

Council of Europe contribution for the 25th UPR session regarding Greece

Prevention of torture

On 16 October 2014, the Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) published the report on its visit to Greece, from 4 to 16 April 2013, together with the Greek Government's response (both documents are attached below).

The report describes the totally unacceptable conditions in which *irregular migrants* are held in police establishments all over the country for prolonged periods. For example, in one station, two or more women were held for months in a dark, mouldy and dilapidated basement cell of a mere 5m² with no access to outdoor exercise or hygiene products. The CPT called upon the Greek authorities to take urgent steps to transfer detained irregular migrants to specially designed centres and to no longer hold them in police stations. The conditions of detention at the Port Authority of Igoumenitsa are also criticised.

As regards pre-departure centres, the CPT recognises them as a step in the right direction towards creating an immigration detention estate but it is critical of the security approach within these centres which treats detainees in many respects as criminal suspects. The report recommends that in addition to improving the conditions in these centres much more be done to provide a programme of activities given that many of these persons spend up to 18 months in these centres.

The CPT is particularly critical of the treatment of unaccompanied minors. The reports states that the Amygadelza facility in Athens for unaccompanied minors was run like a police detention facility offering neither appropriate material conditions nor a supporting environment. It recommends that it no longer be used for the detention of minors. More generally, the report states that the interests of unaccompanied minors should be better protected.

As regards *prison establishments*, the report notes that the measures taken to tackle overcrowding have not had a lasting effect. The report notes the cramped conditions of detention in the prisons visited as most of them were operating at between 200 and 300% of their capacity; in some establishments, prisoners had to share beds or sleep on mattresses on the floor. Further, there was a serious lack of hygiene in all the prisons visited. The report also highlights the lack of health-care staff in prisons and the makes several recommendations to improve medical confidentiality, medical screening upon admission and drug treatment in prisons.

The report cites the lack of staff in the prisons as impeding efforts to maintain effective control, as stronger groups of prisoners exercise their powers unchecked over other inmates. For example, at Korydallos Men's Prison, a wing of some 400 inmates was staffed by only two prison officers during the day. The insufficient numbers of prison officers made it nearly impossible to provide appropriate activities for prisoners in any of the establishments visited. Overcrowding and lack of staff were primary reasons permitting the bullying and intimidation of juveniles at the Avlona Special Detention Facility to continue unchecked. The report notes that the CPT's delegation had requested at the end of the visit that the juveniles be transferred to a safe environment, which the Greek authorities had subsequently arranged.

The report states that a great number of detailed coherent and consistent allegations of physical ill-treatment of persons by *police* officers were received. The allegations concerned mainly kicks, slaps, punches and blows with batons and other objects upon or after apprehension. Several cases are cited in the report. Further, the CPT notes the flaws in the current system of investigations into allegations of ill-treatment notably as regards the lack of promptness and thoroughness in carrying out investigations. It recommends that the mandate of the Office on Arbitrary Incidents be reviewed in order to ensure its independence and to strengthen its

investigative and oversight capabilities. Recommendations are also made regarding the recruitment and training of police officers and on improving the application of safeguards against ill-treatment such as access to a lawyer, access to a doctor and improving the conduct of interrogations.

A complete list of the CPT's recommendations, comments and requests for information is contained in Appendix I to the report.¹



Greece Report
2013.pdf



Greece Response
2013.pdf

Council of Europe Commissioner for Human Rights

On 16 April 2013, the Commissioner for Human Rights, Nils Muižnieks released the report on his visit to Greece from 28 January to 1 February 2013.²

The Commissioner's report focuses on following major human rights issues:

- Intolerance and hate crime in Greece – the need for urgent action³
- Combating the impunity of perpetrators of hate crime; victims' access to justice and protection⁴
- The role of law enforcement authorities in combating racist and other hate crimes⁵
- Asylum and immigration law and practice – certain major shortcomings that need to be addressed⁶.

