

# State Violence in Greece

## An Alternative Report to the United Nations Committee Against Torture

47th Session



**SOKADRE**

Coordinated Organizations and  
Communities for Roma Human  
Rights in Greece



Athens and Geneva, 20<sup>th</sup> October 2011

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

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

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

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

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## **Summary and recommendations**

In this report The World Organisation Against Torture (OMCT), Greek Helsinki Monitor (GHM), Minority Rights Group – Greece (MRG-G) and the Coordinated Organizations and Communities for Roma Human Rights in Greece (SOKADRE) wish to express their views on the 5<sup>th</sup> and 6<sup>th</sup> periodic reports of Greece to the Committee Against Torture. The report provides information on the list of issues CAT presented to the state party prior to the presentation of the states report.

Main issues of concern include the persistent failure of the Greek authorities to improve the situation of detainees, in police stations and in overcrowded prisons. The conditions of persons in custody has been addressed by relevant international bodies over a period of years, and has culminated with the CPT public statement of 15<sup>th</sup> March 2011. Greece's position as the main gate for irregular entry into the European Union presents the country with a huge challenge to provide access to the asylum procedure. OMCT - GHM - MRG-G – SOKADRE are particularly concerned about the quality of information regarding asylum provided to irregular migrants, the lack of capacity of the Greek police to lodge applications, and the prolonged detention of asylum-seekers over those who do not lodge an asylum claim, effectively making the undignified detention conditions a deterrent to apply for asylum. Unaccompanied minors within this situation remain a very vulnerable group and their needs are not attended to. Many end up as homeless and living in the streets, and Greece has failed to put in place measures to protect their rights. Neither has there been any progress in establishing the fate of the missing children from Aghia Varvara.

When it comes to accountability for the crime of torture and ill-treatment, OMCT - GHM - MRG-G – SOKADRE would like to draw CAT's attention to the small number of final convictions, and the lack of sanctions in the cases where there are convictions. Furthermore, Greece has not implemented previous recommendations by CAT to prevent torture and ill-treatment, and the number of recent rulings from international bodies, as well as cases pending before domestic courts bears testimony that these practices persist. Another concern is the disproportionate use of violence used by law enforcement in encounters with the Roma population, especially in cases of forced evictions. Finally, OMCT - GHM - MRG-G – SOKADRE are concerned by the impunity in cases of trafficking in human beings, and the access to justice of the victims of these crimes.

### **Recommendations:**

#### **Conditions of detention**

- Greece should urgently take necessary action to improve the conditions of detention as recommended by the Committee for the Prevention of Torture, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and to implement numerous judgments by the European Court of Human Rights.
- Immediate measures should be taken to address the situation of overcrowding in detention facilities, improve sanitary conditions, and ensure that minors and women are separated from men while in detention.
- Safeguards against torture and other cruel, inhuman or degrading treatment or punishment must be made accessible to detainees: access to a lawyer, medical treatment and communication with the outside world.
- Allegations of torture and ill-treatment of detainees should be efficiently investigated.
- An independent body of inspection of detention facilities should be established, and its reports should be made public.

### **Asylum**

- Promptly implement the new law on asylum (3907/26-1-2011). Meanwhile in the transition period, ensure that asylum procedures are accessible to all that enter the country, and provide adequate information on the right to asylum translated to relevant languages, as well as competent interpretation services.
- Review the practice of indiscriminate detention of migrants that enter the country irregularly.
- Dedicate necessary resources to clear out the backlog of 47,000 pending cases of appeal of decisions on asylum.

### **Unaccompanied alien minors**

- Action should be taken to fill the gap in implementation of existing formal procedures for unaccompanied minors entering the country. Each case should be reported to the Prosecuting Authorities, and the statistics should be made public.
- Specific measures should be put in place to prevent homelessness and to provide social support and education to this group.

### **Prevention and investigation of allegations of torture and ill-treatment**

- Implement the ECtHR judgments regarding law enforcement officers' use of violence, and carry out sanctions against the individuals responsible for the incriminated actions.
- Efforts should be made to make all police officers aware of the implications of the ECtHR judgements on police actions, and they should lead to an effective change in the procedures of arrest and interrogation.
- Introduce an independent complaints mechanism as recommended by the CPT, the UN Special Rapporteur on torture and ill-treatment, and the Greek National Commission for Human Rights.
- Available data regarding persons tried and convicted for the crime of torture, attempt or complicity in torture, should be produced.
- Audio or videotaping during interrogation should be introduced in order to prevent torture – and ill-treatment.
- The state should be requested to provide information on the investigation of complaints of use of force by coastguardsmen and soldiers at the borders in addition to police officers.

### **Redress and compensation**

- More efficient procedure should be put in place to give victims an effective access to compensation, especially regarding the time used by domestic courts to award damages.

### **Racially motivated ill-treatment**

- Effective measures should be put in place to address racially motivated ill-treatment in Greece, considering the many recent ECtHR judgments on police violence against Roma individuals. Implementation of these and other international bodies judgments, decisions or views in these types of cases should be ensured.
- Put in place measures to increase recruitment from the minorities to law enforcement agencies.
- Reduce occurrences of ill-treatment against the Roma population in cases of forced evictions.

### **Combating trafficking in human beings**

- The state's cooperation with NGOs to combat trafficking should be open to all relevant civil society organisations, not only those selected by the state.

- Make available comprehensive detailed information on prosecution and convictions of perpetrators of trafficking, including on the sentence and possible suspension.
- Information should be made available on the concrete actions of the Athens public prosecutors on human trafficking.
- Greece should also be asked to account for the effective legal and social assistance provided to the victims of trafficking.

#### **Violence against women and sexual violence**

- Include provisions regarding gender based breaches of the Convention, including sexual violence in the criminal code, and monitor such crimes.
- The Law on combating domestic violence should be changed in order to address violence against women. Its Article 7 should be brought in line with international standards using the term “without consent of the victim”. The law should also improve the protection of witnesses.
- Greece should provide information on prosecution and convictions under this legislation.
- Courts and competent authorities should be made aware of the provisions in the law, as well as the arbitration procedure.

#### **Rights of street children**

- Adopt a comprehensive policy to combat violation of the rights of street children.
- In the case of the children disappeared from “Aghia Varvara”\_CAT is urged to ask Greece to provide specific and detailed information on the fate of these children and on the state of the judicial investigation.

#### **Other**

- Proceed to ratify OPCAT (signed 3<sup>rd</sup> March 2011).

#### **Note:**

This report follows **CAT** List of issues for the combined fifth and sixth periodic reports of Greece, and the complete list of issues is reprinted below in ***bold italics*** letters. **OMCT - GHM - MRG-G – SOKADRE Contribution**, where applicable, follows the corresponding issue.

## Introduction

In the introduction to Greece's report to CAT submitted on 30 June 2010,<sup>1</sup> it is mentioned that "the draft report was sent ... for opinion to the National Committee [sic] for Human Rights and adequately some of its recommendations have been taken into consideration." CAT would have benefited by an English version of the **National Commission for Human Rights (NCHR)**'s related Observations adopted on 18 February 2010, so as to inter alia judge how few of them were taken into consideration.<sup>2</sup> **OMCT - GHM - MRG-G – SOKADRE** will incorporate herein several of NCHR's observations, starting with its introductory comment:

*"The NCHR reiterates its observations that has applied to other Greek reports before international mechanisms that monitor the country's implementation of its contractual obligations: i.e. that the citation of legislation and the juxtaposition of structures introduced to protect all cases of individual rights must be combined with a sincere description of the challenges encountered in implementing these legislative provisions in practice, so as to enable an accurate depiction of reality as well as the quest for solutions to the deficiencies observed either in the protection framework or in those entities and structures connected to that framework. This absence of correlation between the existing framework and the reality-effect of its implementation is the constant refrain in the conclusions of every international mechanism and body monitoring the country's contractual obligations."*

### **OMCT - GHM - MRG-G – SOKADRE observations on Greece's answers to the List of issues prior to the submission of the combined fifth and sixth periodic reports of GREECE**

#### **Article 2**

*1. With reference to the previous conclusions and recommendations of the Committee, please provide detailed information on steps taken by the State party to ensure effective implementation in practice of adopted legislation, including the Prison Code (Law 2776/99), Law on Compensation (2001), Law on Combating Trafficking in Human Beings (Law 3064/2002), Law on Arms Possession and Use of Firearms (Law 3169/2003), and Law on Legal Aid (Law 3226/2004) (CAT/C/CR/33/2, para. 6 (b)).*

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The State lists several legal and policy initiatives but provides no concrete information as to their impact on the effective implementation in practice of the adopted legislation. For example, there is no information of the concrete actions of the two Public Prosecutors appointed in Athens in order to deal with the phenomenon of trafficking in human beings (paragraph 10). **OMCT - GHM - MRG-G – SOKADRE** are aware of the existence of these Prosecutors. On the other hand they are also aware that these prosecutors do not have even a comprehensive overview of the related criminal briefs which are assigned to other prosecutors in whose work these two special prosecutors have no competence to intervene. Their competence is effectively limited to issuing decisions recognizing victims of trafficking with which the latter become entitled to receive the benefits provided by law. CAT may also consider that GHM, although representing many trafficking victims and having worked extensively on this issue, has not been included in the Memorandum of Cooperation with the NGOs (paragraph 11). As to the law on legal aid (paragraph 14) the State does not provide any data on its implementation. Greek NGOs are aware that it has rarely been implemented: in most cases free

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<sup>1</sup> [http://www2.ohchr.org/english/bodies/cat/docs/AdvanceVersions/CAT-C-GRC-5\\_6.pdf](http://www2.ohchr.org/english/bodies/cat/docs/AdvanceVersions/CAT-C-GRC-5_6.pdf)

<sup>2</sup> [http://www.nchr.gr/media/gnwmateuseis\\_eda/ellinikes\\_ektheseis\\_enwpion\\_dietthwn\\_or/ohe/cat\\_final\\_2010.doc](http://www.nchr.gr/media/gnwmateuseis_eda/ellinikes_ektheseis_enwpion_dietthwn_or/ohe/cat_final_2010.doc)

legal aid effectively available comes from NGOs who operate similar programs and/or have lawyers available to offer their services free of charge. At the same time, on 7 April 2011, the Athens Bar Association has complained to the Minister of Justice that the lawyers who availed themselves in the framework of the free legal aid program had remained unpaid for over one year, which undermined the program.<sup>3</sup>

***2. Please provide information on the steps taken by the State party to further guarantee the rights of detained persons from the very outset of detention, including prompt access to defence counsel, medical examination, and contact with family members, and any restrictions that may be imposed on these rights.***<sup>4</sup>

### **OMCT - GHM - MRG-G – SOKADRE Contribution**

OMCT - GHM - MRG-G – SOKADRE refer CAT to the exceptional public statement CPT felt compelled to issue on 15 March 2011 following the persistent failure of Greek authorities to improve the situation of detainees for 18 years. Its opening paragraph is telling:<sup>5</sup>

*“Since 1993, the CPT has carried out ten visits to Greece. The Committee has consistently striven to pursue a constructive dialogue with the Greek authorities, repeatedly putting forward recommendations about the treatment and conditions of detention of persons deprived of their liberty. However, the persistent lack of action to improve the situation in the light of the Committee’s recommendations, as regards the detention of irregular migrants and the state of the prison system, has left the Committee with no other choice but to resort to the exceptional measure of issuing this public statement.”*

On 4 March 2011, the **UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak**, submitted his report on his mission to Greece in October 2010. His summary on detention conditions is consistent with CPT findings:<sup>6</sup>

*“In all but one facility under the authority of the Ministry of Citizen’s Protection (police stations, border guard stations and migration detention centres) he found foreign nationals detained in overcrowded, dirty cells, with inadequate sanitary facilities, no or insufficient access to outdoor exercise and inadequate medical attention. He found such conditions to amount to inhuman and degrading treatment, in violation of Articles 7 and 10 ICCPR. He is particularly concerned about the situation of unaccompanied minors who are often not properly registered and systematically detained, often together with adults. Greek prisons are severely overcrowded, some having to host up to three times more prisoners than their capacity. The pre-trial rate is very high and pre-trial detainees are not separated from those convicted in violation of Article 10 ICCPR.”*

There has been no substantial improvement of the situations since March 2011.

