



# GREECE

## AMNESTY INTERNATIONAL SUBMISSION FOR THE UN UNIVERSAL PERIODIC REVIEW

25<sup>TH</sup> SESSION OF THE UPR WORKING GROUP, APRIL/MAY 2016

### FOLLOW UP TO THE PREVIOUS REVIEW

As recommended in its previous UPR, on 30 May 2012, Greece ratified the Convention on the Rights of Persons with Disabilities and its Additional Protocol.<sup>1</sup> After lengthy delays, the UN Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment was ratified on 17 December 2013 and the Greek Ombudsperson was designated as the National Preventative Mechanism, mandated to visit places of deprivation of liberty in order to prevent torture and other ill-treatment.<sup>2</sup> On 9 July 2015, Greece also ratified the International Convention for the Protection of All Persons from Enforced Disappearance.<sup>3</sup>

However, the Greek authorities have failed to implement many other recommendations made in the last review, including the establishment of an independent and effective police complaints mechanism;<sup>4</sup> respecting the principle of *non-refoulement*;<sup>5</sup> and ensuring that detention conditions for irregular migrants are in conformity with EU standards.<sup>6</sup>

### THE NATIONAL HUMAN RIGHTS FRAMEWORK

#### MEASURES TO COMBAT POLICE IMPUNITY

Despite repeated recommendations by the UN Committee against Torture, and Amnesty International, Greece is yet to bring Article 137 (A) of the Criminal Code defining torture in line with international standards. Article 137 (A) contains the term “systematic” within its definition of torture, which may be interpreted to exclude its application to single or more sporadic acts of torture. It also fails to explicitly include rape and other forms of sexual violence as a form of torture.<sup>7</sup>

<sup>1</sup> See <http://www.un.org/disabilities/convention/signature.shtml>; also Recommendation 83.1 (Austria, Ukraine).

<sup>2</sup> Law 4228/2004, Official Journal of the Government, A7/10.01.2014. Amnesty International expressed its regrets that the Law did not add the words “regular” to the phrase “visits to all areas of deprivation of liberty” in order to be more in line with Article 19 (a) of the OPCAT or the words “actual or possible” next to the phrase “all areas of deprivation of liberty” to reflect better the nuance contained in Article 4 (1) of the OPCAT; See also Recommendation 84.4 (Cyprus)

<sup>3</sup> See <http://www.ohchr.org/EN/HRBodies/CED/Pages/RecentSignaturesRatifications.aspx>. See Recommendation 83.8 (France). Greece has yet not signed the UN Convention on the Reduction of Statelessness of 1961 (Recommendation 84.8 (Slovakia)); the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights of 2013 (Recommendation 84.1 (Ukraine)); and the Optional Protocol to the Convention on the Rights of the Child on a communications procedure (see [https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg\\_no=V-4&chapter=5&lang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=V-4&chapter=5&lang=en); and <http://indicators.ohchr.org/>).

<sup>4</sup> *Greece: Migrants, refugees and asylum-seekers; conscientious objectors and excessive use of force by law enforcement officials*, Amnesty International submission to the UN Universal Periodic Review, May 2011; and recommendation 83.46 (United Kingdom).

<sup>5</sup> Amnesty International submission to the UN Universal Periodic Review, May 2011; and recommendation 83.72 (Canada).

<sup>6</sup> Amnesty International submission to the UN Universal Periodic Review, May 2011; and recommendation 83.69 (Canada).

<sup>7</sup> *Police Violence in Greece: Not Just Isolated Incidents*, AI Index: 25/005/2012, July 2012, pp. 26 – 27.

The authorities have failed to establish a truly independent and effective police complaints mechanism to investigate allegations of unlawful police conduct. The Office for Incidents of Arbitrary Conduct by Law Enforcement Officials, set up in 2011, lacks institutional independence since it operates within the Ministry of Citizens' Protection, which is responsible for the Greek Police.<sup>8</sup>

Amnesty International is also concerned that the mandate of the three-member Committee envisaged to operate within the Office for Incidents of Arbitrary Conduct is too limited.<sup>9</sup> The Committee can conduct disciplinary investigations only in cases of serious human rights violations and following permission by the competent Minister to carry out such investigation.