On each of these issues the Commissioner provides specific conclusions and recommendations.⁷

Upon releasing his report, Nils Muižnieks said that "democracy in Greece is seriously threatened by the upsurge of hate crime and a weak state response. Sustained and concerted action, notably by the police and the courts, is necessary to protect the rule of law and human rights in the country" The steep increase in hate crimes in Greece, primarily targeting migrants, is an issue of grave concern. "A number of the attacks have been linked to members or supporters, including parliamentarians, of the neo-Nazi political party "Golden Dawn". Furthermore, rhetoric stigmatising migrants is widely used in Greek politics. The authorities must firmly condemn all instances of hate speech and hate crime and lead by example in public, migration-related debates."

All available means must be used to effectively sanction individuals and organisations which incite or promote intolerance and hate. "Domestic and international anti-racism law has been used inadequately, or not at all, to this end. This is particularly true with regard to hate-crime related activities of political organisations, including parties like "Golden Dawn", on which it is possible to impose effective penalties, and even prohibition if necessary. The authorities must give effect to binding international standards and domestic anti-racism law and accelerate the adoption of the bill concerning racism and xenophobia through criminal law, pending since 2011. Systematic, on-going training for the police, coast guard, prosecutors and judges is also needed."

Commissioner Muižnieks further stresses that it is necessary to urgently address the chronic shortcomings of Greece's justice system concerning in particular excessively lengthy proceedings, lack of an effective remedy and costly court fees. "Human and material resources

¹ pp. 78-92.

² A summary of the report appears on pp. 1-2.

³ paras. 10-36.

⁴ paras. 45-93.

⁵ paras. 103-128.

⁶ paras. 138-148.

⁷ paras. 37-44, 94-102, 129-137 and 149-154.

available to prosecutors and judges should be enhanced. Victims of hate crimes should be exempt from criminal complaint fees and should receive adequate legal aid and assistance."

Another issue of deep concern is the persistent reports of ill-treatment, including torture, committed by law enforcement officials notably against migrants and Roma. "The Greek police's disregard for binding human rights standards has received international criticism. The authorities must eliminate the institutional culture of impunity and address effectively all suspicions of collusion of a part of the police with "Golden Dawn", which have dealt an extremely damaging blow to public confidence not only in the police, but in the Greek state as a whole. An independent, effective police complaints mechanism is long overdue."

The Commissioner recommends that the 70 newly established anti-racist police units be adequately resourced and their staff trained in human rights and anti-discrimination. Moreover, the authorities are called on to expand the mandate of these units in order to include all forms of hate crime.

While welcoming the steps taken by the authorities aimed at rebuilding the national asylum system, the Commissioner urges Greece to remedy certain serious, long-standing gaps which adversely affect the human rights of migrants, including asylum seekers and refugees, and make them easy targets of racist violence. "Greece has to build a humane and efficient asylum system, address scarce reception capacity, the particularly dysfunctional system for lodging asylum applications in the Athens aliens police directorate, and the policy of systematic and prolonged detention of irregular migrants, often in substandard conditions. Law and practice concerning unaccompanied migrant minors also need to be urgently overhauled and substantially reinforced."

The Commissioner's report on his 2013 visit to Greece and the Greek authorities comments on the report appear below.



Report April
2013.pdf



Comments.pdf

As a follow-up to his 2013 report, the Commissioner published, on 14 January 2014, his letter sent on 5 December 2013 to the Greek Ministers of Public Order and Citizen Protection, Mr Nikolaos Dendias, and of Shipping and the Aegean, Mr Miltiadis Varvitsiotis. In the letter the Commissioner said that "the large number of reported collective expulsions by Greece of migrants, including a large number of Syrians fleeing war violence, and allegations of ill-treatment of migrants by members of the coast guard and of the border police raise serious human rights concerns." He called on the Greek authorities to carry out effective investigations into all recorded incidents and take all necessary measures in order to end and prevent recurrence of such practices".

The Commissioner noted the recent adoption of legislative measures aimed at protecting migrants', including minors', access to health and social care in initial reception centres. However, he underscored that collective expulsions of foreign nationals violate international and European human rights law and raise very serious issues of compatibility with the fundamental principle of *non-refoulement*, enshrined in the UN Refugee Convention, by which Greece is bound.