Finally, CAT’s attention is drawn to the judgment issued by the **ECtHR** on 11 October 2011 in the *Case of Taggatidis and others v. Greece* finding Greece in violation of Article 3 ECHR and awarding 472,500 euros to the 47 applicants, inmates of the Ioannina prison:<sup>7</sup>

<sup>3</sup><http://www.dsa.gr/print.phtml?index.phtml?url=news&categ=%CD%DD%E1-%C1%ED%E1%EA%EF%E9%ED%FE%F3%E5%E9%F2&id=2542108&search=&searchkeywords=>

<sup>4</sup> Report to the Government of Greece on the visit to Greece by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), (CPT/Inf (2006) 41), paras. 31-34.

<sup>5</sup> <http://www.cpt.coe.int/documents/grc/2011-10-inf-eng.htm>

<sup>6</sup> <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.52.Add.4.pdf>

*“La Cour constate que les éléments précités décrivent des conditions de détention qui se trouvaient manifestement en dessous des normes prescrites par les textes internationaux en la matière et, notamment, des exigences de l’article 3 de la Convention. Elle note que les requérants ont eu à subir pareilles conditions pendant environ un an et demi, durée moyenne des différentes peines qu’ils avaient à purger.”*

Previously, the ECtHR had found similar violations of Article 3 in eleven judgments against Greece: on 21 June 2011 in the *Case of Efraimidi v. Greece* for her detention conditions in the Thermi Border Police Station;<sup>8</sup> on 7 June 2011 in the *Case of R.U. v. Greece* for his detention conditions in the Soufli Detention Center and the Athens (Petrou Ralli) Detention Center;<sup>9</sup> on 5 April 2011 in the *Case of Rahimi v. Greece* for his detention conditions in the Pagani (Lesbos) Detention Center;<sup>10</sup> on 10 February 2011 in the *Case of Nisiotis v. Greece* for his detention conditions in the Ioannina prison;<sup>11</sup> on 21 January 2011 (by the Grand Chamber) in the *Case of M.S.S. v. Belgium and Greece* for his detention conditions in the Athens Airport Detention Center;<sup>12</sup> on 26 November 2009 in the *Case of Tabesh v. Greece* for his detention conditions in the Thessaloniki Aliens Police Sub-Directorate;<sup>13</sup> on 29 October 2009 in the *Case of Shuvaev v. Greece* for his detention conditions in the Thessaloniki Police Directorate;<sup>14</sup> on 2 July 2009 in the *Case of Vafiadis v. Greece* for his detention conditions in the Thessaloniki Police Directorate;<sup>15</sup> on 11 June 2009 in the *Case of S.D. v. Greece* for his detention conditions in the Soufli Detention Center and the Athens (Petrou Ralli) Detention Center;<sup>16</sup> on 4 June 2009 in the *Case of Siasios and others v. Greece* for the detention conditions of the five applicants in the Katerini Police Station;<sup>17</sup> and on 27 July 2006 in the *Case of Kaja v. Greece* for his detention conditions in the Larisa Police Station;<sup>18</sup>

**3. Please inform the Committee on whether legislation prohibiting torture and cruel, inhuman and degrading treatment contains specific provisions regarding gender-based breaches of the Convention, including sexual violence. Please also describe all, if any, effective measures taken to monitor the occurrence of and to prevent such acts, and please provide data, disaggregated by**

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<sup>7</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=893338&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>8</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=886748&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>9</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=886099&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>10</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=884032&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>11</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=881327&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>12</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=880339&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>13</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=858725&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>14</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=857277&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>15</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=851951&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>16</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=851149&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>17</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=850859&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>18</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=807200&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>



*the sex, age and ethnicity of the victims, and information on the investigation, prosecution and punishment of perpetrators.*<sup>19</sup>

### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The State provides the full translation of Article 137A of the Criminal Code (CC) claiming that it meets the requirement for specific provisions regarding gender-based breaches of the Convention, including sexual violence. Yet, there is no gender-based provision; there is simply an inclusion of a serious breach of sexual dignity as one of the forms of breach of human dignity punished. This is a gender-neutral provision. Moreover, the state provides no information on the monitoring of such crimes because of lack thereof.

#### **Article 3**

*4. With reference to the previous conclusions and recommendations of the Committee, please inform the Committee of any measures taken by the State party, including legislative measures, to ensure access to a fair and impartial individual asylum determination procedure (para. 6 (c)). Please elaborate on steps taken by the State party to ensure that its competent authorities strictly observe article 3 of the Convention.*

*5. Please inform the Committee of the specific safeguards against non-refoulement that are in place and the practice of the State party in this respect. Please provide examples of cases where the authorities did not proceed with extradition, return or expulsion because of fear that the persons might be tortured. Does the State party have a list of “safe third countries” for removal? If so, how is it created and maintained?*

*6. The Committee has received allegations which express concern at the continued use of ill-treatment against irregular migrants and asylum-seekers by police officers and in detention centres as well as allegations of impunity accompanying these acts. What has the State party done to address these allegations?<sup>20</sup>*

*7. Please inform the Committee if necessary instructions to respect asylum principles have been given to border guards and the military, in order to ensure that they are fully aware of the rights of persons in need of international protection.*

*8. Please provide disaggregated data, by age, sex and nationality, on:*

*a) the number of asylum requests received and the number of those that have been granted asylum or humanitarian status in 2005, 2006 and 2007, including on the basis of having been victims of torture;*

*b) the number of undocumented migrants arrested in 2005, 2006 and 2007;*

*c) the number of persons expelled or deported indicating if any of these were rejected asylum-seekers.*

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<sup>19</sup> See the report of the Special Rapporteur on violence against women, its causes and consequences, Ms. Radhika Coomaraswamy: International, regional and national developments in the area of violence against women, 1994-2003 (E/CN.4/2003/75/Add.1), para. 1661.

<sup>20</sup> See the concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.170), paras. 68-69; and CPT/Inf (2006) 41, para. 16.

## **OMCT - GHM - MRG-G – SOKADRE Contribution**

A new Law 3907/26-1-2011 establishes an independent Asylum Service under the Ministry of Citizen Protection. It will be staffed with civil personnel, while asylum procedures will be completely removed from the competence of the police. The new Asylum Service and the Regional Asylum Offices are expected to be operational by early 2012. Meanwhile, the transitional period, established by Presidential Decree 114/22-11-2010, is still in force. It foresees that police remains responsible for examining asylum applications at first instance, with certain improvements in procedural guarantees. More importantly, it provides for the reestablishment of Appeal Committees, which have the authority to issue final decisions in all cases they examine: the backlog of 47,000 pending cases at second instance, but also the new appeals against negative decisions at first instance. The clearance of the backlog constitutes an urgent need in order to end the delays and insecurity felt by thousands of asylum seekers for many years now.

However, access for those who wish to file an asylum claim to the Attica Aliens Police Directorate (Petrou Ralli) is extremely limited (20-30 applications are lodged every week). As a result, a good number of asylum seekers are not able to have their application registered. Moreover, those who submit asylum applications while they are in administrative detention, on account of irregular entry in the country, are detained in particularly problematic conditions for a longer time than those who do not submit such applications. Furthermore, in some police directorates, it has been a standard practice to detain those who turn out voluntarily to lodge asylum applications for the first time. Both practices have a deterrent effect and seriously undermine the right to unhindered access to the asylum procedure. On the other hand, despite the great improvement in the quality of the procedure at second instance, the work of the Appeal Committees which deal with a backlog of about 47,000 pending cases, has been delayed due to a series of organizational and technical problems. There have been frequent postponements or interruptions due to the applicants' non-attendance, while decisions that have already been reached have not yet been communicated to the interested parties. Many regional police directorates still face serious problems due to the shortage of interpreters (which are bound to worsen with the termination of the relevant programs funded by the EU). As a result, there has been a delay in examining asylum applications or even in some cases interviews have been problematic with interpreters who do not meet the necessary requirements.

Greece remains the main gate for aliens (both refugees and migrants) entering the European Union irregularly. In 2010, 90% of all arrests for irregular entry in the EU were made in Greece (75% in 2009, 50% in 2008). In 2010, 132,524 persons were arrested for "illegal entry or stay" in Greece (126,145 in 2009, 146,337 in 2008). The Greek-Albanian (33,979) and the Greek-Turkish borders (47,088 land borders and 6,204 maritime borders) remain the main points of entry. The Greek-Turkish borders are particularly important since they constitute a crossing point for refugees fleeing war-torn countries or countries where human rights are systemically violated. Since 2010, the land Greek-Turkish border (Evros) region has been witnessing a humanitarian crisis. Its main characteristics have been the overcrowded detention centers, the deplorable hygiene and living conditions, the violation of detainees' basic human rights and the weakness of local authorities to cope with the management of a long series of problems caused by the large number of new entrants. Detention conditions significantly fall short of the minimum standards laid down by international and national law, they violate human dignity, and they contribute to the creation of tensions and humanitarian crises. Especially in Evros, both at the organized Fylakio detention centre and the detention facilities of border police stations, there is overcrowding, dire hygiene conditions, lack of access to yards, lack of communication with the outside world, absence of interpretation services, lack of information about rights and obligations while mixed detention (minors and women being held in the same cell with adult men) is a frequent phenomenon.

Migrants and refugees entering the country irregularly are automatically and indiscriminately detained at the borders in view of their deportation, which is rarely feasible. This policy is legally controversial and has been proven inefficient. Without screening structures and mechanisms, new entrants are eventually released with the order to leave the country, but end up in Athens or at exit points (Patra, Igoumenitsa). The provision of basic services (medical, humanitarian, social care) is scarce. Interpretation, legal counseling and information to new entrants concerning their status, their rights and obligations are insufficient or non-existent. The referral of unaccompanied children to reception centers and of other vulnerable groups to support structures is rarely effective, while the identification of those who need international protection is usually problematic. Under these circumstances, the possible return to Turkey on the basis of the Readmission Protocol poses serious risks to persons who may be entitled to international protection but whose profile and needs were not assessed. The lack of systematic information about the right to asylum and the relevant procedures coupled with the prolonged detention of those aliens claiming asylum at entry points, has a deterrent effect on a large number of refugees seeking international protection. As a result, many of them do not submit an asylum application. Those who finally attempt it, and as long as their applications are unobstructedly registered, face serious delays in the examination of their applications due to the absence of interpreters for various basic languages and the inadequate staffing of regional police directorates, which are further tasked with other duties.

