yet ratified. The Commissioner expressed the wish that the Greek authorities continue to show greater receptiveness to diversity in their society and that Greece ratify the Framework Convention for the Protection of National Minorities, and sign and ratify the European Charter for Regional or Minority Languages.

Development of the situation and measures taken

42. Having noted that the Greek authorities have chosen in the meantime not to follow the Commissioner's recommendation to become a party to the two abovementioned conventions pertaining to national minorities, the Commissioner's delegation spoke with representatives of the **Muslim minority**, i.e. the Mufti of Komotini and Mr. Ilhan Ahmet, the only Muslim member of the Greek Parliament, representing the conscription of Rodopi.

43. Mr. Ahmet informed the Commissioner that he had just received (on 1st December 2005), in answer to a request made by him, from the Minister of Interior the precise figure (46,124) of the members of the Muslim minority who lost their Greek citizenship – and often their property, as a result – under Article 19 of the Greek law on citizenship of 1955. Whereas the vast majority of the above persons had acquired a foreign citizenship and lived abroad, the law was repealed in 1998, but not with retroactive effect. The Minister's move is indicative of a new openness towards the difficult issues of the damage done to these persons and their necessary repair. In his letter, the Minister promised that Greek citizenship would be restored upon simple application for the persons who had been living under difficult circumstances in Greece with no citizenship after having lost theirs due to Article 19. According to the Greek authorities "approximately 66 persons" are concerned. Like Mr. Ahmet, the Commissioner is very appreciative of this new development.

44. Complaints have continued to be made to the Commissioner as regards the **right to identify oneself as one sees fit**. Indeed, it is not possible today in Greece for those who claim they are members of a minority to use any word they wish in the denominations by which they would like to identify themselves collectively, for instance when registering associations.

Conclusions

45. The Commissioner repeats his recommendation that Greece become a Party to the Framework Convention for the Protection of National Minorities and the European Charter for Regional or Minority Languages. This would open the way to independent expert advice and review of outstanding issues affecting the Muslim minority.

46. The Commissioner welcomes the moves made by the Greek authorities to address the problems raised by the withdrawal of Greek citizenship under Article 19 of the Greek law on citizenship, particularly in respect of those continuing to reside in the country and he encourages further reflection on measures to provide redress to those currently living abroad.

The situation of the Roma community

47. During his visit in 2002, the Commissioner had paid close attention to the living conditions and the respect of the basic rights of the estimated 150 to 200,000 Roma dwelling in Greece, after having received alarming information.

48. His concern had been eased by the impression that the Greek authorities were increasingly aware of the need to improve conditions for Roma and that concerted action was under way. Most importantly, he was informed of an Integrated Action Plan stretching over the years 2002 to 2008, worth 308.2 million euros (of which 208 million euros were to come from EU funds), to be used for improving the living conditions of Roma people concerning accommodation, education, health, employment, culture and sport. In his report the Commissioner underlined that it was important that the seven-year plan be duly and fully implemented, notwithstanding frequent resistance by local politicians and authorities who were sometimes unwilling to take in members of this minority group and to accept money from the state for improving their circumstances. The Commissioner recalled that in the end it was "up to the Greek government to implement official policy and thus to overcome any obstacles".

49. In order to gain a personal impression of the situation, the Commissioner visited a Roma settlement in Aspropyrgos in the outskirts of Athens. He found people living "under conditions very remote from what is demanded by respect for human dignity, in particular without running water supplies among other essential services". He immediately referred the situation to the Secretary General of the Interior Ministry and asked him to take urgent measures for these families. Much to the Commissioner's relief, the Secretary General's reaction was very swift. In a letter on the 28th of June 2002, he reminded the mayor of Aspropyrgos that an important financial contribution, exclusively dedicated to improve public utilities and infrastructures of the Roma of his district, was at his disposal and that urgent measures for running water supplies of this community had to be taken.