"In addition to being incompatible with international human rights and refugee law, collective expulsions of migrants are also ineffective, given that people facing desperate situations cannot really be prevented from migrating. To uphold its human rights obligations, Greece has to radically change its migration policy and practice. This is all the more necessary now that Greece has taken on additional responsibilities by holding the Presidency of the Council of the European Union." He therefore welcomed as a first positive step the Greek authorities' ongoing

investigations on push-backs and alleged ill-treatment of migrants, as well as their commitment to share with me the outcome of these investigations.

The Commissioner's letter to the Greek Ministers of Public Order and Citizen Protection and of Shipping and the Aegean, and the replies by the Ministers are attached below. Also attached below is the Commissioner's reply to the letter from the Greek Minister of Shipping and the Aegean on the lives lost at sea during the Farmakonisi tragic incident.



Letter Dec2013.pdf



Replies January
2014.pdf



Reply Feb 2014.pdf

Fight against racism and intolerance

On 24 February 2015, the European Commission against Racism and Intolerance (ECRI) published its fifth report on Greece.⁸ ECRI's Chair, Mr Christian Ahlund, said that "despite steps forward, such as the enactment of a new anti-racism law, problems persist, including worrying levels of xenophobia and violence against refugees, asylum seekers and migrants and the ongoing segregation of Roma children in some schools, in spite of the European Court of Human Rights' judgements confirming the need to end this practice".

The report welcomes the introduction in late 2012 of new special police units tasked to tackle racist violence; the appointment of public prosecutors for the prosecution of acts of racist violence in October 2013; and the enactment, in 2014, of a new anti-racism law, which amended existing provisions in the criminal legislation.

However, public and political discourse is widely permeated by hate speech against migrants, refugees and asylum seekers, who often become targets of racist violence. The report also finds that the activities of the Golden Dawn party increased xenophobia and racism, creating a climate of racial hatred and fear that went unchecked for too long.

The report contains findings and recommendations regarding the following issues:

- Legislation against racism and racial discrimination⁹
- Hate speech¹⁰
- Racist and homo/transphobic violence¹¹
- Integration policies¹²
- Interim follow-up recommendations of the fourth cycle¹³
- Other topics specific to Greece: irregular migrants, policies to combat discrimination and intolerance against LGBT persons and political extremism¹⁴

ECRI has made a number of recommendations to the authorities. The following two require prompt implementation and to be reviewed in two years' time:

- create a task force composed of the authorities, including the Ombudsman and the National Human Rights Commission, as well as NGOs, that will develop a comprehensive national strategy to combat racism and intolerance;
- consider the question of racist and/or homo-/transphobic motivations from the outset in the investigation and judicial proceeding of cases of violent incidents, and offer training to

⁸ A summary of the report can be found on pp. 9-11.

⁹ paras. 1-33.

¹⁰ paras. 34-57.

¹¹ paras. 58-85.

¹² paras. 86-126.

¹³ para. 127.

¹⁴ paras. 128-153.

the judiciary on the application of the new Article 81A of the Criminal Code, which renders more severe the lowest sentences for hate motivated offences and stipulates that they cannot be suspended.

Subsequently, on 22 June 2012, ECRI adopted conclusions on the implementation of these recommendations for which priority follow-up was requested.

ECRI's report on Greece and the conclusions on the implementation of the recommendations subject to interim follow-up are attached below.



GRC-CbC-V-2015-00
1-ENG.pdf



GRC-IFU-IV-2012-04
7-ENG.pdf

Protection of minorities

Framework Convention for the Protection of National Minorities

Greece has signed but not yet ratified the Framework Convention for the Protection of National Minorities. For this reason, it is not concerned by the monitoring procedure undertaken by the Council of Europe Advisory Committee on this Convention.