Centers of accommodation and social support operate under the responsibility of the Ministry of Health and Social Solidarity and in most cases under the management of non-governmental organizations. They are mainly financed by the European Refugee Fund and aim at covering the needs of destitute asylum seekers and unaccompanied children. Currently their capacity stands at 750-800 places – for both categories – and is largely inferior to the real needs. The quality of services provided is greatly affected by the huge delays in funding that challenge even the very existence of the organizations. The large majority of unaccompanied alien children remains homeless and subject to dangers related to networks of human trafficking, labor exploitation, prostitution and drugs. The protection of unaccompanied children remains extremely problematic given, among other things, the limited number of special reception centers and the serious gaps in support services they provide. The limited possibilities for recreational activities, education, Greek language courses and vocational training that exist at the few accommodation units, often urge the children to abandon those places. In parallel, the institution of guardianship that would allow a closer monitoring of every child as well as the necessary representation and defense of his/her rights, is inefficient and the “child’s best interest” is rendered meaningless.<sup>21</sup>

Concerning the extensive and consistent allegations of torture and ill-treatment against irregular migrants and asylum seekers, the 4 March 2011 **UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment** report on his mission to Greece in October 2010 provides a comprehensive description of the situation:<sup>22</sup>

*“The Special Rapporteur received numerous allegations of ill-treatment by law enforcement officers, whether upon arrest, or later in detention; in police stations, Criminal Investigation Departments (CID), border guard stations and migration detention centres. He was reported and noticed a generally rough attitude of the officers towards detainees, and a sentiment of anxiety from the detainees. In most places, he found the atmosphere very agitated and tense. In police stations and CID, the Special Rapporteur received numerous consistent allegations of ill-treatment by law enforcement officials, and many detainees said they have been*

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<sup>21</sup> See “The situation of refugees in Greece - UNHCR observations and proposals” dated 16 June 2011 ([http://www.unhcr.gr/fileadmin/Greece/WorldRefugeeDay2010/WRD2011/2011\\_PROTECTION\\_POSITIONS\\_EN.doc](http://www.unhcr.gr/fileadmin/Greece/WorldRefugeeDay2010/WRD2011/2011_PROTECTION_POSITIONS_EN.doc))

<sup>22</sup> <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.52.Add.4.pdf>

*physically or verbally abused by police officers either upon arrest or later at the police station. In a few cases, this ill-treatment amounted to torture. However, the allegations were rarely corroborated by forensic medical evidence. This may be explained by the non-functioning system of police investigation and complaint mechanism. The Special Rapporteur also witnessed a high degree of fear of reprisals expressed by detainees in the hands of the police, sometimes directly, or implied in their behaviour, which, combined with the dysfunctional judicial system, may perpetuate a system of impunity for police violence.”*

Finally, the CAT is requested to take note of the fact that the data provided by the State do not include information on successful asylum seekers who are victims of torture, as well as information on the number of rejected asylum seekers expelled or deported.

#### **Article 4**

***9. Please provide data with respect to persons tried and convicted, including the punishments received, for the crime of torture, attempted torture and complicity or participation in torture. Please clarify for the Committee which sections of the Greek Penal Code were violated in such cases.***

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The State claims that “there are no available data;” yet in its answer to question 17 data are provided on the prosecution of law enforcement officers accused of use of violence including ill-treatment. It is very easy to sort out the crimes these officers were charged with of convicted for and report on how many concerned Article 137A. OMCT - GHM - MRG-G – SOKADRE request that CAT reads into that refusal a confirmation of the fact that there are no more than a handful of final convictions, and these to relatively small sentences, of law enforcement officers accused of torture.

OMCT - GHM - MRG-G – SOKADRE are aware of only one final conviction which is indicative of the effective (near-) impunity. It concerns the case of torture of a homosexual Turkish national refugee, Necati Zontul, who was raped and targeted for abuse by the Greek Coast Guard in Hania on 5 and 6 June 2001. Five coastguardsmen were convicted at first instance by the Naval Court in Hania for the violation of Article 137A, on 15 October 2004, to suspended sentences of 12-30 months for offense to sexual dignity, abetting or abuse. On 20 June 2006, the Appeals Martial Court of Piraeus reduced the sentence of the first two coastguardsmen to 6 months and acquitted the other three. Both trials were held without the presence of the victim and civil claimant in the case. His application to the ECtHR through the NGO REDRESS and with a third-party intervention by the NGO Center for Justice and Accountability was communicated to Greece on 1 March 2010 for possible substantive and procedural violation of Article 3; judgment is pending. Most importantly, according to available information the coastguardsmen convicted have remained in the Coast Guard.<sup>23</sup>

OMCT - GHM - MRG-G – SOKADRE are also aware of the case of ill-treatment of a sixteen-year old Rom, Theodore Stefanou, on 5 August 2001 in the Argostoli Cephalonia Police Station. On 12 April 2006, the Three-Member Misdemeanors Court of Cephalonia convicted a police officer for having ill-treated Theodore Stefanou and sentenced him to three years imprisonment. It is the only other conviction based on Article 147A PC that OMCT - GHM - MRG-G – SOKADRE are aware of. Yet, on 15 April 2008 the Court of Appeal of Patras acquitted the police officer who had never left the police force. On 22 April 2010, the ECtHR found Greece in violation of Article 3 ECHR in

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<sup>23</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=864160&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>; <http://cja.org/article.php?id=945>; and <http://www.redress.org/case-docket/necati-zontul-v-greece->

its substantive part and of Article 6.1 ECHR for excessive length (six years, six months and seven days at two levels of jurisdiction).<sup>24</sup>

#### Article 5

*10. Please indicate whether the State party has rejected, for any reason, any request for extradition by a third State for an individual suspected of having committed an offence of torture, and thus engaging its own prosecution as a result. What is the status and outcome of such proceedings? Which sections of the Greek Penal Code were violated in such cases?*

#### Article 10

*11. With reference to the conclusions and recommendations of the Committee, please provide updated information on measures taken by the State party to ensure that all personnel involved in the custody, detention, interrogation and treatment of detainees are trained with regard to the prohibition of torture and ill-treatment (para. 6 (d)).<sup>25</sup> Does the training include the development of the necessary skills to recognize the sequelae of torture and sensitization with respect to contact with particularly vulnerable persons in situations of risk, including the Roma, undocumented migrants and asylum seekers and victims of trafficking? Please specify who conducts and who undergoes the training, and if the Convention is made known in the course of such programmes. How and by whom are such training and instruction programmes monitored and evaluated?*

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The CPT's multiple observations in their 17 November 2010 report following their 17 to 29 September 2009 visit to Greece regarding the lack of adequate training of law enforcement officers and police guards as well as medical personnel working in prisons<sup>26</sup> remain pertinent to this day as there has been no effort to effectively improve the training: this is evident also by the fact that none of the regulations or programs mentioned by the State in their report submitted on 30 June 2010 dates after the 2009 CPT visit.

#### Article 11

*12. With reference to the previous conclusions and recommendations of the Committee, please provide updated information, including statistics, disaggregated by sex, age and ethnicity, on the number of imprisoned persons and the occupancy rate for the period 2004-2007 (para. 6 (j)).*

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

On the basis of the data available on the website of the Ministry of Justice,<sup>27</sup> on 1 January 2010 there were 11,364 detainees (+109 since 2007) of whom 6,307 were foreigners (+935) and 5,057 Greeks (-826); of them 554 were women (-53) and 510 juveniles (+76).

<sup>24</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=866810&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>25</sup> See also CPT/Inf (2006) 41, para. 17.

<sup>26</sup> <http://www.cpt.coe.int/documents/grc/2010-33-inf-eng.htm>

<sup>27</sup><http://www.ministryofjustice.gr/site/el/%CE%A3%CE%A9%CE%A6%CE%A1%CE%9F%CE%9D%CE%99%CE%A3%CE%A4%CE%99%CE%9A%CE%9Fbr%CE%A3%CE%A5%CE%A3%CE%A4%CE%97%CE%9C%CE%91%CE%A3%CF%84%CE%B1%CF%84%CE%B9%CF%83%CF%84%CE%B9%CE%BA%CE%AC%CF%83%>

**13. Please describe the procedures in place for ensuring compliance with article 11 of the Convention and provide information on any new rules, instructions, methods and practices or arrangements for custody that may have been introduced. Please also indicate the frequency with which these are reviewed. Please describe steps taken by the State party to ensure effective and independent supervision of detention facilities.<sup>28</sup> Has the State party considered modalities for increasing cooperation with non-governmental organizations, including visits to detention centres, as stated by the State party delegation and referred to in the previous conclusions of the Committee (para. 4 (d))?**

**OMCT - GHM - MRG-G – SOKADRE Contribution**

The Body of Inspection and Control of the Detention remains an internal prison inspectorate reporting directly to the Secretary General of the Ministry of Justice while its reports are not made public. It is therefore not independent and CPT's related recommendation<sup>29</sup> also supported by the NCHR<sup>30</sup> has been ignored. The only recent improvement is that access to prisons has been provided to the Ombudsman and to the Inter-Party Parliamentary Committee for the penitentiary system.

**14. Pursuant to the conclusions and recommendations of the Committee, please provide information on steps taken to effectively implement the newly adopted Code of Police Ethics containing, inter alia, guidelines for arrest and detention (para. 6 (e)).<sup>31</sup> Has the State party considered the introduction of modalities for amending interrogation rules and procedures, such as introducing audio or videotaping, with a view to preventing torture and ill-treatment?**

**OMCT - GHM - MRG-G – SOKADRE Contribution**

The State lists a series of circulars with which it forwarded ECtHR judgments and UN HRC Views to all police units where their meaning for police action was analyzed. In fact, the applications or communications in all the cases referred to were made by GHM as representative of the victims of police violence. However, these circulars are generally unknown to the average police officer and have had no impact on the arrest and interrogation procedures, as shown by the fact that every year there are scores of new allegations of law enforcement violence. OMCT - GHM - MRG-G – SOKADRE consider indeed very crucial the introduction of audio or videotaping during interrogation as a means to prevent torture and ill-treatment. The State during the discussion before CAT in November 2004 made clear its reluctance to adopt such a measure and has subsequently not even consider that recommendation.

**15. Please provide information on measures taken to implement the recommendations of the Special Rapporteur on violence against women, its causes and consequences that steps should be taken to improve prison conditions and that in doing so account should be taken of the United**

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<sup>28</sup> See also CPT/Inf (2006) 41, paras. 21 and 127.

<sup>29</sup> <http://www.cpt.coe.int/documents/grc/2010-33-inf-eng.htm>

<sup>30</sup> [http://www.nchr.gr/media/gnwmateuseis\\_eeda/ellinikes\\_ektheseis\\_enwpion\\_dietthwn\\_or/ohe/cat\\_final\\_2010.doc](http://www.nchr.gr/media/gnwmateuseis_eeda/ellinikes_ektheseis_enwpion_dietthwn_or/ohe/cat_final_2010.doc)

<sup>31</sup> See also the concluding observations of the Human Rights Committee (CCPR/CO/83/GRC), para. 4, and the Comments by the Government of Greece to the conclusions and recommendations of the Committee against Torture (CAT/C/GRC/CO/4/Add.1), para. 15(a).