50. Another concrete case which the Commissioner looked into himself in 2002, were the alleged forced evictions of Roma families from their dwellings in the vicinity of sites for the then forthcoming Olympic Games, as for example in Amaroussia. The Commissioner was assured by the Greek authorities that all families needing to be moved because of the Games would be relocated on state-owned land.

Development of the situation and measures taken

51. When the Commissioner presented the report on his visit to Greece to the Committee of Ministers in September 2002, he had already received precise details concerning the measures taken by the Greek authorities following his visit and decided to annex them to his report. These details given by to him by the Greek authorities, and of which the Commissioner took note with satisfaction, were the following:

- All necessary measures had been taken in order that the Roma settlement of Aspropyrgos be provided with all public facilities;

- 20 Roma families residing in a site near the Olympic stadium belonging to others were asked to relocate because the 2004 Olympic Games Committee had decided to extend the Olympic installation into that area. The authorities had assured the families that special measures would be take for their re-settlement. In fact, an agreement was signed between the Mayor of Amaroussia and a representative of a Roma association (Elpida) under which the local municipality undertook the following: provisional re-settlement in apartments belonging to the municipality, subsequent permanent settlement in houses to be built by the municipality, economic assistance between 440-1150 Euros (depending on the number of family members), special assistance in terms of food and clothing; a special plan was elaborated by the municipality of Amaroussia for their integration in the local society.

52. Detailed information gathered during the follow-up visit and in the wake of it gives the following picture of the implementation of the Integrated Action Plan for the Social Inclusion of Greek Roma (IAP⁹), in the first four years (2002-2005) of the seven-year programme (2002-2008)¹⁰: Approximately 275 Million Euros out of the approximately 308 Million Euros have already been spent. By far the biggest part of the money spent (259 Million Euros) have gone into the financing of Housing-Infrastructures, while 12 Million Euros went to Training-Employment, 1,5 Million were used for Educational Programmes for Roma Children, 1.5 Million Euros were spent on Culture, 1.2 Million Euros on Adult Training, 0.33 Million on Sports and 0.21 Million on Health-Welfare.

53. The biggest single project of the IAP is the plan to give out 9,000 housing loans to Greek homeless Roma families under favourable terms, guaranteed by the Greek State. At the moment of the follow-up visit to Greece 3,708 loans had been drawn out of 5,708 approved applications. Much criticism has been reported to the Commissioner, alleging that an important percentage of the loans was misused for expenses others than housing, with the complicity of non-Roma, that the criteria for attribution were unknown or unclear to the Roma, that one could not see why most of the Action Plan was spent for the benefit of 9,000 out of an estimated 150,000 to 200,000 Roma living in Greece, that in most parts of Greece the sum of 60,000 Euros was insufficient to both purchase the land for a house and pay for the construction of it, etc. The Greek authorities point out that 9,000 loans will benefit some 54,000 individuals, as a Roma family in Greece is, on average, composed of six persons. They also underline that the criteria for attribution and the conditions of the loans have all been published in the official gazette which all Greek citizens have access to; they have also been communicated throughout the country to the institutions in charge of granting the loans.

54. The Commissioner's delegation took special interest in the efforts made by the Greek authorities regarding the education of Roma children, including pre-school education designed to make up language and other handicaps of young Roma children as compared to other children. It learned of a wide range of measures taken for the benefit of Roma children under the authority of the Ministry of Education. One of the aims pursued is to avoid the segregation of Roma children from other children by assigning them to special classes or to special schools. It was explained, however, that for a host of reasons, including parents' resistance not only on the non-Roma but also sometimes on the Roma side, such separation could not always be avoided.

55. Thanks to the assistance of a very dedicated Greek NGO¹¹, the Commissioner's delegation was able to return to the Roma settlement in Aspropyrgos which the Commissioner had visited in 2002 and with respect to which precise commitments had been made by the Greek authorities to the Commissioner (see above). The delegation noted that absolutely none of the measures announced had been taken: There were still no basic public utilities, including water, electricity or a basic sewage system.