### **CONSCIENTIOUS OBJECTORS**

The Greek alternative civilian service remains punitive and discriminatory and incompatible with European and international human rights standards.<sup>10</sup> Those who conscientiously object to carrying out military service are required to perform an alternative civilian service of 15 months.<sup>11</sup> This period is 67% longer than the nine months' military service in the Land Forces.

### **RIGHTS OF LESBIAN, GAY, BISEXUAL, TRANSGENDER AND INTERSEX PERSONS**

In November 2013, the European Court of Human Rights found that the exclusion of same-sex couples from Law No. 3719/2008, which introduced a form of civil partnership, constituted a violation of Article 14 (non-discrimination) and Article 8 (right to family life) of the European Convention on Human Rights.<sup>12</sup> In July 2015, the Minister of Justice, Transparency and Human Rights presented a draft bill that includes same-sex partnerships in the civil partnerships agreement. At the time of this submission, the draft bill has yet to be voted on by Parliament.

Under Law 344/1976, transgender individuals who have not undergone gender reassignment surgery cannot have their gender reflected in their identity documents. Transgender persons who have undergone gender reassignment surgery treatment can obtain legal recognition of their gender identity only when they apply to a court and they are also required to submit a doctor's certificate stating that they have undergone the surgical procedure and a psychiatrist's letter confirming that they suffer from gender dysphoria.<sup>13</sup>

Medically unnecessary surgical procedures aimed at "normalising" genitalia of intersex infants and babies are not prohibited in Greece, in violation of the right of intersex persons to bodily autonomy.<sup>14</sup>

### **WOMENS' RIGHTS**

Greece has signed but not yet ratified the Council of Europe Convention on preventing and combatting violence against women and domestic violence.<sup>15</sup>

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<sup>8</sup> See Law 3938/2011. At the time of this submission, the Office has not yet started its operations (See *A Law unto Themselves: A Culture of Abuse and Impunity in the Greek Police*, AI Index: 25/005/2014, pp. 37 – 39)

<sup>9</sup> The Committee is tasked with evaluating whether each complaint or reported incident falls under the Office's competence. If the Committee decides that the incident falls under the Office's competence it either issues a decision to submit the case to the competent disciplinary body for investigation; or it proposes to the competent Minister to conduct the disciplinary investigation itself in cases of complaints concerning serious human rights violations.

<sup>10</sup> See Article 18 ICCPR and Article 9 ECHR; see also UN Human Rights Committee, General Comment 22, 1993, at <https://www1.umn.edu/humanrts/gencomm/hrcom22.htm>; and Amnesty International, Greece: Stop arbitrary prosecutions and arrests of conscientious objectors, Public Statement, 4 November 2013, AI Index: EUR 25/017/2013.

<sup>11</sup> Article 1 of Ministerial Decision No. Φ.421.4/1/280115, Official Gazette 7 February 2011.

<sup>12</sup> *Vallianatos and Others v. Greece*, GC Judgment of 7 November 2013 (Applications No. 29381/01 and 32684/09).

<sup>13</sup> According to the Union for Transgender Persons (SYD), transgender individuals who have not been able to undergo a gender reassignment surgery treatment are exposed to discrimination in all areas of life due to the lack of legal recognition of their gender identity. The legal recognition of gender identity can take up to a year and it is followed by many bureaucratic procedures. (Source: Marina Galanou, President of SYD, September 2015).

<sup>14</sup> Fundamental Rights Agency, *The fundamental rights situation of intersex people*, April 2015, at <http://fra.europa.eu/sites/default/files/fra-2015-focus-04-intersex.pdf>.

<sup>15</sup> See Amnesty International submission to the UN Universal Periodic Review, May 2011.