*Nations Standard Minimum Rules for the Treatment of Prisoners; that male staff should not be allowed to supervise female inmates, undertake body searches, or be present where female inmates are naked (E/CN.4/2003/75/Add.1, para. 1661); and that women, men and children should be separated with regard to detention in the juvenile justice system and to the forms of deprivation of liberty outside the criminal justice process.*<sup>32</sup>

*16. Could you please comment on reports that asylum-seekers and irregular migrants, including unaccompanied minors, are arbitrarily detained, and often in poor conditions?<sup>33</sup> Could you please provide statistics of the number of children in detention, disaggregated by sex, age and ethnicity? Please indicate what the situation is at present with regard to the strict separation of persons under 18 years of age from adults in places of detention.*<sup>34</sup>

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The problem of detention conditions has been covered above (Article 3, paragraph 6 in the list of issues). CAT is requested to take note of the fact that the State failed to provide the statistics requested. OMCT - GHM - MRG-G – SOKADRE would like to suggest that this reflects the fact that the formal procedure for unaccompanied minors entering the country described by the State is almost never followed. If indeed each case of irregular entry of an unescorted minor was made known to the Prosecuting Authorities via the Ministry of Citizen's Protection Authorities and then each such person be assigned to separate detention facilities or offered shelter, such statistics would have existed. On the contrary, as Human Rights Watch has repeated in January 2011 unaccompanied migrant children continue to be detained with adult strangers or left to fend for themselves on the streets.<sup>35</sup> In fact, its comprehensive December 2008 report "*Left to Survive: Systematic Failure to Protect Unaccompanied Migrant Children in Greece*"<sup>36</sup> remains very relevant three years later. Related concerns of the **UNHCR** and the **UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment** have been presented above (Article 2, paragraph 2 and Article 3). In fact, the Rapporteur's detailed section in his report is telling.<sup>37</sup>

*17. Further to a previous recommendation by the Committee, please provide updated information on long-term measures to address overcrowding and poor conditions in prisons and other places of detention, including the establishment of new prisons, and the consideration of additional alternative means of reducing the prison population (para. 6 (j)).<sup>38</sup> Could you please comment on reports that undocumented aliens are detained in overcrowded facilities with poor living and sanitary conditions, are not informed of their rights, and lack any effective means of communication with their families and their lawyers?<sup>39</sup>*

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

This problem too has been covered above (Article 3).

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<sup>32</sup> See also CPT/Inf (2006) 41, para. 80.

<sup>33</sup> See also CPT/Inf (2006) 41, paras. 34 and 50.

<sup>34</sup> Concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.170), paras. 68-69.

<sup>35</sup> <http://www.hrw.org/news/2011/01/28/greece-s-asylum-crisis-can-t-be-fixed-without-reforming-dublin-rules>.

<sup>36</sup> <http://www.hrw.org/en/reports/2008/12/22/left-survive>.

<sup>37</sup> <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.52.Add.4.pdf>

<sup>38</sup> See also the concluding observations of the Human Rights Committee (CCPR/CO/83/GRC), para. 12.

<sup>39</sup> See also the concluding observations of the Human Rights Committee (CCPR/CO/83/GRC), para. 11; and CPT/Inf (2006) 41, paras. 31-34.

## Articles 12 and 13

*18. Please provide information, including statistics, on the number of complaints of torture and ill-treatment filed in the period 2004-2007 and results of all the proceedings, both at the penal and disciplinary levels. This information should be disaggregated by sex, age and ethnicity of the individual filing the complaint.*

*19. Please comment on concerns expressed by the Human Rights Committee over reported cases of disproportionate use of force by the police, including fatal shootings, and ill-treatment at the time of arrest and during police custody; that police violence against migrants and Roma appears recurrent; at the reported failure of the judicial and administrative systems to deal promptly and effectively with such cases; and at the leniency of the courts in the few cases where law enforcement officers have been convicted.<sup>40</sup> Furthermore, could you please provide an update of the progress made in reviewing the current Disciplinary Law for police officers and the status, mandate and achievements of bodies dealing with complaints against the police?<sup>41</sup>*

*20. Pursuant to the recommendations previously made by the Committee, please provide detailed information on measures taken to establish an effective, reliable and independent complaints system to undertake prompt and impartial investigations, including immediate forensic medical investigation, into allegations of ill-treatment or torture by police and other public officials, and to punish the offenders (para. 6 (f)).<sup>42</sup>*

*21. What steps has the State party taken to ensure that all persons reporting acts of torture or ill-treatment are accorded adequate protection? Please inform the Committee of measures taken to ensure that disciplinary measures, including suspension, are not delayed pending the outcome of criminal proceedings.<sup>43</sup>*

### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The State, following the previous 2004 CAT and 2005 HRC reviews, started collecting data on the investigation of complaints of police abuse which it reported to CAT for the period 2005-2009. Similar data were reported to CERD for the period 2005-2008.<sup>44</sup> The State reported that there were 281 complaints against police officers for ill-treatment, with only four officers having been removed from service while only in six cases were there first instance convictions (not specifying for which charges and with what sentences), which were anyway pending on appeal. These cases concerned 183 Greek citizens (of whom 4 Roma – 1% of the total) and 159 foreign citizens (46% of the total). The State also reported an investigation of 186 incidents of use of firearms by police officers in 2005-2008, with only one officer having been removed from service while only in one case was there a first instance conviction (not specifying for which charges and with what sentence), which was probably pending on appeal. 48 persons were injured (27 Greeks of whom 3 Roma – 6% of the total - and 21 foreigners – 44% of the total – of whom 17 Albanians. From those persons 11 died (7 Greeks of whom 2 Roma – 20% of the total - and 4 Albanians – 40% of the total). According to the State this proves that the use of firearms by police officers was in compliance with applicable provisions while the cases of ill-treatment constituted isolated events; hence, concludes the State

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<sup>40</sup> CCPR/CO/83/GRC, para. 9.

<sup>41</sup> CCPR/CO/83/GRC, para. 9(c); and CAT/C/GRC/CO/4/Add.1, para. 13.

<sup>42</sup> See also CAT/C/GRC/CO/4/Add.1, para. 6.

<sup>43</sup> CAT/C/CR/33/2, para. 6(g) and CAT/C/GRC/CO/4/Add.1, para. 5.

<sup>44</sup> [http://www2.ohchr.org/english/bodies/cerd/docs/Written\\_replies\\_Greece\\_CERD75.doc](http://www2.ohchr.org/english/bodies/cerd/docs/Written_replies_Greece_CERD75.doc)



these numbers should not lead to erroneous conclusions, meaning of course that they in fact confirm that there has been widespread impunity.

CAT is requested to take note that the State provided no data on the investigation of complaints against the use of force by coastguardsmen and soldiers at the borders for whom hundreds of claims of law enforcement officers' abusive behavior have been made over the years (like the case of Necati Zontul presented above, Article 4, paragraph 9).

OMCT - GHM - MRG-G – SOKADRE request that CAT takes into consideration that in the period December 2004 – April 2010 ten ECtHR judgments and two UN HRC views against Greece were published finding the State in violation of Articles 2 or 3 ECHR, Article 2(3) read together with Article 7; and Article 14 paragraph 3(g) of ICCPR. In nine of these twelve cases, victims were represented by GHM (in one case along with OMCT). In all cases, domestic judicial and administrative systems had failed to deal promptly and effectively with the complaints.

There have been six convictions of Greece by the ECtHR for ill-treatment by police. The first ruling, issued on 13 December 2005, concerned the beating of Roma **Lazaros Bekos and Eleftherios Koutropoulos** on 8 May 1998.<sup>45</sup> The second ruling, issued on 18 January 2007, concerned the beating of Syrian **Mhn Ghassan Alsayed Allaham**<sup>46</sup> on 8 September 1998. The third ruling, issued on 24 May 2007, concerned the beating of **Dimitris Zelilof** on 23 December 2001.<sup>47</sup> The fourth ruling, issued on 6 December 2007, concerned the beating of Romni **Fani-Yannula Petropoulou-Tsakiris** on 28 January 2002.<sup>48</sup> The fifth ruling, issued on 14 January 2010, concerned the beating of **Panayote Galotskin** on 23 December 2001.<sup>49</sup> The sixth ruling, issued on 22 April 2010, concerned the beating of Roma **Theodoros Stefanou** on 5 August 2001.<sup>50</sup>

On the other hand, there have been four convictions of Greece by the ECtHR for injury or death from police shooting. The first ruling, issued on 20 December 2004, concerned the shooting of **Christos Makaratzis** on 13 September 1995.<sup>51</sup> The second ruling, issued on 21 June 2007, concerned the shooting and rendering invalid, on 26 January 1998, of Rom **Ioannis Karagiannopoulos**.<sup>52</sup> The third ruling, issued on 8 July 2007, concerned the fatal shooting of Albanian **Gentjan Celniku** on 21 November 2001.<sup>53</sup> The fourth ruling, issued on 8 January 2010, concerned the fatal shooting of **Nikos Leonidis** on 25 March 2000.<sup>54</sup>

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<sup>45</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=790893&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>46</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=813016&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>47</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=817322&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>48</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=826734&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>49</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=861025&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>50</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=866810&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>51</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=709521&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>52</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=819088&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>53</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=819797&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

<sup>54</sup><http://cmiskp.echr.coe.int/tkp197/view.asp?action=html&documentId=845148&portal=hbkm&source=externalbydocnumber&table=F69A27FD8FB86142BF01C1166DEA398649>

Finally, there are also two convictions of Greece for police ill-treatment by the **United Nations Human Rights Committee** (HRC). On 28 March 2006, in the **Case of Alexandros Kouididis v. Greece**, the HRC found that Greece's failure, at the level of the Supreme Court, to take account of the author's claims that his confession was given as a result of ill-treatment by police, from 17 May to 27 June 1991, amounted to a violation of article 14, paragraph 3(g) of the **International Covenant on Civil and Political Rights** (ICCPR).<sup>55</sup> On 24 July 2008 in the **Case of Andreas Kalamiotis v. Greece**, the HRC found that Greece violated Article 2 paragraph 3 (right to an effective remedy) read together with Article 7 (prohibition of torture) of the ICCPR concerning the lack of an effective investigation into the allegations of police brutality against Rom **Andreas Kalamiotis**, on 14 June 2001, in Aghia Paraskevi (Greater Athens).<sup>56</sup>

Furthermore, **CAT** is requested to take into account that on 9 March 2011, HRC ruled the communication **Nikos Katsaris v. Greece** admissible as it raises issues with respect to Article 2 paragraph 3 (right to an effective remedy), alone and read in conjunction with Article 7 (prohibition of torture) and Article 2, paragraph 1 (equality before the law) and Article 26 (prohibition of discrimination) of ICCPR, concerning failure to thoroughly investigate police violence and ill-treatment against Rom Nikos Katsaris (and some relatives), on 12 September 1999, in Nafplio.

In addition, several cases still pending before domestic courts are indicative of an absence of a prompt and thus effective adjudication or even an effective investigation.