56. The mayor of Aspropyrgos organised a meeting in his office with the Commissioner's delegation and the major parties involved (the mayor, representatives of the Roma and a representative of owners of the land which the Roma occupy). Two factors would appear to continue to prevent the Roma from benefiting of any improvement of their intolerable situation, even though funding was available from the central authorities:

- many land owners tolerate the occupation of their land by Roma – including its pollution by activities linked to the recycling of garbage – but they are not ready to implicitly accept durable settlement of the Roma by water and electricity adduction or the construction of sewage systems; also, in order to avoid any rights to be granted to the Roma by virtue of a prolonged, unchallenged situation, they were now trying to obtain eviction orders from the courts;

- local politicians and local authorities are not ready to use even State funds that are proposed to them for the benefit of the Roma, so as not to be seen by their voters as accepting the permanent settlement of Roma in the municipality or, "worse", attracting additional Roma to come¹².

57. The delegation learned that the Greek Ombudsman had opened an investigation into the file.

58. As to the other specific file in which the Commissioner had taken interest in 2002 and where concrete assurances had been given the him (re-lodging of the Roma families evicted from the Olympic site of Amaroussia), the development has been the following: Six months or so after their eviction and re-settlement in apartments for which the Ministry of

the Interior and the municipality were to pay the rents until houses would be built for the Roma in question, the municipality invoked financial difficulties, ceased to pay its part of the rents and apparently gave up the construction plans for the benefit of the Roma. The Roma concerned had to leave the flats and trace has been lost of them.¹³

59. A growing number of reports of evictions of Roma people from settlements, including on private properties, all over Greece, with no alternative solutions offered to them, has reached the Commissioner's Office over the last years.

Conclusions

60. The Commissioner continues to be very concerned as regards the respect of the basic rights for Roma in Greece.

61. The Commissioner notes with satisfaction that there is an important amount of money (320 million Euros) out of EU and national resources available for the improvement of the living conditions of the Roma in Greece.

62. The results on the ground, however, at least in respect of the two concrete cases previously highlighted by the Commissioner have not been very encouraging. In both cases precise promises were made but not kept, mainly, it would appear, because of resistance on the local level. It must be recalled, however, that the responsibility for the respect of international human rights standards throughout the country lies with the Governments of member States. Under international law, resistance at local level is not a valid reason for exonerating a Government from responsibility for human rights breaches persistently occurring at local level. The Commissioner urges the new Greek Government to take all adequate action to ensure that the basic human rights of Roma citizens are now rapidly respected in places like Aspropyrgos, Amaroussia, Patras or elsewhere.

4. Situation of foreigners (refugees, asylum seekers and immigrants)

Regularisation of irregular immigrants

63. In his visit report, the Commissioner noted that the regularisation process for irregular migrants which had been introduced in 2001¹⁴ had had limited success. This was partly due to the unwillingness of migrants to lodge an application for fear of making their irregular status known. The Commissioner supported the four-year government programme (2002-2006) for improving the conditions of migrants' reception and integration, and underlined the importance of its effective implementation.

Development of the situation and measures taken

64. The first attempt to legalise the status of irregular migrants took place in 2001. The second round of regularisation took place during the last few months of 2005. According to law 3386/05, irregular migrants were given the opportunity to apply for a residence permit for themselves, their spouses and minor children (provided they were living with them). Information leaflets outlining the regularisation procedure were published in a number of different languages. NGOs expressed concerns about the documentary evidence required, as well as the high fees demanded from the applicants, which could be an obstacle for many of the irregular migrants otherwise eligible for the legal status. They also noted that rejected asylum-seekers were not eligible to legalize their status, which diminished the practical impact of the regularisation.

Conclusions

65. The Commissioner welcomes the second round of regularisation of irregular migrants, but does not yet have statistical information that permit its success to be evaluated. He encourages the Greek authorities to step up their efforts to integrate migrants into the community as a whole and regrets the lack of a concerted integration policy, which would aid in the fight against racism and xenophobia and help to provide protection to lawful immigrants against abuse.