# THE HUMAN RIGHTS SITUATION ON THE GROUND

## 1. REFUGEES AND MIGRANTS

### 1.1. COLLECTIVE EXPULSIONS

Since 2012, the United Nations Refugee Agency (UNCHR), Amnesty International and other NGOs have documented numerous testimonies from refugees and migrants who report being pushed back to Turkey by Greek police in the Evros region and by Greek coastguards in the Aegean.<sup>16</sup> Out of 148 people interviewed by Amnesty between December 2012 and March 2014, 68 said that they had been pushed back at least once.<sup>17</sup>

In January 2015, the Greek authorities failed to adequately investigate the deaths of 11 Afghans, including eight children, who drowned on 20 January 2014 when their boat sank near the island of Farmakonisi. Survivors claim they were towed at great speed back towards Turkey by the Greek coastguard. However, the authorities have dropped the criminal investigation into the deaths.<sup>18</sup>

Despite the government's outright denial and more recently its condemnation of the practice of push-backs, Amnesty International's research during 2015 shows that collective expulsions continue at the Greek-Turkish land border, with several testimonies of instances of violent push backs. The same research also shows that push-backs continue at sea.<sup>19</sup>

### 1.2. ACCESS TO ASYLUM, IMMIGRATION DETENTION AND UNACCOMPANIED CHILDREN

In the past few years, Greece has taken steps to address serious flaws in its asylum and migration management system, including the creation of the First Reception Service, a new autonomous body mandated to screen and refer newly arrived vulnerable refugees to appropriate services such as hospitals and shelters, and the Asylum Service, a specialized body tasked with processing initial asylum applications.<sup>20</sup>

Despite these reforms, Amnesty International has documented a series of human rights violations, including systematic and prolonged detention of asylum-seekers and irregular migrants in conditions often amounting to inhuman or degrading treatment,<sup>21</sup> and continued impediments to accessing asylum.<sup>22</sup>

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<sup>16</sup> Pro-Asyl, *Pushed Back: Systematic human rights violations against refugees in the Aegean sea and at the Greek-Turkish land border*, November 2013, at [http://www.proasyl.de/en/press/press/news/pro\\_asyl\\_releases\\_new\\_report\\_pushed\\_back/](http://www.proasyl.de/en/press/press/news/pro_asyl_releases_new_report_pushed_back/); and UNHCR, *Greece as a country of Asylum*, December 2014, at <http://www.refworld.org/docid/54cb3af34.html>; Amnesty International has documented these unlawful and often dangerous practices in two briefings published in July 2013 and April 2014. *Fortress Europe: Human Rights Abuses in Greece's border with Turkey*, AI Index: 25/008/2013, July 2013; and *Greece: Frontier of Hope and Fear: Migrants and Refugees Pushed-Back at Europe's Border*, AI Index: EUR 25/004/2014, April 2014.

<sup>17</sup> See *Greece: Frontier of Hope and Fear*, note 16 above.

<sup>18</sup> *Greece: Farmakonisi migrant tragedy – one year on and still no justice for the victims*, AI Press release, 20 January 2014.

<sup>19</sup> *Greece: Humanitarian Crisis mounts as refugee support system pushed to breaking point*, AI Press release, 25 June 2015.

<sup>20</sup> These flaws have led to many rulings by the European Court of Human Rights relating to violations of refugees and migrants' rights. In the 2011 landmark judgement of *M.S.S. v. Belgium and Greece*, the European Court of Human Rights ruled that returning asylum-seekers to Greece for their claims of international protection to be processed in that country was a violation of the European Convention on Human Rights. Since then, the vast majority of EU Member States halted returns of asylum-seekers to Greece under the Dublin Regulation.

<sup>21</sup> In February 2015, the Greek authorities proceeded with several reforms in its immigration detention policy including ceasing the implementation of the widely criticized 2014 Ministerial Decision which allowed the indefinite detention of irregular migrants for the purposes of removal (see *New Government's Announcement of Ending the Policy of Indefinite Detention a Step in the Right Direction*, Amnesty International and Greek Council for Refugees Joint Public Statement, 11 February 2015, AI Index: EUR 25/001/2015).

On findings regarding systematic detention and substandard detention conditions see: *Refugees attacked and in hellish conditions on Kos*, 4 September 2015; *Systematic and prolonged detention of irregular migrants and asylum-seekers provokes riot*, 13 August 2013, AI Index: 25/014/2013; *Profound concerns over death of Afghan refugee*, 1 August 2013, AI Index Number: EUR 25/013/2013.