European Charter for Regional or Minority Languages

Greece has not yet signed or ratified the European Charter for Regional or Minority Languages. Thus, the country is not covered by the monitoring carried out by the Committee of Independent Experts under the Charter.

Action against trafficking in human beings

On 5 April 2014 Greece ratified the Council of Europe Convention on Action against Trafficking in Human Beings which entered into force on 1 August 2014. The Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) has not yet carried out a visit to Greece.

Preventing and combating violence against women and domestic violence

Greece has signed but not yet ratified the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence. For this reason, it is not yet concerned by the monitoring procedure under this Convention.

Fighting corruption

Third Evaluation Round

On 7 August 2014, the Group of States against Corruption (GRECO) published its Second Interim Compliance Report on Greece within the Third Evaluation Round covering two distinct themes, namely "incriminations" and "transparency of party funding". GRECO concluded that Greece had made only little progress with the implementation of the recommendations found not to have been implemented or partly implemented in the Third Round Compliance Report. Out of the twenty-six recommendations pending, only three have been implemented satisfactorily, six have been partly implemented and

seventeen have not been implemented. Despite some positive signals concerning the implementation of recommendations under Theme I, GRECO concludes that the current level of compliance with the recommendations clearly remains “globally unsatisfactory”.¹⁵

The Second Interim Compliance Report on the Third Evaluation Round is attached below.



GrecoRC3(2014)8_Interim_Second_Greece

Fourth Evaluation Round

The Greek authorities have not yet authorised publication of the evaluation report on Greece covering the theme “prevention of corruption in respect of members of parliament, judges and prosecutors”.

Execution of judgments and decisions of the European Court of Human Rights

At 31 December 2014, there were 558 cases against Greece pending before the Committee of Ministers for supervision of their execution. 56 of these cases were a “leading case”, i.e. raising a new structural/general problem and requiring the adoption of general measures, the other cases being “repetitive cases” concerning issues already raised before the European Court of Human Rights. The main cases or groups of cases revealing such structural problems are listed below:

- ❖ Non-compliance with court decisions (expropriations) - *Beka-Kouloucheri v. Greece*, Application No. 38878/03, Judgment final on 06/10/2006
- ❖ Refusal to register or dissolution of associations – *Bekir-Ousta and Others v. Greece*, Application No. 35151/05, judgment final on 11/01/2008
- ❖ Asylum seekers - examination of asylum requests, detention conditions – *M.S.S. v. Greece*, Application No. 30696/09, Judgment final on 21/01/2011
- ❖ Ill-treatment by the police authorities – *Makaratzis v. Greece*, Application No. 50385/99, Judgment final on 20/12/2004
- ❖ Overcrowding in prison – *Nisiotis v. Greece*, Application No. 34704/08, Judgment final on 20/06/2011
- ❖ Discrimination against Roma children – *Sampani and Others v. Greece*, Application No. 59608/09, Judgment final on 29/04/2013
- ❖ Poor conditions in pre-trial detention facilities – *Siasos and Others v. Greece*, Application No. 30303/07, Judgment final on 04/09/2009
- ❖ Discrimination based on sex – *Vallianatos and Mylonas v. Greece*, Application No. 29381/09, Judgment final on 07/11/2013

The document attached presents a brief description of the violations and the latest detailed decisions taken by the Committee of Ministers and the responses given thereto by the respondent state.

¹⁵ Conclusions in Section III of the report, paras. 67 and 71.



Execution judgments
Greece.doc

Social and economic rights

Greece ratified the European Social Charter on 06/06/1984 and accepted 67 of the Charter's 72 paragraphs.

It has signed the Revised European Social Charter on 03/05/1996 but has not yet ratified it. It has ratified the Additional Protocol to the European Social Charter on 18/06/1998.

It accepted the Additional Protocol providing for a system of collective complaints on 18/06/1998, but has not yet made a declaration enabling national NGOs to submit collective complaints.

Cases of non-compliance

Thematic Group 1 "Employment, training and equal opportunities"

► Article 1§1 - Right to work - Policy of full employment

It has not been established that employment policy efforts have been adequate in combatting unemployment and promoting job creation.