Measures to prevent violence against foreigners

66. In his 2002 report, the Commissioner noted that allegations of police violence against foreigners persisted, and underlined the need for continuing educational programmes on human rights issues. Other solutions to help reduce police violence mentioned by the Commissioner were the employment of members of vulnerable groups in the security forces themselves.

67. The Commissioner was strongly of the view that racist and xenophobic acts should receive exemplary punishment. The Greek authorities were urged to strengthen the range of criminal law measures against offences of a racist or xenophobic character, and ensure that criminal sanctions take account of possible racist or xenophobic motives.

Development of the situation and measures taken

68. Allegations of police misconduct and abuse have continued since the Commissioner's visit in 2002. Statistics provided by the Ministry of Public Order show that for the period 2001-2005, 248 complaints were made by citizens (detainees and non-detainees) about mistreatment and abuse by police officers. 2005 saw an increase in the number of complaints made as compared to previous years.¹⁵ While the Ministry acknowledges that the number of complaints for this period is high, according to them, each complaint concerned an isolated case and was investigated in depth.

69. NGOs have expressed continuing concern over ill-treatment of individuals during arrest and detention and the failure of the judicial and administrative systems to deal promptly and effectively with cases of police misconduct.

70. In July 2004, the Ombudsman published a special report regarding disciplinary monitoring of charges against police officers, which was submitted to the Prime Minister and to the Minister of Public Order. The drafting of the report was prompted by the considerable number of relevant complaints received by the Ombudsman between 1999 and 2004. The Ombudsman concluded that the internal audit bodies of the Hellenic Police, which are responsible for the examination of charges, only attributed responsibility in a very few cases and that the penalties handed down were disproportionately lenient. Few cases against law enforcement officials are brought before the courts, and there is a reported leniency of the courts to deal with these officials.¹⁶

71. The Greek authorities are tackling the problem of police behaviour through increased attention to training. A new Code of Conduct has been prepared, and new booklets and other information material have recently been issued to police officers.

Conclusions

72. The Commissioner commends the efforts made by the authorities to respond to problems of police violence, especially to foreigners, in particular as regards training. However, these measures are just the first steps needed. The Greek Ombudsman's report reveals continuing, structural problems that need to be addressed; the widely reported failure to examine and punish cases of ill-treatment effectively remains of particular concern and the functioning of the mechanisms in place for this purpose needs to be reviewed.

Asylum seekers

73. In his 2002 report, the Commissioner supported the proposals of the Greek National Commission for Human Rights¹⁷ to improve the reception of asylum seekers and to guarantee their right of access to the procedures for acquiring refugee status.

74. The Commissioner considered the conditions and length of detention of aliens awaiting deportation unacceptable. In particular, the conditions at the Attica General Police Station, visited by the Commissioner in 2002, amounted to a breach of the authorities' obligation to prevent degrading treatment. Pending the construction of new modern centres, the Commissioner urged the authorities to improve the living conditions of the aliens awaiting expulsion. The Commissioner insisted that asylum seekers and migrants, whether awaiting an expulsion or a decision on their application, should be offered conditions of accommodation in accordance with human dignity.¹⁸

Development of the situation and measures taken

75. Owing to its geographical location, Greece has become an important passageway into Europe for many immigrants and asylum seekers, the number of which has increased significantly in the past decade. While there has been a general decline in the number of asylum seekers in Western Europe, a number of countries, including Greece, at the external European Union border, have faced a sharp increase compared to the same period in 2004. There were 8,178 registered asylum seekers in Greece in 2003 and 4,469 in 2004. However, up until October 2005, the number of registered asylum seekers rose to 7,633.¹⁹ Of the one million or so foreigners currently living in Greece, best estimates put the figure of asylum seekers at 13,000. The main entry points for asylum seekers are the Northern Greco-Turkish border and the Eastern Aegean Islands.