<sup>22</sup> On 25 May 2015, the Attika Regional Asylum Office announced that it would suspend asylum applications from persons waiting outside its building due to lack of staff. The Office would only register asylum applications through scheduled skype appointments. The Campaign for Access to Asylum, a coalition of national NGOs, underlined that skype appointments for the registration of asylum

Unaccompanied asylum-seeking and migrant children entering Greece often remain in detention in very poor conditions for several weeks until a place is found in a specialized shelter. However, the number of places in shelters for unaccompanied children does not meet demand. According to the National Centre for Social Solidarity, there are 375 places for unaccompanied children in 16 shelters around Greece.<sup>23</sup>

Amnesty International has encountered unaccompanied children held in police cells together with adults, either due to a lack of separate cells for children or because the individual had not been identified as a child by the Greek police.<sup>24</sup>

### 1.3. THE REFUGEE CRISIS

The heightened security on the Greece-Turkey land border since 2012, including the construction of a 10.5 km fence, has prompted more and more refugees and migrants to take the dangerous sea route. During the first nine months of 2015, more than 243 refugees died when the boats carrying them capsized in the Aegean.<sup>25</sup>

During 2015, an unprecedented number of refugees and migrants arrived on the Greek islands in the North Eastern Aegean and the Dodecanese. UNHCR estimates that 318,489 refugees arrived on the Greek islands between 1 January and 15 September 2015.<sup>26</sup>

The dramatic increase in refugees arriving on the Aegean islands is pushing an already faltering First Reception Service to breaking point.<sup>27</sup> A series of factors, including a failing European migration system, poor planning, the ineffective use of EU funds by the central authorities, and the deep financial crisis, has inflamed the humanitarian crisis on the islands. Local authorities on some of the islands have also been unwilling to allow permanent reception centres to be established for the registration of refugees which has contributed to worsening the reception conditions on the islands.<sup>28</sup>

During its 2015 fact-finding missions on the islands of Chios, Lesbos and Kos, Amnesty International documented squalid reception conditions. On Lesbos, the vast majority of refugees waiting to be registered by the police sleep in the informal camps of Kara Tepe and Moria. Neither camp has official management and recently police have stopped providing food to the refugees.

In Moria, the refugees, including many small children, have been staying underneath nets used by farmers in the olive groves, or enduring 35-degree heat or rain with no shelter. The conditions in Kara Tepe are also dire. During the organization's visit in August 2015, the camp was overcrowded with insufficient tents and very few showers and toilets.<sup>29</sup> On Kos, most refugees are sleeping in tents or out in the open in appalling conditions.<sup>30</sup>

Island activists, volunteers from other parts of Greece and abroad, NGOs such as *Médecins Sans Frontières* and the UNHCR try to cover the enormous gaps in humanitarian provision for the refugees.

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applications only cover a minimal number of the third country nationals who want to apply for asylum and the demands for access have increased as a result of the high number of refugee arrivals on the islands (see Campaign for Access to Asylum, *No more impediments to access to asylum: Immediate prioritization of the asylum-seekers' protection*, Press release, 1 June 2015, available at <http://asylum-campaign.blogspot.gr>).

<sup>23</sup> In the past few years, the number of requests for referral to special shelters for unaccompanied children has increased significantly. During 2014, the number of referrals received by EEKA (National Centre for Social Solidarity) concerning the placement of unaccompanied minors to special shelters was double to those received in 2013 and triple to the ones received in 2012. The average time of a child waiting for a placement to special shelter while in detention was 37 days (See EEKA Annual Report 2014; e-mail correspondence with EEKA, 4 June 2015).

<sup>24</sup> *Refugees attacked and in hellish conditions on Kos*, 4 September 2015, note 21 above.

<sup>25</sup> IOM statistics between 1 January and 22 September 2015 - see Missing Migrants Project, at <http://missingmigrants.iom.int/>.