(Conclusions XX-1(2012))

► Article 1§2 – Right to work – Freely undertaken work (non-discrimination, prohibition of forced labour, other aspects)

1. Access to civil service posts and to "related activities" is closed to non-EU and non-EEA nationals;

2. During the reference period the length of alternative service usually double that of compulsory military service, constituted a disproportionate limitation on the worker's right to earn a living in an occupation freely entered upon.

(Conclusions XX-1(2012))

► Article 10§1 - Right to vocational training - Promotion of technical and vocational training; access to higher technical and university education

Equal treatment of nationals of States Parties as to access to vocational training is not guaranteed because their access is subjected to the availability of places.

(Conclusions XX-1(2012))

► Article 15§2 - Right of physically or mentally disabled persons to vocational training, rehabilitation and social resettlement - Employment of persons with disabilities

It has not been established that people with disability are guaranteed effective equal access to employment.

(Conclusions XX-1(2012))

► Article 18§1 - Right to engage in a gainful occupation in the territory of other States Parties - Applying existing regulations in a spirit of liberality

It has not been established that the existing regulations are applied in a spirit of liberality.

(Conclusions XX-1(2012))

► Article 18§2 - Right to engage in a gainful occupation in the territory of other States Parties - Simplifying existing formalities and reducing dues and taxes

1. Formalities concerning the issuance of work and residence permits have not been simplified during the reference period;

2. The fees charged for issuing long term residence permits are excessive

(Conclusions XX-1(2012))

Thematic Group 2 "Health, social security and social protection"

► Article 3§1 – Right to safe and healthy working conditions - Safety and health regulations
Self-employed workers are not sufficiently covered by the occupational health and safety regulations.

(Conclusions XX-2 (2013))

► Article 3§2 – Right to safe and healthy working conditions – Enforcement of safety and health regulations

The prevalence of occupational diseases was not adequately monitored.

(Conclusions XX-2 (2013))

► Article 11§2 - Right to protection of health – provision of advisory and educational facilities for the promotion of health and the encouragement of individual responsibility in matters of health.

It has not been established that there are adequate measures for counselling and screening for the population at large;

It has not been established there are adequate measures for counselling and screening for pregnant women and adolescents.

(Conclusions XX-2 (2013))

► Article 11§3 – Right to protection of health – Prevention of diseases and accidents

It has not been established that sufficient measures have been adopted to improve the right to a healthy environment for persons living in lignite mining areas.

(Conclusions XX-2 (2013))

► Article 12§1 – Right to social security – Existence of a social security system

The minimum unemployment benefit for beneficiaries without dependents is manifestly inadequate.

(Conclusions XX-2 (2013))

► Article 12§3 – Right to social security – Necessity to raise progressively the system of social security to a higher level

The situation is not in conformity on the following grounds: a) the restrictive evolution of the social security system; b) deterioration of the social security scheme in relation to minors engaged in special apprenticeship contracts.

(Conclusions XX-2 (2013))

► Article 12§4 of the Charter – Right to social security - Social security of persons moving between states

Equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;

Equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties;

The right to maintenance of accruing rights is not guaranteed to nationals of all other States Parties.

(Conclusions XX-2 (2013))

► Article 13§1 of the Charter – Right to social and medical assistance – Adequate assistance for every person in need

There is no legally established general assistance scheme that would ensure that everyone in need has an enforceable right to social assistance.