On 11 November 2011, the **Athens Mixed Jury Court** is scheduled to hear at first instance the case of a police officer who is indicted for having tortured with electroshocks using a stun gun **Georgios Sidiropoulos** and **Ioannis Papakostas** in Aspropyrgos (Attica) on 14 August 2002. The case has been postponed four times: in one case, the trial started on 27 November 2009, and continued on 11 December 2009, 22 December 2009, 15 January 2010, 28 January 2010, 16 February 2010, 23 February 2010, 5 March 2010, 15 March 2010, 16 March 2010, 29 March 2010, 14 April 2010, 19 April 2010, and 3 May 2010, when it was interrupted and postponed to a new date – in most of those dates the court met only for a few minutes to grant a postponement because the lawyer of the defendant was involved in another trial. The victims applied to the ECtHR through GHM on 17 May 2010. Meanwhile, the sworn administrative investigation was concluded on 20 April 2003 with a recommendation that the police officer be sanctioned with a reprimand for carrying with him a “wireless” (that is what the officer claimed his stun gun to be) without proper authorization; the victims' allegations of torture were considered unfounded.

On 19 August 2006, in Argostoli Cephalonia, there was an incident between on the one hand Roma and on the other hand police and fire brigade officers who went to the Roma settlement to take out a bush fire. The complaint a police officer filed against three Roma was investigated with the prompt in flagrante procedure and on 24 August 2006 one Rom was convicted for causing bodily harm and for insulting the officer by deeds and was given a suspended sentence of 14 months imprisonment;<sup>57</sup> the appeals trial has yet to be held. In addition, the other two Roma accused by the police officer for the same acts were minors and they were referred to the Single-Member Misdemeanors Minors Court of Cephalonia which on 3 and 4 April 2008 acquitted them.<sup>58</sup> However, the complaint these three Roma filed through GHM on 23 August 2006 for perjury of police and fire brigade witnesses, unlawful use of weapon by the police officer and breach of duty remained in the stage of preliminary investigation and thus the alleged crimes of the law enforcement officers became time-barred on 19 August 2011. Finally, there was no administrative investigation carried out even though Greece claims that one has

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<sup>55</sup> <http://daccess-ods.un.org/TMP/9240531.html>

<sup>56</sup> <http://daccess-ods.un.org/TMP/3578788.html>

<sup>57</sup> Three-Member Misdemeanors Court of Cephalonia Judgment 361-362-363/24-8-2006

<sup>58</sup> Single-Member Misdemeanors Minors Court of Cephalonia Judgment 41A/2008 dated 3 and 4 April 2008

to be carried out in every case of use of weapon by an officer.<sup>59</sup> The victims will apply to the ECtHR through GHM.

On 17 November 2006, **Avgoustinos Dimitriou** was badly beaten by police officers and was subsequently hospitalized in Thessaloniki. Police officers involved and police top officials initially claimed even under oath, that he was self-injured because he fell onto a jardinière. Only when a television station showed a video were the authorities forced to launch criminal and administrative investigations against the officers involved. At first instance, on 16 December 2008, the Three-Member Appeals Court of Thessaloniki sentenced the eight police officers to 15-39 months imprisonment, sentences which were suspended until the appeals trial –which has yet to be held- and if upheld are commutable to fines. On the other hand, on 16 October 2008, the final administrative sanctions were limited to the temporary suspension from service –up to six months- of only two police officers. No police officer or official was ever investigated let alone sanctioned for the initial false statements and perjury.<sup>60</sup>

OMCT - GHM - MRG-G – SOKADRE draw the attention of CAT to the fact that the main perpetrator in this police beating as well as one of his accomplices were also involved in the beating of Dimitris Zelilof and Panayote Galotskin for which Greece was found in violation of Article 3 in two separate cases (see above), after domestic judicial proceedings failed to lead to their prosecution or conviction.

On 6 October 2011, **Reporters Without Borders** stated that it “*is outraged by the fact that, although clearly identified, many journalists were attacked by police officers while covering yesterday’s anti-austerity protests and strikes in Athens. From one demonstration to the next, police violence against journalists seems to be becoming an inescapable part of the Greek crisis. Yesterday’s incidents unfortunately show that nothing has improved since we issued an alarm. Will there have to be fatalities before the authorities end the impunity enjoyed by those responsible for these violent and often deliberate attacks?*”<sup>61</sup> The “alarm” referred to is the RSF report “**Is the crisis in Greece a chance for its media?**” published on 14 September 2011.<sup>62</sup> In their 6 October statement RSF provided documentation: “*An AFP photographer who did not want to be named had a tooth broken by a police riot shield that was deliberately rammed into her face. Greek photographer Tatiana Bolari told the local TV station Mega that she was punched in the face and insulted. Pascualino Serinelli, a freelance photographer working for Italian and Spanish media, received baton blows to his legs. Tear-gas was also fired at him at close range and his camera was snatched. Jérôme Wessilver, a cameraman working for the Capa agency, had his camera damaged by riot shields. Several other reporters and photographers also reported being hit deliberately by police batons and riot shield. A court is due tomorrow to begin hearing the lawsuit that the photographer Manolis Kypraios has brought against the state because he has completely lost his hearing as a result of the blast of a stun grenade that a police officer threw at him in an alley on 15 August although he identified himself and showed his press card. Now permanently handicapped, Kypraios cannot work and has no income.*”

During RSF’s research, **Hellenic Police Spokesperson Athanasios Kokalakis** effectively justified police attitude: “*The Minister could not in any way guarantee that thousands of motivated officers*

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<sup>59</sup> Cephalonia First Instance Prosecutor case brief numbered ABM Γ2006/2039

<sup>60</sup> [http://cm.greekhelsinki.gr/uploads/2010\\_files/ghm1246\\_echr\\_galotskin\\_english.doc](http://cm.greekhelsinki.gr/uploads/2010_files/ghm1246_echr_galotskin_english.doc), <http://www.rwf-archive.gr/episode1-new.php?lang1=english&id=210> and [http://el.wikipedia.org/wiki/%CE%91%CF%85%CE%B3%CE%BF%CF%85%CF%83%CF%84%CE%AF%CE%BD%CE%BF%CF%82\\_%CE%94%CE%B7%CE%BC%CE%B7%CF%84%CF%81%CE%AF%CE%BF%CF%85](http://el.wikipedia.org/wiki/%CE%91%CF%85%CE%B3%CE%BF%CF%85%CF%83%CF%84%CE%AF%CE%BD%CE%BF%CF%82_%CE%94%CE%B7%CE%BC%CE%B7%CF%84%CF%81%CE%AF%CE%BF%CF%85)

<sup>61</sup> <http://en.rsf.org/greece-another-day-of-violence-against-06-10-2011,41135.html>

<sup>62</sup> <http://en.rsf.org/greece-could-the-crisis-help-media-14-09-2011,40986.html>

who have all received the same orders and remain human beings, will all react in the same way under the increasing stress... Response to an excess may be an excess response. It is obvious and I will say to him in a fully human way, that there will be a problem. There will be misunderstandings. We make mistakes! A journalist in the field must show and prove to Greek society the excesses on both sides. And perhaps there enters the emotional misunderstanding of which I spoke. When an officer sees a reporter in front of him, not specifically one that is there, but the mere presence of a journalist can remind him of emotional situations where he as an officer received what he perceived as unfair treatment by the media.” The statement was revealed in a formal protest published by the **Athens Daily Newspapers Journalists Union (ESIEA)** on 30 September 2011.<sup>63</sup>

In a related incident indicative of the absence of a will for a prompt investigation of allegations, journalist **Modestos Siotos** of **protagon.gr** formally complained to the Hellenic Police that on 30 May 2011 police officers had briefly arrested and were humiliating in public a migrant; when he protested about that behavior they briefly arrested and insulted him using violence. On 31 May 2011, he wrote an article about it which was widely reproduced in the media.<sup>64</sup> It was not until 4 October 2011 that police informed him (through an email!) that an internal affairs officer was assigned to investigate his allegations.<sup>65</sup>

Concerning the implementation of the twelve ECtHR judgments or HRC views on police violence, OMCT - GHM - MRG-G – SOKADRE are aware that police officers who carried out the incriminated actions have not been sanctioned as a result of the judgments.

Characteristically, Greece informed the **Council of Europe’s Committee of Ministers (CM)** that there will be a resumed investigation in one case, that of the *Petropoulou-Tsakiris*. However, GHM who represents the victim was informed that the **Athens First Instance Prosecutor**, on 28 September 2010, decided not to launch an investigation but filed again the case to the archives of unknown perpetrators. She did so despite **Athens Misdemeanors Chamber** Decision 446/22-2-2010 in which it was recommended that the if the facts were as alleged by the victim in her memo and as supported by the **Coordinated Organizations and Communities for Roma Human Rights in Greece (SOKADRE)**’s submission to the **Ombudsman**, both documents dating from 2002, then a felony crime of exposure to harm was committed that is not time-barred and thus a re-opening of the judicial investigation by the prosecutor was necessary. The victim applied to the ECtHR through GHM on 16 May 2011.

Greece informed the **CM** that civil proceedings for damages brought by *Alsayed Allaham* were to be re-examined by the **Athens Administrative Appeals Court**: the case appears pending since early 2008.

Finally, GHM as representative of the **Celniku** family can report that the Greek state refused to recognize before domestic courts police liability ensuing from the ECtHR judgment: this is why it appealed on 19 February 2010 against **Athens Administrative First Instance Court** judgment 4855/31-3-2009 awarding compensation to the family. In its appeal the State argued that the facts were as mentioned in the domestic criminal court’s acquittal of the police officer, even though there is a **Supreme Court** Judgment 1816/2007 that ECtHR judgments are binding case-law in such cases. The case is pending before the **Athens Administrative Appeals Court**, ten years after the fatal

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<sup>63</sup> The full ESIEA text in Greek <http://www.esiea.gr/gr/2arxeio/2011/09/22.htm>; a partial English translation <http://anonymissexpress.tumblr.com/post/10884754408/greece-is-a-cop-ocracy-police-spokesman-kokalakis>

<sup>64</sup> <http://www.protagon.gr/?i=protagon.el.8emata&id=7122>

<sup>65</sup> <http://www.protagon.gr/?i=protagon.el.8emata&id=9322>

shooting of the victim, seven years after the filing of the suit for compensation, and four years after the ECtHR judgment.

The CM is also awaiting information on a legislative process concerning the establishment of an independent committee competent to assess the possibility of opening new administrative investigations in cases where failures in investigations had been found by the ECtHR. Greek authorities undertook in a 14-15/10/2008 high level meeting with the CM secretariat to set it up at the latest before June 2009. On 4 March 2011, the **UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak**, in his report on his mission to Greece in October 2010, stated:<sup>66</sup>

*“The European Committee for the Prevention of Torture (CPT) has criticized that to date no independent complaints mechanism was introduced. Sworn Administrative Inquiries are primarily meant to protect the rights of the officer under investigation.... The lack of an effective complaints mechanism, independent investigation and monitoring create an environment of powerlessness for victims of physical abuse... The Special Rapporteur welcomes the Government’s plans to establish a Bureau within either the Ministry of Citizen’s Protection or the Ministry of Interior to examine police misconduct... However, the Special Rapporteur emphasizes that a totally independent police complaint body with full investigative powers under a Ministry different than the Ministry of Citizen’s Protection is needed as already highlighted by the Greek National Commission for Human Rights.”*

With Law 3938/2011 such a Bureau was created and with Presidential Decree 78/2011 it was established dependant on the Minister of Citizen Protection who will appoint the three-member committee at the head of the Bureau formed of one retired Supreme Court judge, one retired Supreme Court or Appeals Court prosecutor and one member of the Legal Council of State. Moreover, it will be staffed by police officers. Naturally, this agency does not meet the requirements of independence.