<sup>26</sup> The number is seven times more in comparison to the whole of 2014 (43,500) (see <http://www.unhcr.gr/Arrivals>).

<sup>27</sup> See *Humanitarian crisis mounts as refugee system pushed to breaking point*, 25 June 2015.

<sup>28</sup> For the stance of the local authorities on Kos see *Refugees attacked and in hellish conditions on Kos*, 4 September 2015, note 21 above.

<sup>29</sup> *Chaos and squalid conditions face record numbers of refugees on Lesbos*, 24 August 2015, at <https://www.amnesty.org/en/latest/news/2015/08/chaos-and-squalid-conditions-face-record-number-of-refugees-on-lesvos/>.

<sup>30</sup> *Refugees attacked and in hellish conditions on Kos*, 4 September 2015, note 21 above.

Amnesty International also documented conditions at the immigration detention centres in Chios and Lesbos and at the police station in Kos which amounted to inhuman and degrading treatment, including overcrowding, lack of hygiene, overflowed and broken toilets, filthy mattresses, broken beds and lack of clothes and hygiene products.

The vast majority of new arrivals have no access to First Reception Services tasked with identifying members of vulnerable groups. There is a First Reception Mobile Unit on Samos and a First Reception Centre on Lesbos, which began operations only in September 2015.

On 3 September 2015, Greek Ministers announced further steps in their ongoing response to the refugee crisis on the Aegean islands. The measures announced included: deploying further staff and machinery for the swift documentation and identification of refugees and their intention to take immediate advantage of the available EU funding.

Amnesty International recognizes that Greece is one of the main points of entry into Europe for refugees and migrants, and as such it faces a disproportionate responsibility in meeting humanitarian needs. This situation is compounded by the failure of EU leaders to agree safe and legal routes for refugees into Europe, and to fully share responsibility for refugees and asylum-seekers within the EU.<sup>31</sup>

## **2. EXCESSIVE USE OF FORCE AND ILL-TREATMENT BY LAW ENFORCEMENT OFFICIALS<sup>32</sup>**

During the period under review, Amnesty International has continued to receive numerous allegations of excessive use of force by law enforcement officials, including the use of "less lethal"<sup>33</sup> weapons such as stunt grenades and chemical irritants against peaceful or largely peaceful demonstrators in a manner that violates international standards.<sup>34</sup>

In June 2011, journalist Manolis Kypreos lost his hearing while covering an anti-austerity demonstration in Athens when riot police threw a stun grenade directly at him. As a result, Manolis Kypreos faces a number of health problems, including post-traumatic stress disorder, complications from cochlear implant surgery, and loss of balance.<sup>35</sup>

Amnesty International also continues to document numerous incidents of torture and other ill-treatment during arrest and detention, including against refugees and migrants in immigration detention or in the process of being pushed back to Turkey.<sup>36</sup>

In October 2012, 15 anti-fascist protesters reported that they had been tortured and ill-treated during their arrest and detention at the Attika General Police Directorate on 30 September 2012. The protesters described repeated beatings with batons, threats, deprivation of sleep and sexist comments directed at female protesters.<sup>37</sup>

## **3. HATE CRIME**

In the past four years, there has been an increase in hate-motivated crimes against refugees, migrants, Roma and members of the lesbian, gay, bisexual, transgender and intersex (LGBTI) community, some of which were fatal.<sup>38</sup>

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<sup>31</sup> *EU Summit: Continuation of a failed strategy to tackle refugee crisis*, Press Release, 24 September 2015, at <http://www.amnesty.eu/en/news/press-releases/all/eu-summit-continuation-of-a-failed-strategy-to-tackle-refugee-crisis-0933/#.Vgpe3fIViko>.

<sup>32</sup> *Police Violence in Greece*, note 7 above; and *A Law unto Themselves*, note 8 above.

<sup>33</sup> Weapons such as these are sometimes described as "non-lethal", but almost any device of this kind can potentially cause serious injury or death, so they are more accurately described as "less-lethal", the term nowadays widely used in law enforcement for any device apart from those specifically designed to kill.