(Conclusions XX-2 (2013))

► Article 13§4 of the Charter – Right to social and medical assistance – Specific emergency assistance for non-residents It cannot be established that foreign migrants in an irregular situation received emergency social assistance as needed.
(Conclusions XX-2 (2013))

► Article 4 of the Additional Protocol – Right of elderly persons to social protection
There is no legislation protecting elderly persons against discrimination grounds of age outside the employment field.
(Conclusions XX-2 (2013))

Thematic Group 3 “Labour rights”

► Article 2§2 – Right to just conditions of work – Public holidays with pay
In the private sector, work performed on a public holiday is not adequately compensated.
(Conclusions XX-3 (2014))

► Article 2§4 – Right to just conditions of work – Reduced working hours or additional holidays in dangerous or unhealthy occupations
Workers exposed to residual risks in the mining industry do not all benefit from adequate compensatory measures.
(Conclusions XX-3 (2014))

► Article 2§5 – Right to just conditions of work – Weekly rest period
Domestic workers are not covered by the legislation guaranteeing a weekly rest period.
(Conclusions XX-3 (2014))

► Article 4§1 - Right to a fair remuneration - Decent remuneration
- The minimum wage applicable to contractual staff in the civil service is not sufficient to ensure a decent standard of living;
- The minimum wage applicable to private sector workers is not sufficient to ensure a decent standard of living;
- The provisions of section 74, paragraph 8 of Act No. 3863/2010 and of section 1, paragraph 1 of Council of Ministers Act No. 6/2012 provide for the payment of a minimum wage to all workers under the age of 25 which is below the poverty level;
- The provisions of section 74, paragraph 8 of Act No. 3863/2010 and of section 1, paragraph 1 of Council of Ministers Act No. 6/2012 discriminate against workers under the age of 25.
(Conclusions XX-3 (2014))

► Article 4§4 – Right to a fair remuneration – Reasonable notice of termination of employment
- The severance pay granted to manual workers is inadequate;
- There are no periods of notice or severance pay in case of termination of employment during the probationary period and the violation noted by the decision on the merits of Collective Complaint No. 65/2011 has not been remedied.
(Conclusions XX-3 (2014))

Thematic Group 4 “Children, families, migrants”

► Article 7§1 – Right of children and young persons to protection - Prohibition of employment under the age of 15
It has not been established that the legal framework regulating the minimum age of admission to employment in Greece is effectively applied
(Conclusions XIX-4 (2011))

► Article 7§3 – Right of children and young persons to protection - Prohibition of employment of young persons subject to compulsory education

It has not been established that protection against work which would deprive children of the full benefit of compulsory education is safeguarded in practice
(Conclusions XIX-4 (2011))

▶ Article 8§1 – Right of employed women to protection – Maternity leave

Periods of unemployment are not taken into account when calculating periods of employment needed to qualify for maternity leave.

(Conclusions XIX-4 (2011))

▶ Article 16 – Right of the family to social, legal and economic protection

1. Housing conditions of Roma families are not adequate;
2. Roma families still not have sufficient legal protection;
3. The level of family benefits is manifestly inadequate.

(Conclusions XIX-4 (2011))

▶ Articles 19§5 (and 19§10) – Right of migrant workers and their families to protection and assistance – Equality regarding taxes and contributions - Equal treatment for the self-employed
Not all migrant workers from States Parties to the 1961 Charter and the Charter benefit from the tax exemption for the acquisition of a first family house.

(Conclusions XIX-4 (2011))

▶ Articles 19§6 (and 19§10) – Right of migrant workers and their families to protection and assistance – Family reunion - Equal treatment for the self-employed

1. Children of migrant workers between eighteen and twenty-one years of age cannot benefit, either by law or in practice, from the right to family reunion;
2. The requirement that a migrant worker has lived for a period of two years in Greece before being able to exercise family reunion is excessive.

(Conclusions XIX-4 (2011))

▶ Articles 19§8 (and 19§10) – Right of migrant workers and their families to protection and assistance – Guarantees concerning deportation - Equal treatment for the self-employed

A migrant worker may be considered as a threat to public order and therefore expelled simply where he/she has been prosecuted for a crime punishable by at least three months imprisonment.

(Conclusions XIX-4 (2011))

Please find attached below Conclusions XIX-4(2011), XX-1(2012), XX-2(2013) and XX-3(2014) regarding Greece as well as the country fact sheet.



GreeceXIX4_en.pdf



GreeceXX1_en.pdf



GreeceXX2en.pdf



GreeceXX3en.pdf



Greece_en.pdf