#### **Article 14**

***22. Please provide information on redress and compensation measures ordered by the courts and actually provided to victims of torture, or their families, since the examination of the last periodic report (para. 6 (h)). This information should include the number of requests made, the number granted, and the amounts ordered and those actually provided in each case. Please indicate how many victims have been compensated despite the perpetrator not being identified. Do investigations into such cases continue until the perpetrator(s) is/are identified and brought to justice?***

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

Law 3811/2009 invoked by the State is irrelevant. Such compensation is decided by administrative courts. When victims turn to them, awards are frequently made but the State invariably appeals against such first instance judgments and often even files for cassation against appeals judgments. This indicates that at the level of the Government the State is unwilling to award damages even in cases that police violence has been confirmed with irrevocable court judgments.

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<sup>66</sup> <http://www2.ohchr.org/english/bodies/hrcouncil/docs/16session/A.HRC.16.52.Add.4.pdf>

The case of the **Celniku** relatives has been mentioned above. Following ECtHR's judgment, they have been awarded a compensation of 102,010 euros on 19 February 2010 with **Athens Administrative First Instance Court** judgment 4855/31-3-2009. It was appealed by the State which claimed it had no liability and opposed any award. The appeals judgment is still pending.

Another characteristic case is that of **Andreas Kalamiotis**. On 24 July 2008, the HRC found that Greece violated Article 2 paragraph 3 (right to an effective remedy) read together with Article 7 (prohibition of torture) of the ICCPR concerning the lack of an effective investigation into the allegations of police brutality against Rom **Andreas Kalamiotis**, on 14 June 2001, in Aghia Paraskevi (Greater Athens). Greece was asked to provide the author with appropriate reparation.<sup>67</sup> The State in effect rejected the Views and this obligation. First, on 22 September 2008, the Minister of Justice, answering a related parliamentary question 3704/28-8-2008, refuted the Views in the following terms:

*“In the above matter, it is noted that on the basis of the evidence in the related procedure there were no indications that would warrant the referral of the defendant [police officer] to trial, while the witnesses suggested by the plaintiff [Mr. Kalamiotis] were sought but not found. From all that it follows that there is no issue of absence of an effective remedy [in the investigation] of the complaints of the plaintiff.”*

The State, on 19 January 2009, provided a follow-up response in which it suggested that the victim can seek compensation from the domestic courts by filing a lawsuit under Article 105 of the Introductory Law to the Civil Code. However, under Article 937 of the Civil Code, such claim has a five year prescription period. In this case, any such claim became time-barred on 31 December 2006. Furthermore, the domestic courts are extremely slow in adjudicating such cases, which has led to scores of ECtHR judgments against Greece with findings of violations of Article 6(1) of the ECHR. Moreover, the procedure suggested by the State is not the most appropriate. Individuals turn to the Administrative Courts to seek compensation when it is necessary *first* to establish the State's liability and *then* to decide on the amount of compensation. When liability is or has to be irrevocably accepted by the State -because of a court judgment or a simple decision of the appropriate authorities- the Legal Council of State has the authority to approve a compensation that is usually agreed upon between the liable state agency and the claimant. Despite these arguments offered on 27 March 2009 by OMCT and GHM in reply, and a formal request for compensation sent to the Legal Council of State on 26 December 2008 the State persisted in its refusal to award compensation.

Below, information will be provided on the State's refusal to award compensation following another case where HRC found Greece in violation of the ICCPR for the unlawful eviction of the Roma family of **Georgopoulos**.

***23. Please provide information on recent steps taken by the State party to ensure medical and psychosocial rehabilitation of victims of torture and ill-treatment.***

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The failure of Greece to provide an answer to this question should be read as an admission that there is no medical and psychological rehabilitation of victims of torture and ill-treatment provided by the State.

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<sup>67</sup> <http://daccess-ods.un.org/TMP/3578788.html>

## Article 16

*24. With reference to the conclusions and recommendations of the Committee, please provide detailed information on measures taken by the State party to reduce occurrences of ill-treatment, including that which is racially motivated, by police and other public officials (para. 6 (a)). Has the State party devised modalities for collecting data and monitoring the occurrence of such acts in order to address the issue more effectively?*

### **OMCT - GHM - MRG-G – SOKADRE Contribution**

As is obvious from the presentation above (Articles 12 and 13), no measures have been taken to effectively reduce occurrences of ill-treatment, especially racially motivated one. It is indicative that, as the State reported above, more than 40% of the cases of police violence investigated involved complaints by migrants, who form only 10% of the country's population, while Roma, who make up 3.5% of the total population, made up 6% of all victims of police shooting and 20% of victims of fatal shootings. Moreover, in the **European Union Agency for Fundamental Rights' "European Union Minorities and Discrimination Survey: The Roma"** (2009) it is mentioned that "*Greece stands out amongst the seven Member States as having a highly policed Roma community that considers its encounters with the police to be discriminatory.*"<sup>68</sup>

*25. Further to the previous conclusions and recommendations of the Committee, please provide updated information on measures taken by the State party to ensure that all actions of public officials, in particular where the actions affect the Roma (such as evictions and relocations) or other marginalized groups, are conducted in a non-discriminatory fashion and that all officials are reminded that racist or discriminatory attitudes will not be permitted or tolerated (para. 6 (a and k)).<sup>69</sup> Could you please comment on concerns expressed by the Committee on Economic, Social and Cultural Rights related to reported instances of police violence against the Roma, sweeping arrests and arbitrary raids of Roma settlements by the police? (E/C.12/1/Add.97, para. 11) Furthermore, please provide information on the number of members of minority groups that are recruited into the law-enforcement agencies, especially from the Roma minority.*

### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The failure of Greece to provide an answer to this question should be read as an admission that no measures were taken and that there is no recruitment from minority groups in law enforcement agencies. This omission has been noted by the **National Commission for Human Rights (NCHR)**'s related Observations adopted on 18 February 2010, but the State decided to ignore it:<sup>70</sup>

*"The Draft Report fails to answer the question posed by the CAT regarding the measures taken by Greece to stop the phenomenon of abuse of Roma by police during forced eviction operations and to punish those responsible. However, the attitude of police towards Gypsies has been the subject of repeated criticisms by human rights organizations and several convictions of Greece by international judicial mechanisms. The special report by the*

<sup>68</sup> [http://fra.europa.eu/fraWebsite/research/publications/publications\\_per\\_year/2009/eu-midis-roma\\_en.htm](http://fra.europa.eu/fraWebsite/research/publications/publications_per_year/2009/eu-midis-roma_en.htm)

<sup>69</sup> See also the report of the Special Rapporteur on the sale of children, child prostitution and child pornography on his visit to Greece (E/CN.4/2006/67/Add.3), para. 109; and E/CN.4/2003/75/Add.1, para. 1657.

<sup>70</sup> [http://www.nchr.gr/media/gnwmateuseis\\_eeda/ellinikes\\_ektheseis\\_enwpion\\_diethnwn\\_or/ohe/cat\\_final\\_2010.doc](http://www.nchr.gr/media/gnwmateuseis_eeda/ellinikes_ektheseis_enwpion_diethnwn_or/ohe/cat_final_2010.doc)

*Ombudsperson on “Disciplinary / Administrative Investigation of Complaints against Police Officers,” reflects the inadequate investigation of complaints of police violence against Roma. It should be noted that the Human Rights Commission has expressed strong concern over incidents of gratuitous use of violence against Roma by the police, the insufficient investigation of these incidents, and the leniency of judges in the few cases that have reached the courts, all of which result in a system of effective impunity.”*

In 2004 and 2009, the **European Committee of Social Rights**, in two decisions on collective complaints (*ERRC v. Greece*<sup>71</sup> and *Interights v. Greece*<sup>72</sup>), found multiple violations of Article 16 of the Social Rights Charter on the grounds that Roma live in conditions that fail to meet minimum standards, and are forcibly evicted, while legal remedies generally available are not sufficiently accessible to them. The second decision was an unprecedented re-examination under the collective complaints system triggered by the fact that Greece had failed to execute the first decision. Since the second decision was taken, Greece has not taken any remedial action.

On the contrary one of the worst Roma evictions in Greek history took place in Psari, Aspropyrgos in early August 2010. The Municipality of Aspropyrgos razed to the ground hundreds of sheds, in the presence of police, and named the operation a “*mass cleaning operation that vindicated the tactics of the municipality*”<sup>73</sup> A current affairs television program (“The persecution of Roma” Mega Channel on 10 October 2010) highlighted and documented this eviction, but there was no criminal investigation into it.<sup>74</sup>

On 8 April 2011, following a violent incident between Albanian Roma and Pakistani in Nea Zoe, Aspropyrgos (Attica) near the garbage dump, which led to the death of two Pakistani, other Raistani razed to the ground the Albanian Roma’s settlement. When the evicted Roma tried to resettle in Neoktista, Aspropyrgos (Attica), Greek residents of Neoktista stopped them using force with police by-standing. On 17 May 2011, police arrested one Albanian Rom who allegedly confessed to the killing of the two Pakistani, but they never investigated the razing of the settlement and the use of force by simple resident to prevent the resettlement of the Roma. On the contrary, the Mayor of Aspropyrgos issued a statement supporting the actions of the Pakistani and the Greeks against the Roma.<sup>75</sup>

On 4 August 2011, a whole Roma settlement was razed to the ground and several of its residents attacked by non-Roma in the presence of police and local authorities, as the Mayor of Rhodes stated, in Aghioi Apostoloi (Rhodes) in retaliation for an alleged criminal action of a Rom who was not even living in that settlement.<sup>76</sup>

CAT is requested to take note of the 29 July 2010 **Human Rights Committee** Views on Communication 1799/2008 *Georgopoulos and family v. Greece* concerning the demolition of that Roma family’s shed on 25-26 August 2006 and the prevention of construction of a new home on 26 September 2006 the Roma Riganokampos settlement in Patras. GHM had filed the communication on behalf of the victims. The HRC concluded:<sup>77</sup>

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<sup>71</sup> [http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC15Merits\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC15Merits_en.pdf)

<sup>72</sup> [http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC49Merits\\_en.pdf](http://www.coe.int/t/dghl/monitoring/socialcharter/Complaints/CC49Merits_en.pdf)

<sup>73</sup> <http://www.aspropyrgos.gr/PressOfficeNewsView.action?newID=296>

<sup>74</sup> <http://www.protagon.gr/?i=protagon.el.prwtagnistes&id=367>

<sup>75</sup> <http://www.aspropyrgos.gr/docs/news/639.doc> and “**Thriassio**” (local daily) 18-4-2011 and 12-5-2011

<sup>76</sup> <http://www.rodiki.gr/article.php?id=121292&catid=1&subcatid=5>

<sup>77</sup> <http://daccess-ods.un.org/TMP/4791164.69621658.html>



*“7.3. The Committee considers that the authors’ allegations, also corroborated by photographic evidence, claiming arbitrary and unlawful eviction and demolition of their home with significant impact on the authors’ family life and infringement on their rights to enjoy their way of life as a minority, have been sufficiently established. For these reasons, the Committee concludes that the demolition of the authors’ shed and the prevention of construction of a new home in the Roma Riganokampos settlement amount to a violation of articles 17, 23 and 27 read alone and in conjunction with article 2, paragraph 3, of the Covenant. (...) 9. In accordance with article 2, paragraph 3 (a), of the Covenant, the State party is under an obligation to provide the authors with an effective remedy, as well as reparations to include compensation. The State party is under an obligation to ensure that similar violations do not occur in the future.”*

In the follow up, on 9 March 2011, the State argued that since the related domestic criminal investigation had in the meantime been completed with **Patras Appeals Prosecutor** Decrees 44/2009 and 56/2009 rejecting the allegations on the Georgopoulos family’s (and other Roma’s) unlawful eviction, it had complied with the requirement for the provision of an effective remedy. The State argued that this was an obligation of means and not of a result. Therefore the State implied that the different conclusion of that investigation from that of the Views did not oblige the State to reopen the domestic criminal investigation. The State also suggested that the victims can seek compensation from the domestic administrative courts by filing a lawsuit under Article 105 of the Introductory Law to the Civil Code, as it had claimed in the Kalamiotis case (see above).

