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Report of the Working Group on the Universal Periodic Review*

Greece

Addendum

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Greece welcomes the recommendations made in the course of its Universal Periodic Review on 9 May 2011 and would like to provide the following responses with regard, mainly, to the recommendations contained in para. 84 of the Draft report of the Working Group on the Universal Periodic Review.

84.1.¹ Greece **cannot accept** this recommendation. The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights is a relatively new international instrument, which has been ratified by three States (as of 23.6.2011) and has not yet entered into force. The Greek authorities will be following closely the practice that will develop the Committee on Economic, Social and Cultural Rights under the above Optional Protocol and will review their position on this issue at an appropriate stage.

84.2.² Greece **cannot accept** this recommendation and refers to its comments on recommendation 84.1.

84.3.³ Greece **cannot accept** this recommendation to the extent that it refers to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and refers to its comments on recommendation 84.1.

Greece **accepts** this recommendation to the extent that it refers to the Optional Protocol to the Convention against Torture. Greece signed the above Optional Protocol on 3 March 2011 and is currently examining the most appropriate ways and means of implementing its provisions, with regard, in particular, to the setting up or designation of a national preventive mechanism.

84.4.⁴ Greece **cannot accept** this recommendation to the extent that it refers to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and refers to its comments on recommendation 84.1.

Greece **accepts** this recommendation to the extent that it refers to the Optional Protocol to the Convention against Torture and refers to its comments on recommendation 84.3.

84.5.⁵ Greece **accepts** this recommendation and refers to its comments on recommendation 84.3.

84.6.⁶ Greece **accepts** this recommendation and refers to its comments on recommendation 84.3.

84.7.⁷ Greece **accepts** this recommendation although is not clear to which international instruments it refers. It should be added that the competent authorities carefully consider the issue of the ratification of international human rights treaties and take the appropriate decisions on the basis of a number of factors, such as the relevance of the treaty to the particular circumstances prevailing in the country, the need to amend domestic legislation, potential financial implications, etc.

84.8.⁸ Greece **accepts** this recommendation and will consider accession to the 1961 Convention on the Reduction of Statelessness in due course. Greece has already ratified the 1954 Convention relating to the Status of Stateless Persons. Furthermore, Greece has introduced in its domestic legislation guarantees and legislative regulations in order to reduce statelessness and facilitate the access of stateless persons to Greek citizenship.

84.9.⁹ Greece **accepts** this recommendation. The competent authorities are already implementing a number of action plans on human rights in their respective fields of responsibility. The recommendation to draw up a National Action Plan combining actions developed by different Ministries and agencies will be further considered by the new General Secretariat of Transparency and Human Rights, already established in the Ministry of Justice.

84.10.¹⁰ Greece **accepts** this recommendation and is already implementing it. In fact, Greek legislation has explicitly included sexual orientation among the prohibited grounds of discrimination. The anti-discrimination Law 3304/2005 provides for the implementation of the principle of equal treatment regardless, *inter alia*, of sexual orientation in the fields of employment and occupation. In the context of criminal legislation, the imminent transposition into the Greek legal order of the EU Council Framework Decision 2008/913/JHA of 28 November 2008, on combating certain forms and expressions of racism and xenophobia by means of criminal law (see also below recommendation 84 (14)) will update and strengthen the relevant legislative framework, since sexual orientation will be included in its field of application. The draft law is at the stage of organized consultation with the National Commission for Human Rights and the Law Schools of our country, the public consultation having now been completed.

In this context it is worth mentioning that art. 79 para. 3 of the Greek Penal Code, as amended by law 3719/2008, provides that the commission of an offence motivated by ethnic, racial or religious hatred or hatred on account of a different sexual orientation constitutes an aggravating circumstance.

It is considered that discrimination based on gender identity or expression falls within the scope of discrimination on the ground of sexual orientation.

84.11.¹¹ Greece **accepts** this recommendation. The Greek government is considering the matter. Any relevant decision will be taken after a public consultation on whether or not the Cohabitation Pact (law 3719/2008) should be expanded to same sex couples.

84.12.¹² Greece **accepts** this recommendation. The competent authorities will further strengthen their efforts to tackle the issue of “street children”, as well as to combat any form of sexual and other exploitation. It is also to be noted that the NGO ARSIS, mentioned in the above recommendation, was among the signatories, in 2005, of a Memorandum of Understanding with the General Secretaries of the competent Ministries and closely cooperates, along with a number of NGOs, with the relevant authorities, including the Hellenic Police.

84.13.¹³ Greece **accepts** this recommendation. It is to be noted that the new cross-thematic school curricula include the key concepts and principles of human rights education. Civic Education has always been entrenched within the Greek legislative framework. Within this framework, issues related to trafficking in human beings may be discussed in the classroom, so as to raise the awareness of pupils on the scourge of trafficking. At the university level, information about trafficking in human beings has already been included and could further be delivered and discussed in the context of courses on human rights. It has to be clarified, however, that such matter falls primarily within the responsibilities of the competent, and self-governed, academic institutions.