76. Refugees recognised by the Greek authorities under the Geneva Convention are provided with a residence permit valid for five years and renewable for similar periods of time. Those awarded humanitarian protection are given a residence permit renewable every year. In 2005, 39 persons were recognised as refugees and 49 persons received humanitarian status. Refugee recognition rates in Greece are among the lowest in the EU member states, at under 2% for 2005²⁰. This compares to an overall recognition rate of 26.4% in all 25 EU member states for the same period. The UNHCR believes that many genuine refugees in Greece are without status and find themselves in a very vulnerable situation.

77. In the context of EU harmonisation, the Greek Government has strengthened border controls and has introduced strict measures to combat illegal migration and terrorism.²¹ Notwithstanding the importance of these measures, NGOs express concern that new arrivals that may include potential asylum seekers are often not identified and are at risk of being sent back to the danger of persecution. Access to the asylum procedures continues to be of particular concern in Greece. According to the UNHCR, separated children, refugee women and torture survivors are at particular risk, and the system of legally appointed guardians for children does not work well in practice.

78. Persons who enter Greece in an irregular manner, regardless of whether this occurs at the border or in Greek territory, are placed in administrative detention, which can last for up to 3 months pending deportation procedures, during which they can apply for asylum. According to a circular of the Chief of the Greek Police of 4 July 2003²², all persons who are detained due to irregular entry or presence should have access to lawyers and humanitarian organisations and should be provided with appropriate counselling. After the 3 month administrative detention,

irregular migrants that the authorities have not been able to deport are released and given 30 days to leave the country.

79. According to the Greek authorities, irregular immigrants use the asylum system to avoid deportation. If an irregular migrant does apply for asylum during or after his detention for irregular entry into the country, he/she is given a document which entitles him/her to basic

services on their release. There have been reports by NGOs of delays and difficulties in getting this card, mainly due to extreme understaffing of the office in charge of issuing the cards. The Greek authorities accept this, and are trying to remedy this problem.

80. Conditions in the detention centres have been described by the Greek Ombudsman in his report as 'an offence to human dignity.' This has not improved, despite a number of on-site inspections by the Ombudsman.²³ As had been recommended by the Commissioner, the Attica Police Station facilities are no longer used. A substantial part of the brand new Petro Rali short-term detention and transit facility (300 places out of an official capacity of 680) is being used for the detention of irregular foreigners awaiting deportation. The Commissioner's delegation visited the aliens' detention centre at Petros Gali and found it totally unsuitable for detention for anything more than one or two days. This brand new detention facility was not at all designed for prolonged detention, but only, as one of the police officers serving there put it, to accommodate "the catch of the day", i.e. persons awaiting rapid identification, release or transfer. In practice foreigners frequently confined for three full months to cells for up to 8 persons with only bunks for furniture, very limited access to showers, and only brief exercise possibilities on the roof of the facility. On the day of the visit by the Commissioner's delegation, 18 foreign minors were detained in Petro Rali under these totally unsuitable conditions for any lengthy stay.

81. Since the Commissioner's visit in 2002, the Greek central and local authorities have undertaken serious efforts to improve the reception facilities for registered asylum seekers. Given the high number of registered asylum seekers, NGOs and the UNHCR had criticised the overall capacity of the 8 reception centres then available as inadequate. In response to these concerns, the government expanded one Centre for separated children in Anogeia, Crete (with a capacity of 25) and opened a new reception centre for migrant and asylum seeker women in Thessaloniki in 2005. Thus, there are currently 10 reception centres in Greece with a capacity for 900 asylum seekers. These are run by NGOs and funded either by the government (exclusively or partially) or through NGO resources. There is still criticism by NGOs, however, that many of the reception centres do not meet minimum standards, especially with regard to health care and education, and that they lack special measures for vulnerable individuals, including torture survivors, unaccompanied minors, pregnant women and the disabled.