On 26 April 2011, GHM filed with the **Supreme Court Prosecutor** a request for a re-examination, referring to the *Petropoulou-Tsakiris* case (see above). On 29 April 2011, the **Supreme Court Prosecutor** ordered the **Patras Appeals Prosecutor** to carry out a re-examination. On 6 June 2011, with Decree 64/2011, the **Patras Appeals Prosecutor** decided that a re-examination should be carried out and ordered the **Patras First Instance Prosecutor** to carry out an urgent supplementary preliminary examination, because of imminent prescription of the alleged crimes, by summoning for explanatory statements the accused, including the then **Mayor of Patras**. On 17 June 2011, with Decree 71/2011, the **Patras Appeals Prosecutor** decided to partly overturn his previous Decrees 44/2009 and 56/2009, to accept GHM’s applications for review 6/2009 and 22/2009 as partly well-founded, and to order the **Patras First Instance Prosecutor** to indict the then **Mayor and two Deputy Mayors of Patras**, as well as their unknown accomplices (the crews who carried out the evictions), for continuous breach of duty between 27 July and 15 September 2006, for the demolition of the homes of eight Roma families, seven Greek –including Georgopoulos- and one Albanian). A trial before the **Patras Three-Member Misdemeanors Court** was scheduled for 10 October 2011 but was postponed. Only thanks to GHM intervention has an effective remedy been granted to these Roma families, whereas the State was unwilling to take such action, as it has been unwilling to offer compensation to the Georgopoulos family in implementation of the Views. By such position the State indicated once more its reluctance to execute international (quasi-)judicial bodies’ judgments, decisions or views.

Finally, the **European Commission against Racism and Intolerance** (ECRI) published on 15 September 2009 its **“Report on Greece,”** in which inter alia it noted:<sup>78</sup>

*“101. ECRI notes with concern that, as mentioned above, Roma continue to suffer discrimination and social exclusion in various areas such as education, housing and employment from members of the majority as well as public officials, including at the local level. There are also cases of police violence against Roma. ECRI notes in this regard that*

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<sup>78</sup> <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-IV-2009-031-ENG.pdf>

*the European Court of Human Rights has condemned Greece for, inter alia, violation of Articles 14 and 2 (prohibition of discrimination and right to life, respectively) of the European Convention on Human Rights for police brutality, failure to carry out effective investigations or to investigate the racist motivation of crimes committed against Roma.<sup>79</sup> ECRI has also received reports of Roma not being treated equally in the judicial system, with cases brought against members of this group being investigated promptly while those in which Roma are plaintiffs often take longer to solve and/or yield results which are not always in full respect of the Roma plaintiff's rights. ECRI is not aware of any measures taken to increase awareness among civil servants of the prohibition on discrimination, but this appears necessary, including at the local level, where ECRI has noted in Spata and Aspropyrgos, that Roma living in settlements do not benefit from the requisite attention from the local social services. [emphasis added]*

*101. ECRI recommends that the Greek authorities take vigorous measures to combat the discrimination faced by Roma in various areas, including the justice system. In this regard, it recommends again awareness-raising for civil servants on the prohibition on discrimination, as well as on the legislation in this regard. ECRI also recommends that any allegations of discrimination brought by Roma be promptly investigated and appropriate sanctions meted out where they prove founded.” [emphasis added]*

*26. Please provide updated information on any new legislation and/or measures adopted to prevent and combat sexual trafficking, particularly of children, and to provide assistance to victims, including sensitization of law-enforcement officials in contact with these victims.<sup>80</sup> Please provide information on measures taken to implement the recommendations of the Special Rapporteur on the sale of children, child prostitution and child pornography to establish clear rules and standards for identifying victims of child trafficking, ensure systematic verification of identity and centralized recording of unaccompanied alien minors, to rapidly inform the prosecutor for minors to be in a position to give appropriate protection, to provide separated children with suitably trained interpreters, legal representation and information about their entitlements, the services available, the asylum process, family tracing and the situation in their country of origin (E/CN.4/2006/67/Add.3, para. 112).*

### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The State provided extensive information on measures, action plans and cooperation with NGOs selected by the State (that exclude **GHM**, **MRG-G** and **SOKADRE**) in combating trafficking. Yet there is no information on prosecution and convictions of perpetrators, let alone on final criminal convictions of traffickers to long firm imprisonment for the simple reason that there is no such sentence known exceeding ten years.

On the contrary, OMCT - GHM - MRG-G – SOKADRE know that a trafficker convicted at first instance to 34 years imprisonment saw his prison sentence reduced on appeal to ... 5 years (**Five-Member Appeals Court of Athens** Judgment 1378 & 1384/26 & 28 May 2010). While **Amnesty International** reported that, on 23 May 2009, the same court reduced the sentence of another trafficker from 19 to 7 years' imprisonment.<sup>81</sup> In both cases, trial observers expressed concern about

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<sup>79</sup> See, Petropoulou-Tsakiris v. Greece, Application no. 44803/04, 6 December 2007, Karagiannopoulos v. Greece, Application No. 27850/03, 21 June 2007, Bekos and Eleftherios Koutropoulos v. Greece, Application no. 15250/02, 13 December 2005.

<sup>80</sup> See CCPR/CO/83/GRC, para. 10, CAT/C/GRC/CO/4/Add.1, paras. 17 and 18, CRC/C/15/Add.170, paras. 76-77, CEDAW/C/GRC/CO/6, paras. 21 and 22; E/CN.4/2006/67/Add.3, paras. 103, 104 and 112.

<sup>81</sup> <http://www.amnesty.org/en/region/greece/report-2009>

the court's lenience towards racist and demeaning remarks by the defense lawyers as well as bullying of NGO advocates and witnesses by the defendants' associates. Additionally, in cases involving three Russian trafficking victims recognized by state authorities as such in 2003 and represented by GHM before courts (A.T., I.T. and K.V.), two criminal investigations (one including the alleged criminal involvement of Greek consular authorities in Moscow – see below) have dragged on for years whereas, in the third related case, there has been no final judgment eight years later while the three traffickers convicted at first instance to 15-17 years' imprisonment have walked free as their sentence was suspended pending the examination of their appeal. In another cases, two traffickers convicted at first instance to 34 years imprisonment also walked free as their sentence was suspended pending the examination of their appeal.

Moreover, no trafficking network has ever been dismantled. From the dozen of court files available to GHM, it is obvious that, after a raid in a bar or a brothel, the specialized and quite competent anti-trafficking police as well as the prosecutor limit their investigation to the operation of the particular place. No victim was ever asked to assist with identifying the network members that helped recruit her in the country of origin, perhaps also obtain in a fraudulent way a legal visa and/or a residence permit, and/or brought her from the Greek border with Turkey or Bulgaria to the Greek city of destination, and/or sold her to the final operator, who occasionally appeared to enjoy police protection also not investigated.

Characteristically, when accessing the court files of the victims GHM supported, it noted that seven out of ten had entered Greece with legitimate visas: a quick probing was sufficient to establish that they were obtained in a fraudulent way by the criminal network, usually in the Greek Consulate in Moscow. When GHM reported this to the Greek Ministry Foreign Affairs in December 2004, the latter refused to launch a Sworn Administrative Investigation (EDE) –that according to it would be time consuming and referred GHM to the prosecutor. MFA also refused to help GHM obtain the related documents from the Consulate. GHM thus had to correspond with the Greek Consulate in Moscow, in early 2005, to obtain these documents.

GHM also alerted the then **Athens First Instance Special Prosecutor for Trafficking** on 26 May 2005 with a draft complaint providing details on how those visas were obtained, and 35 supporting documents. However, the prosecutor did not launch a *proprio motu* investigation. GHM then managed to get wide media coverage of the problem, which though did not lead the MFA and/or the **Athens First Instance Special Prosecutor for Trafficking** to launch investigations. GHM on 17 January 2006 sent a letter to the **Supreme Court Prosecutor**, who on 14 February 2006 ordered the **Head of the Athens First Instance Prosecutor's Office** to launch an urgent preliminary criminal investigation (Case brief ABM 2006/2006). Only after the MFA was formally informed of the **Supreme Court Prosecutor's** order, with an **Athens First Instance Prosecutor's Office** letter dated 19 April 2006, did it launch an EDE, on 7 June 2006. Neither the victims nor GHM were asked to testify in the framework of that EDE. Only Moscow Consulate officers were asked to testify. The EDE's only purpose was apparently to cover up the unlawful actions of the consular officials and submit a report to the prosecutor that would absolve them of any liability. This is why the EDE was ordered on 7 June 2006 and was concluded on 21 June 2006; as contrasted with what MFA had written GHM in December 2004, i.e. that an EDE was time-consuming.

The criminal investigation was indeed handled at the beginning as an urgent one and GHM duly and promptly cooperated with the investigating authorities. GHM's Spokesperson **Panayote Dimitras** testified on 8 May 2006, when he submitted a memo with comprehensive assessment of the procedure and 52 related documents. GHM's legal advisor **Theodore Alexandridis**, on 16 May 2006, filed civil claim statements by three victims represented by GHM which included very detailed

accounts of the events leading to the issuing of the visas and to their trafficking in Greece and demands for compensation for damage from every person responsible for these actions.