<sup>34</sup> In several incidents, Amnesty International's findings on the use of excessive force were supported by audio-visual material and extensive witness testimonies. For example, video footage, photographs, press reports and witness testimonies point to the repeated use of excessive force by police in the demonstrations organized against austerity measures on 15, 28 and 29 June 2011, including the excessive use of chemical irritants against largely peaceful demonstrators; see also *Greece: Unlawful police violence during protests must end and perpetrators held accountable*, Public Statement of 21 November 2014 AI Index: EUR 25/009/2014.

<sup>35</sup> Four and half years after Manolis Kypreos' injury, and despite the authorities having evidence, including pictures, of the riot police unit involved, the perpetrators are yet to be identified and charged and the disciplinary investigation into the case has been closed.

<sup>36</sup> *Police Violence in Greece*, note 7 above; and *A Law unto Themselves*, note 8 above.

<sup>37</sup> A criminal investigation into the incident has started into the incident.

Between January 2012 and December 2014, the Racist Violence Recording Network (RVRN) documented 398 incidents of racist violence in Greece.<sup>39</sup> While the majority of victims are refugees and migrants, in 2014 RVRN observed widely diffused violence against LGBTI persons.<sup>40</sup>

Often the perpetrators of hate crimes are believed to belong to extremists groups. In some cases the victims or witnesses to attacks have reported that they recognized individuals associated with the far-right party Golden Dawn among the perpetrators.<sup>41</sup>

Amnesty International and the RVRN have documented an inadequate response by police officers to hate crimes, including failure to intervene at the scene of the hate crime despite being present, and failure to conduct prompt, thorough and impartial investigations into hate crimes when they are reported by victims.<sup>42</sup>

It took the fatal stabbing of anti-fascist singer Pavlos Fyssas by Giorgos Roupakias, a Golden Dawn member, for two nationwide investigations to be opened. The investigations looked into hate crimes and other offences attributed to Golden Dawn leaders and supporters and links between police and Golden Dawn.<sup>43</sup> In 90 of the 398 incidents recorded by RVRN between 2012 and 2014, police and racist violence were interlinked.

While the authorities have taken several legislative steps, including the creation of Special Police Units to tackle rising violence motivated by hatred, racist motives are frequently not identified during the investigation and prosecutors seldom present such evidence in court.<sup>44</sup>

An illustrative case is that of Paraskevi Kokoni, and her nephew Costas, who were beaten by a group of local men in a violent attack in the town of Etoliko, western Greece, in October 2012. The attack took place during a series of vicious

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<sup>38</sup> On 17 January 2013, 27-year old S. Luqman, a Pakistani national, was fatally stabbed in Petralona, Athens by two Greek nationals. In April 2014, the Mixed Jury Court in Athens sentenced two men to life imprisonment and took into account the racist motive as an aggravating circumstance when imposing the sentence (see *Impunity, excessive force and links to extremist Golden Dawn blight Greek police*, 3 April 2014, at <https://www.amnesty.org/en/latest/news/2014/04/impunity-excessive-force-and-links-extremist-golden-dawn-blight-greek-police/>).

<sup>39</sup> The Network was set up at the initiative of the National Commission for Human Rights and UNCHR with the participation of 34 NGOs and agencies including Amnesty International for the purpose of registering racially motivated crimes and making a series of proposals for their prevention in view of the absence of an official and credible mechanism for recording such attacks. For Annual Reports see, <https://www.unhcr.gr/1againstracism/en/category/racist-violence-recording-network>.

<sup>40</sup> In August 2014, Costas, a Greek national, and his partner, who had been granted refugee status, were brutally beaten by a group of men in a homophobic and racist attack in central Athens. A criminal investigation is said to have started into the incident, but the perpetrators of the attack have not yet been arrested (see *5 brave ways activists are fighting for LGBTI rights worldwide*, by Azmina Dhrodia, 14 May 2015).

<sup>41</sup> In 2012 and 2013, RVRN recorded 166 incidents where victims reported organized extreme-right groups as the perpetrators. For Annual Reports see, <https://www.unhcr.gr/1againstracism/en/category/racist-violence-recording-network>; see also *A Law unto Themselves*, note 8 above, pp. 30-32.