84.14.¹⁴ Greece **accepts** this recommendation. As explained in our UPR report, Law 927/1979 punishes, *inter alia*, incitement to acts or activities which may result in discrimination, hatred or violence against individuals or groups of individuals on the sole grounds of the latter’s racial or national origin or religion, as well as the expression in public, either orally or by the press or by written texts or through depictions or any other means, offensive ideas against any individual or group of individuals. The relevant legislative framework will soon be updated and strengthened (see *supra*, under recommendation 84.10). Within this framework, relevant data on cases of hate speech, including on victims and perpetrators, will be collected, with full respect for the legislation on the protection of personal data. It is to be noted that, in the context of the OSCE, Greece collects, maintains and makes public in an annual report, reliable data and statistics in sufficient detail on hate crimes and violent manifestations of intolerance, including the number of cases reported to law enforcement, the number of those prosecuted and the sentences imposed.

84.15.¹⁵ Greece **accepts** this recommendation. The Government and the regional / municipal authorities are aware of the request, by representatives of a cultural association of Greek Muslims, living in Thessaloniki, to have an Islamic mosque opened there. This is being examined also within Greece's broader policy and programmes on the restoration and use of Islamic monuments in the Greek territory during the Ottoman era.

84.16.¹⁶ Greece **cannot accept** this recommendation. However, the competent Greek authorities are assessing legal measures to ensure a transparent, less bureaucratic, permit procedure, without discrimination and / or exceptions, for the construction and for the renovation of mosques in Thrace, also addressing the question of the minarets.

84.17.¹⁷ Greece **accepts** this recommendation. The European Court of Human Rights in three judgments delivered in 2007 and 2008, concerning an equal number of associations, found a violation by Greece of freedom of association, as protected in the European Convention of Human Rights. It is to be noted that there is no specific legislation on minority associations, the general provisions of the Civil Code being applicable in this respect. The decision to register any association falls within the exclusive competence of the courts, exercising a control of legality, and not of opportunity, with no government interference.

At present, these three cases are pending before the competent Greek courts.

The Greek Government is considering ways and means to implement the judgments of the European Court of Human Rights. In this respect, there is an ongoing, constructive dialogue with the Department for the Execution of the European's Court judgments of the Council of Europe.

There is a thriving civil society comprising a large number of Muslim minority associations and NGOs that have been registered by the competent courts and operate unimpeded, thus preserving, highlighting and promoting all aspects of the cultural, educational and economic life of the minority. Since January 2008, more than 30 associations whose title includes the adjective "minority" or indicates in some way that it is of minority origin, were accepted.

In a broader context, the cultural heritage of all the three components of the Muslim minority is fully respected. Further to the various activities of minority associations and NGOs in this field, during the last years, an increasing number of cultural/artistic events and festivities have been hosted in Thrace / Greece, through the co-operation of Greek and Turkish municipal authorities, with the involvement of minority associations and NGOs, including artists invited from Turkey. Sometimes, this favorable and free environment for the Muslim minority has been exploited by its Turkish origin component, by means of cultural assimilation tactics on the members of the other two components. These tactics were reflected in Resolution 1704/2010 of the Parliamentary Assembly of the Council of Europe (see para. 18.6, "ensure that no attempts are made to impose an identity on a person or group of persons, even by representatives of other groups within the minority concerned, in keeping with the spirit of Article 3 of the Framework Convention for the protection of national minorities").

84.18.¹⁸ Greece **accepts** this recommendation and is already implementing it. Asylum requests are examined with full respect for the rights of asylum seekers. The individual situation of each asylum seeker is thoroughly considered, as prescribed by the 1951 Convention relating to the Status of Refugees. As explained in the oral presentation of Greece's UPR Report, a National Action Plan on Migration Management is currently being implemented. A Presidential Decree issued in November 2010 provides for the creation of a flexible and decentralized mechanism, for a transitional period, which will allow, among others, a rapid review of requests for asylum, with the participation of the UNHCR. Moreover, a law adopted in January 2011 provides for the establishment of an Asylum Agency and of a First Reception Service for Immigrants. In the Reception Centers to be

created, a new screening process will allow the identification, among those entering Greece irregularly, of persons belonging to vulnerable groups and asylum seekers, as well as support and guidance to persons entitled to international protection. The conditions of reception will ensure decent living conditions, in terms of medical care, housing, protection of family life, possibility to communicate with the UNHCR, etc.

It has been recognised by all stakeholders that the Greek national asylum and migration management system is under unprecedented pressure¹⁹, that the existing capacity and resources have been under a severe strain and that this problem needs a common approach in EU level in order to be tackled. Greece implements the above mentioned National Action Plan with the support of the European Commission, the European Asylum Support Office and the contribution and participation of the EU Member States and International Organisations (UNHCR, IOM etc).