82. A further matter of concern is that there is no independent appeals body for decisions on asylum. The review of a negative decision at first instance, which is undertaken upon appeal, does not involve an independent authority but is directed by the Ministry of Public Order, which is the same body responsible for first instance decisions.²⁴ The procedural review which is undertaken by the Council of State following a final negative decision does not cover the substance of the application. NGOs are of the view that the absence of an independent review exposes individuals to the risk of *refoulement*. Moreover, legal aid is not available to applicants at any stage of the process (apart from the aid provided by the Greek Council for Refugees). The actual examination of an asylum application can take up to two years, with an average of one year being the usual case.

Conclusions

83. The challenges faced by the Greek authorities in ensuring the humane reception of irregular immigrants have increased as their number has risen. Attempts have, certainly been made to meet them. However, access to asylum proceedings continues to be difficult for immigrants detained on their irregular entry as the access to information and legal assistance remains poor. Both the low number and the low proportion of successful asylum claims reflect these shortcomings.

84. The efforts made by the Greek authorities to improve the reception facilities for registered asylum seekers should be commended. Nevertheless, the Commissioner remains very concerned about the poor conditions in these centres. Minimum standards, notably regarding access to health care and education, urgently need to be met.

85. The closure of the detention facility in which foreigners pending deportation were previously held at Attica General Police Station is also welcome. The replacement facilities at Petro Rali cannot, however, be considered to meet the required standards for a detention that can, and frequently does, extend to up to three months. A viable long-term solution must be found to meet the needs and dignity of irregular immigrants, who, it must be recalled, have committed no crime. The Commissioner also recommends that the authorities increase and improve their co-operation with NGOs, allowing them to pay regular visits to all facilities in which foreigners are detained.

¹ Report by Mr Alvaro Gil-Robles, Commissioner for Human Rights, on his visit to the Hellenic Republic, 2-5 June 2002, for the Committee of Ministers and the Parliamentary Assembly (CommDH (2002)5, 17 July 2002). The report was presented to the Committee of Ministers on 11 September 2002, and can be found on the Commissioner's website at www.commissioner.coe.int. ² Mr. Markus Jaeger and Ms. Sirpa Rautio.

³ During the visit, the delegation met – in the order of meetings held - with the Secretary General and high officials of the Ministry of Public Order and the Ministry of Justice, Judges from the Council of State and the Supreme Court, Secretary General/Vice-Minister of the Ministry of Interior together with high officials of the Ministry, the Secretary General, Director General and other high officials of the Ministry of Foreign Affairs, the Ministry of National Defence, the Ministry of National Education and Religious Affairs, the President and members of the Greek National Commission for Human Rights, the Mufti of Komotini, the Muslim member of the Parliament, the chairperson of the Parliamentary Committee of Human Rights and members of that Commission, the legal advisor to the Archbishop Christodoulos of the Greek Orthodox Church and the Greek Ombudsman and the Deputy Ombudsman in charge of human rights. A visit was paid to the municipality of Aspropyrgos in the outskirts of Athens where the delegation met with the Mayor, representatives of the Roma and landowners concerned,

before proceeding to visits of two Roma settlements in the municipality. The delegation also visited the new detention centre for aliens at Petro Rali. The official part of the visit was preceded by meetings between the delegation and representatives of non-governmental organisations working in the field of human rights.

⁴ Special thanks go in Strasbourg to Mr. Constantin Yerocostopoulos, Ambassador of the Hellenic Republic to the Council of Europe, as well as Mr. Konstantin Tsakonas, Deputy to the Ambassador, and in Athens to Mr. Manassis, who at the moment of the visit had just taken over responsibility of the Council of Europe Department at the Ministry of Foreign Affairs, as well as his colleague Mr. George Aifantis whose presence on the side of the members of the Commissioner's Office throughout the visit proved to be an invaluable asset. ⁵ Resolution DH (2004)80 (*Larissis* case), Resolution DH(2005)87 (*Manousakis* case), Resolution DH(2005)88 (*Serif and Agga* case n° 2), Résolution DH(2005)89 (*Thlimmenos* case); also Resolution DH(2004)82 (*Tsirilis, Couloumbas and Georgiades* cases) ⁶ The Greek authorities indicate that, when authorisation has been sought, "almost all applications for permits to establish and maintain places of worship for believers belonging to denominations other than the Greek Orthodox Church and faiths other than the Christian one, have been approved".