<sup>42</sup> *A Law unto Themselves*, note 8 above, pp. 23-26.

<sup>43</sup> The trial of 69 members of Golden Dawn, which began in April 2015, included its leader, MPs and supporters. The defendants have been charged with running and participating in a criminal organization and a range of other offences, including hate crimes and the murder of Pavlos Fyssas. At the time of this submission, the trial is still on-going.

<sup>44</sup> The Special Police Offices and Units were established by Presidential Decree 132/2012. Other legislative measures included: 1. A Joint Ministerial Decision (JMD 30651/2014) providing for the suspension of administrative detention and deportation orders issued against victims and witnesses of hate crimes who were irregular migrants and for the granting of special residence permits to cover the time required for the prosecution and conviction of perpetrators. However, RVRN observed that the protection of victims and witnesses of hate crimes could be further strengthened if the provisions of the JMD 39551/2014 are integrated in the Immigration and Social Inclusion Code.

2. The introduction of Article 81 (A) in the GCC in 2014 which sets a general aggravating circumstance for hate crimes and stricter penalties. This change is expected to impose the prosecution of hate crimes on the basis of the specific punishable act in the GCC in conjunction with the general aggravating circumstance of Article 81 (A). The repealed Article 79 (3) of the GCC establishing that a hate motive associated with a crime is an aggravated circumstance was rarely applied by police and prosecutors in the investigation phases (see *A Law Unto Themselves*, note 8 above, at pp. 20-30 and RVRN Annual Report 2014, p. 17).

racist raids on the Roma settlement in Etoliko town between August 2012 and January 2013. In November 2014, a court in the town of Messolonghi sentenced three men to eight months' imprisonment with suspension for causing serious bodily harm to Paraskevi Kokoni and Costas. It remains unclear whether the court took the hate motive into account when considering the case.<sup>45</sup>

#### 4. CONSCIENTIOUS OBJECTORS

Persons refusing to serve in both the military service and the civilian service, the latter of which is of a length which is punitive and discriminatory, face repeated arrests, fines of 6,000 euros, prosecutions in the military justice system for insubordination, and sentences of up to two years' imprisonment.

Amnesty International is aware of at least 16 convictions of conscientious objectors for insubordination at first instance since 2011, and three convictions in the Military Courts of Appeal. Amnesty International has documented six arrests of five conscientious objectors in 2013<sup>46</sup> and six arrests of five conscientious objectors in 2014.<sup>47</sup>

#### 5. DISCRIMINATORY TREATMENT OF ROMA CHILDREN IN EDUCATION

Roma children continue to face segregation or exclusion from education in many parts of Greece, including the towns of Aspropirgos, Spata, Lamia, Sofades and Karditsa.<sup>48</sup>

In April 2015, Amnesty International and the Greek Helsinki Monitor visited the 4<sup>th</sup> primary school in Sofades attended only by Roma pupils. The two NGOs found that Roma children of primary school age in Sofades remain segregated in education despite the 2013 ruling of the European Court of Human Rights in the case of *Lavida and others v. Greece*.<sup>49</sup> The school building was particularly dilapidated and teachers told the two NGOs of frequent power cuts that disrupted their work.<sup>50</sup>

## RECOMMENDATIONS FOR ACTION BY THE STATE UNDER REVIEW

Amnesty International calls on the government of Greece to:

### REFUGEES AND MIGRANTS

- Immediately halt the practice of push-backs in the Aegean and on the land border with Turkey;

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<sup>45</sup> Court must consider hate motive behind attack on Romani woman, 3 November 2014, AI press release.

<sup>46</sup> Greece: Stop arbitrary prosecutions and arrests of conscientious objectors, 4 October 2013, Public Statement, AI Index: 25/017/2013.

<sup>47</sup> Two of the conscientious objectors arrested between 2013 and 2014, have been arrested twice (see Amnesty International Annual Report 2014/2015). Amnesty International frequently receives complaints about the procedures for granting conscientious objector status. During the first nine months of 2013, seven out of eight applicants interviewed by an advisory Special Committee, have had their cases subsequently rejected by the Minister or the Deputy Minister of Defence (Official statistics, provided by the Hellenic National Defence General Staff to Amnesty International - Greek Section, Letter of 9 September 2013; and *Greece stop arbitrary prosecutions*, note 45 above).