The European Asylum Support Office has already deployed, as of end of May 2011, an Asylum Support Team (56 experts) to work in close collaboration with the Greek Authorities in the implementation of the Action Plan for the period 2011–2012 to build up the registration and screening processes, the management of backlog cases (some 47.000 cases), to address training needs and to raise the quality of the asylum procedure.

In this spectrum, an emergency fund of € 9.8 million has been allocated for the year 2010 from the “European Refugee Fund (ERF)” to improve the reception conditions especially for the vulnerable groups, the quality of the offered services, medical and legal treatment in respect of the fundamental human rights of the asylum seekers in cooperation with UNHCR, the Red Cross and NGOs. This is an additional package to the 2010 annual allocation of the ERF for Greece (€ 5.9 million).

Furthermore, Greece implements under the 2009 annual programme of the European Return Fund (€ 1.75 million), in close cooperation with the IOM Athens, assisted voluntary returns. In total the programme aims at facilitating the assisted voluntary return of 1.000 migrants.

In the framework of the completion of the Common European Asylum System (by 2012), Greece supports policies and initiatives based on the principle of fair sharing of responsibilities and solidarity, in accordance with the Lisbon Treaty the European Pact on Immigration and Asylum. For this reason, Greece strives at enhancing its cooperation on migration governance with international organizations, namely the UNHCR and the IOM for the migrants’ human rights, and echoes their concern and interest for amending the Dublin II regulation.

Moreover, Greece would like to comment the following recommendation, which **did not enjoy its support**.

85.3.²⁰ This recommendation does not take into account both legal and political realities prevailing in Greece. Greek Roma fully enjoy all civil and political rights enshrined in the Constitution, including the right to vote and to be elected, on an equal footing with other Greek citizens. This has never been contested. In effect, Greek Roma, who have not requested the status of a “minority”, are candidates with mainstream political parties; they also establish their own political parties. A number of them have been indeed elected in local government institutions. They thus effectively exercise their right to vote and to be elected. For those not registered with the municipal registries (a pre-condition for the registration on the electoral rolls), due to lack of certain documents, particular circulars were issued by the Ministry of Interior. Under the current strategic reform, remaining issues on civic status are further tackled, taking into consideration recommendations made by independent authorities in Greece, namely the Greek Ombudsman and the National Commission for Human Rights, in order to remove all eventual obstacles to Roma’s full and equal participation in social and political life.

Notes

- ¹ Accede to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights (Ukraine).
- ² Sign and ratify the Optional Protocol of the International Covenant on Economic, Social and Cultural Rights (Portugal, Spain) allowing individual complaints of alleged violations of these rights to be heard by CESCR (Portugal).
- ³ Ratify a certain number of human rights treaties such as the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, the Optional Protocol to the Convention Against Torture (Palestine).
- ⁴ Proceed with the ratification of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights and the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Cyprus).
- ⁵ Consider (Brazil) ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Armenia, Brazil).
- ⁶ Ratify the remaining human rights instruments, especially the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Slovenia).
- ⁷ Consider the gradual ratification of pending international instruments (Chile).
- ⁸ Ratify the 1961 Convention on the Reduction of Statelessness (Slovakia).
- ⁹ Develop and implement a National Action Plan on Human Rights in order to have a systematic strategy for the promotion and protection of human rights (Spain).
- ¹⁰ Incorporate in the legislation the combat against discrimination based on gender identity or expression (Spain).
- ¹¹ Consider recognizing same sex couples (Brazil).
- ¹² Take supplementary measures to remedy the situation reported by the NGO ARSIS which would suggest that efforts to reinforce by legislation the fight against exploitation and sexual abuse have not eliminated the problem of child exploitation, in particular for “street children” (France).
- ¹³ Include information about Greece being a country of destination and transit for human trafficking in school curricula at secondary and university levels (Iraq).
- ¹⁴ Collect disaggregated data on the dissemination of hate speech against minorities (Egypt).
- ¹⁵ Consider opening of one of the historical Mosques in Thessaloniki, where significant number of Muslim population live (Turkey).
- ¹⁶ Be more flexible on the preconditions set for minaret construction (Turkey).
- ¹⁷ Execute the judgments of the European Court of Human Rights regarding the applications of the Turkish Union of Xanthi, the Cultural Association of Turkish Women of Rodopi and the Evros Minority Youth Association (Turkey).
- ¹⁸ On the one hand, constantly reflect on human rights when processing the request of asylum seekers and refugees, specifically focusing on their individual situation, their detention conditions and the eventual organization of their repatriation and, on the other hand, solicit the necessary support of the European Union in this regard (Senegal).
- ¹⁹ More than 90% of illegal migrants apprehended at the external borders of the EU are detected at the Greek frontiers, 2010 FRONTEX Risk Analysis. In 2010, the Greek authorities apprehended approximately 130,000 illegal migrants including a daily influx of some 100-150 illegal entrants at the Greece-Turkey border alone.
- ²⁰ Ensure equal rights for minority citizens such as the Roma, particularly the right to vote (Australia).