⁷ All inhabitants of Athens are affected by the fact that the graveyards in the capital are full. In many cases a burial plot is only rented for three years before the body has to be exhumed to make way for the next coffin.

⁸ Law 3257/2004 has in fact entailed reductions of the length of alternative service for all kinds of hypotheses of compulsory service, of which there are a number in Greece, for various categories of conscripts. ⁹ The implementation of the IAP is placed under the co-ordination of an Inter-ministerial Committee headed by the Secretary General of the Ministry of Interior. ¹⁰ The Commissioner would like to thank the Ministry of Interior, Public Administration and Decentralisation for a comprehensive document it has kindly drawn up at his request on the implementation of the IAP, and the Ministry of Foreign Affairs for having translated it rapidly. ¹¹ The Commissioner would like to thank the Greek Helsinki Monitor (GHM) for the invaluable help afforded on the ground to his delegation for visiting Roma settlements and having access to their inhabitants. He observes with great concern statements of the Head of the Appeals Prosecutor's Office of Patras which give the impression that GHM is to be subject to legal action in connexion with their defence of the rights of six Greek Roma families living in the Makrigianni area in the city of Patras, which has been designated the Cultural Capital of Europe in 2006 and where festivities are foreseen throughout this year. It seems that the Roma families in question were threatened of being forcibly expelled, despite a decision of the Magistrate's Court of Patras (312/2005) dated 25 October 2005, ruling that they could legitimately believe they would not be evicted before measures for their resettlement are taken.

¹² The Ministry of the Interior indicates that, despite the fact that the amelioration of the living conditions of the Roma in Aspropyrgos falls within the competencies of the municipality in question, it is currently considering the provision of funds to the municipality to the above end, provided that the Roma themselves express willingness. In fact, the Ministry has provided such funding in the past (for example, in February 2004, 25 000 euros were given to the municipality of Aspropyrgos in order to address the consequences of a fire which had affected the settlement).

¹³ The Ministry of the Interior underlines that it had at the time provided funds amounting to 50,000 euros to the Municipality of Amaroussia in order to tackle the problem of the above-mentioned financial difficulties. In even more recent developments, the Ministry has approved the sum of 888,410 euros in order to resolve the problem and is currently awaiting the Municipality's final proposals with regard to the allocation of a suitable plot of land for Roma housing. Furthermore, 21 of 35 applications for housing loans on the part of Roma families from the area have been approved. ¹⁴ Law 2910, on the entry and residence of foreigners, which aimed to introduce a long-term immigration policy, integrating migrants into Greek society, enhancing their personal and social rights and strengthening statutory safeguards against discrimination. ¹⁵ In 2001 57 complaints were made, in 2002 the figure rose to 60 complaints, with 47 complaints made in 2003, 22 in 2004 and 62 in 2005. ¹⁶ Concluding Observations of the UN Human Rights Committee: Greece 25/04/05. ¹⁷ Report published on 6 June 2002. See also the Recommendation (2001)1 of the Commissioner for Human Rights' concerning the rights of aliens wishing to enter a Council of Europe member state. ¹⁸ In conformity with Recommendation (99)12 of the Committee of Ministers on the return of rejected asylum seekers. ¹⁹ UNHCR figures for June 2005. ²⁰ UNHCR figures for October 2005 ²¹ UNHCR position on important aspects of Refugee Protection in Greece [June 2005]. ²² Protocol Reg. No: 4803/22/44, dated 4 July 2003. ²³ The Greek Ombudsman 2004 Annual Report. ²⁴ Amnesty International Report, "Out of the Spotlight: The rights of foreigners and minorities are still a grey area." 2005.