<sup>48</sup> For further information on the exclusion and segregation of Roma children from education see amongst others: Greek Helsinki Monitor and SOKADRE, 2015 OSCE Human Dimension Implementation Meeting (Warsaw), Statement on Working Session 16 on Roma and Sinti issues, 1 October 2015, Continuing discrimination and segregation of Roma despite ECtHR and HRC rulings, 29 September 2015, at <http://www.osce.org/odihr/187891?download=true>. also *UN expert on racism urges Greece to reinforce the fight against hate speech and incitement to violence*, Statement 12 May 2015 including paragraph on the situation of Roma community in Greece at <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=15946&LangID=E>; European Commission against Racism and Intolerance, Report on Greece (5<sup>th</sup> Monitoring Cycle), adopted on 10 December 2014 and published 24 February 2015, CRI(2015)1, at <https://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-V-2015-001-ENG.pdf>.

<sup>49</sup> In its ruling on *Lavida and Others v Greece*, the European Court of Human Rights found that "the continuing nature of this situation and the State's refusal to take anti-segregation measures implied discrimination and a breach of the right to education". The case was brought by the Greek Helsinki Monitor (GHM), on behalf of 23 Romani school children from the town of Sofades who were attending the 4<sup>th</sup> Roma-only primary school (*Lavida and Others v. Greece* (GC), Judgment of 30 May 2013 (Application 7973/2010)).

<sup>50</sup> *Segregation, bullying and fear: The stunted education of Roma children in Europe*, 8 April 2015, AI feature.

- Prohibit the detention of children in law and end it in practice, and increase shelter capacity for asylum-seekers and unaccompanied children;
- Take urgent measures to improve the very poor reception and detention conditions on the Greek islands including by:
  - Establishing sufficient First Reception Centres and Mobile Units on the Greek islands, including Chios, Leros and Kos, to meet the humanitarian needs of refugees and migrants;
  - Ensuring that the Authority tasked with the management of EU funds, such as the Asylum, Migration and Integration Fund, commences operations as swiftly as possible.

#### *EXCESSIVE USE OF FORCE AND ILL-TREATMENT BY LAW ENFORCEMENT OFFICIALS*

- Bring the definition of torture provided in Article 137 (A) (2) of the Greek Criminal Code in line with the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment;
- Establish a truly effective and independent police complaints mechanism to investigate allegations of misconduct.

#### *HATE CRIME*

- Ensure that all crimes committed with a discriminatory motive are fully and effectively investigated, including by uncovering the discriminatory motive;
- Ensure that any alleged hate motive is duly taken into account in the prosecution and trials of perpetrators of hate crimes.

#### *CONSCIENTIOUS OBJECTORS*

- Reduce the duration of alternative service so that is not punitive or discriminatory;
- Cease the practice of arresting, prosecuting, fining or imprisoning conscientious objectors for refusing conscription into the military or for refusing to carry out alternative service which is punitive or discriminatory.

#### *ROMA CHILDREN DISCRIMINATED IN EDUCATION*

- Take measures to end discrimination, including segregation, against Roma children in schools.

#### *LGBTI RIGHTS*

- Ensure the legal recognition of relationships of all gender combinations;
- Ensure recognition of gender identity in law and allow individuals to change their legal name and gender, including the gender markers on official documents issued by the Greek state, through quick, accessible and transparent procedures and in accordance with the individual's sense of gender identity;
- Abolish any medical requirement, including surgeries and mental health diagnosis, for the purpose of obtaining legal gender recognition;
- Ensure that the rights of intersex individuals to bodily integrity, dignity, private life and to the highest attainable standard of health, are upheld through the prohibition of any unnecessary surgeries on the sex characteristics of a person without their consent.

#### *WOMENS' RIGHTS*

- Ratify the Council of Europe Convention on preventing and combatting violence against women and domestic violence.