On 6 October 2006, **Athens First Instance Prosecutor** sent the case file to the **Head of the Athens First Instance Prosecutor's Office**, with her conclusions. In it, she summarized the allegations that amounted to the existence of a well-structured criminal organization aiming at the trafficking of women. She added that the MFA EDE report, with dismissal of the allegations, lacked detailed reasoning and was also based on an inadequate evaluation of the available evidence. She rejected in details the consular officers' claims in the EDE and noted that an extensive investigation of the case may lead to the conclusion that these officers never checked any documents even if it were well known to everyone why such women traveled to Greece, paying 1,000 euros per visa. She concluded with a recommendation for a main criminal investigation for possible unlawful actions of criminal organization (Article 187 CC), trafficking in human beings (Articles 323A and 351 CC), forgery (Article 216CC), false certification at the felony level (Article 242 CC), and breach of duty (Articles 259 and 263A CC). That was the end of the bona fide effective investigation of the case, as the **Head of the Athens First Instance Prosecutor's Office** did not press charges and failed to assign the file to an investigative judge. Instead he sent the file to the **Attica Security Police Directorate** (DAA) –to which anti-trafficking police belonged- for an additional preliminary investigation. In so doing, he had compromised the objective impartiality of the investigation, as the police had neglected to investigate that dimension of the trafficking when they freed the applicants from their servitude, as they had always and without one exception failed to investigate how the victims were sent to Greece in first place.

Additionally, police was working closely with the MFA, which financed anti-trafficking programs, and presumably was thus not eager to compromise that link. The best proof of that impression is that the file was assigned to DAA on 30 October 2006 and DAA returned it to the **Head of the Athens First Instance Prosecutor's Office** on 27 October 2009 that is a full three years later and after all possible misdemeanor criminal actions had become time-barred (five years after the 2003 events)! GHM had in the meantime, on 2 December 2006, GHM submitted to the **Head of the Athens First Instance Prosecutor's Office** evidence that a score of victims had also entered Greece with valid visas and asked him to join these allegations to the case file related to the applicants or launch a new investigation. GHM, which represented some of those victims, was never asked to testify nor does it seem that these allegations were effectively investigated. Just as, in the three years that DAA was in charge of that file, neither the victims nor GHM were ever summoned to testify on the applicants' case. The preliminary judicial investigation was concluded with an **Athens First Instance Prosecutor** Decree dated 4 December 2009 and serviced to the three victims who were civil claimants on 30 December 2009. With that decree, the prosecutor accepted that the documents filed with the visa applications were forged or false. He went on to note that all misdemeanor crimes related to the issuing of the visas had become time-barred and thus the complaint had become groundless. As to the allegations of breach of duty by MFA officers who delayed the carrying out of the EDE between 2004 and 2006, he found no intent and hence there could not be grounds for a charge of breach of duty. In conclusion, the prosecutor confirmed in his decree that there were serious indications that the felony crimes of criminal organization and trafficking (which do not become time-barred before 15 years) have been committed and thus he pressed charges, but only *in rem* and not against specific individuals, and ordered a main criminal investigation. This decree was based on the documents in the case file available already in 2006 when the previous prosecutor recommended the pressing of charges and a main investigation, a recommendation that was ignored. Hence, the victims and GHM can therefore be reasonably and legitimately considered to feel that the intervening three years' additional preliminary investigation was in effect a successful delay tactic to secure the prescription of the misdemeanor charges against the diplomats and other perpetrators of the acts that contributed to their having become victims of trafficking.

The file was subsequently sent on 18 March 2010 to the **President of the Three-Member Council of the Athens First Instance Court** for the carrying out of a main investigation. Yet, more than eighteen months later, and especially more than eight years after the women had become victims of the serious crime of trafficking with Greek state officials' assistance, the main investigation has yet to start. Moreover, even when it starts, it cannot be effective so many years after the commission of the crime. On 13 September 2010, GHM filed an application to the ECtHR on behalf of the three victims for the handling of this investigation, as well as for the fact that no trial of the persons who were charged with their trafficking in Greece in 2003 has been held for two of them and no appeals trial has been held for the third one despite the fact that in her case the three traffickers were convicted in October 2005 by the Mixed Jury Court of Serres to 15 – 17 years in prison, but the sentence was suspended until the appeal trial.

Concerning the detailed statistics for 2009 provided to CAT by Greece, OMCT - GHM - MRG-G – SOKADRE would like to point out that they are insufficient to describe the effectiveness of the fight against trafficking. On the basis of the statistics available in the Hellenic Police website,<sup>82</sup> reprinted in the table below, in 2003-2010 there were 1,813 persons charged as perpetrators.

Year	Networks dismantled	Perpetrators of trafficking	Victims	Victims assisted	Prosecutors' decrees
2003	49	284	93	28	28
2004	65	352	181	46	25
2005	60	202	137	57	20
2006	70	206	83	39	34
2007	41	121	100	35	17
2008	40	162	78	36	16
2009	66	303	125	121	69
2010	62	246	92	64	30
Total	453	1876	889	426	239

Greece provides statistics on court judgments in trafficking cases only to the **US Department of State** (DOS) for their related annual reports.<sup>83</sup> In them, it is reported that there were some 80 convictions in 2008-2010 to sentences up to 17 years imprisonment:

*“Greek authorities reported 28 new convictions of trafficking offenders this year, 14 acquittals, and 46 ongoing prosecutions in 2010, compared to 32 convictions, 12 acquittals, and 42 ongoing prosecutions in 2009. Courts affirmed 27 convictions and reversed two convictions on appeal during the reporting period. The Ministry of Justice did not report any suspended sentences in 2010. Sentences for convicted trafficking offenders ranged from one to 15 years’ imprisonment... The government reported 21 convictions of trafficking offenders, 17 acquittals, and 41 ongoing prosecutions during 2008. Sentences for the 21 convicted offenders ranged from one year to almost 17 years’ imprisonment, and many sentences also included fines, though many convicted trafficking offenders continued to be released pending lengthy appeals processes.”*

First, OMCT - GHM - MRG-G – SOKADRE note that from this statistics it is obvious that the authorities do not follow the issue comprehensively. For example, with **Athens Mixed Jury Court Judgment 230-231-277-302-303-304/2010**, two traffickers were convicted to 34 years

<sup>82</sup> [http://www.astynomia.gr/index.php?option=ozo\\_content&perform=view&id=5116&Itemid=89&lang=](http://www.astynomia.gr/index.php?option=ozo_content&perform=view&id=5116&Itemid=89&lang=)

<sup>83</sup> <http://www.state.gov/g/tip/rls/tiprpt/>

imprisonment, but the sentence was suspended until their appeal was heard! This trial is evidently missing from the State's statistics where judgments leading to imprisonment up to only 15 years were included and none with a suspended sentence.

Moreover, in the data provided to DOS, authorities include all trials even for illegal prostitution, so as to inflate them, and make no disaggregation by type of sentences and whether they are served or not. Most importantly, police statistics report 1,876 perpetrators for the period 2003-2010, while state data to DOS account for the conviction of some 80 of them.

OMCT - GHM - MRG-G – SOKADRE recommend that UN CAT asks Greek authorities to provide case by case statistics on convictions –with corresponding sentences and their possible suspension– only on the specific trafficking articles 323A and 351 that in theory carry felony prison sentences (above 5 years). Most importantly, CAT is requested to ask Greek authorities to account for the prosecution of the 1,876 persons reported in the police statistics as perpetrators of trafficking. Finally, CAT is urged to ask the State as to the fate of the hundreds of victims reported in the police statistics and how many of them and how were effectively integrated in Greek society and/or did show up at the respective trials for which special residence permits were granted to them and/or were proved effective legal aid that the authorities claim is available.

***27. With reference to the conclusions and recommendations of the Committee, please provide updated information on measures, including legislative ones, taken by the State party to combat violence against women, including domestic violence, and to investigate all allegations of ill-treatment and abuse (para. 6 (l)).<sup>84</sup> In particular, what steps have been undertaken to implement the recommendations of the Special Rapporteur on violence against women (E/CN.4/2003/75/Add.1, para. 1658) and to ensure full enforcement of the 2006 Law on Combating Domestic Violence, including its mediation procedure?***

### **OMCT - GHM - MRG-G – SOKADRE Contribution**

Law 3500/24-10-2006 on domestic violence was enacted on the eve of Greece's examination by CEDAW. In reviewing the draft law, the NCHR<sup>85</sup> noted that it did not address at all "violence against women," a term not even used therein, presenting the problem of domestic violence as gender-neutral. Moreover, it was concerned that the exclusive burden to deal with such cases continued to fall upon prosecutors and police officers, without the addition of an institution of family social workers to empower them; yet the NCHR recalled that these law enforcement officials have shown to be rather inefficient or inappropriate to deal with cases of domestic violence to date. On this issue, NCHR praised the April 2005 police manual on how officers should deal with cases of domestic violence.<sup>86</sup> OMCT - GHM - MRG-G – SOKADRE would second this praise. Yet, NCHR noted that police stations did not have personnel trained if not with expertise on these issues, so as to implement the manual. OMCT - GHM - MRG-G – SOKADRE are aware of several cases where officers failed to adequately implement the manual. Finally, the NCHR considered that the draft did not offer adequate protection to the witnesses or authority to prosecutors to issue restraining orders, while the absence of adequate institutions to deal with the victims would weaken the law.

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<sup>84</sup> See also CAT/C/GRC/CO/4/Add.1, para. 15(b); CCPR/CO/83/GRC, para. 7; E/CN.4/2003/75/Add.1, paras. 1644 - 1661; and CEDAW/C/GRC/CO/6, paras. 19 and 20.

<sup>85</sup> "NCHR Comments on the Draft Bill 'on combating domestic violence'" February 2006, included in "Report 2005" pp. 231-244, available at: [http://www.nchr.gr/media/zip/nchr\\_report\\_2005.zip](http://www.nchr.gr/media/zip/nchr_report_2005.zip)

<sup>86</sup> [http://www.ydt.gr/main/Attachments/Attachment13518\\_egxeiridio.pdf](http://www.ydt.gr/main/Attachments/Attachment13518_egxeiridio.pdf)

NGOs, like Amnesty International,<sup>87</sup> as well as OMCT - GHM - MRG-G – SOKADRE, are additionally concerned that the punishment of marital rape is potentially inadequate. Article 7 of the law called for the punishment of an act of violence against a family member “*without the victim being obligated to it,*” instead of the internationally used “*without the consent of the victim.*” In Greece, though, the prevailing social attitude, as was recalled by a bishop of the official state Orthodox Church, is that, also according to the Scriptures, “*a woman has no right to refuse to engage in sex whenever her husband demands it.*”<sup>88</sup> The NGOs are also concerned with the first ever in Greece introduction of the institution of court arbitration to help deal with cases of domestic violence, which may give the impression that domestic violence, as the only area where this institution will be applied, is a less serious crime than all others where arbitration will not be applied. This concern is strengthened by the then Minister of Justice’s declarations that the aim of the law, rather than being to combat violence against women within the family, is “*to secure peace in the family (...) it does not intend to interfere in the private lives of the family members; hence it does not affect customs, values and principles as they have developed in Greek society.*”<sup>89</sup> NGOs recall that several of these traditional principles are indeed conducive to family violence.

The impression that this legislation was introduced mainly to respond to international criticism is strengthened by the fact that, four years after its enactment, the State in its 2010 report to CAT does not provide any statistics on prosecution and convictions as no one is aware of its use by the courts to date; nor is anyone aware of the use of the arbitration procedure.

***28. Pursuant to the conclusions and recommendations of the Committee, please provide information on any review conducted by the State party of modalities for protecting street children, in particular to ensure that those measures protect their rights, and to ensure that all decisions affecting children, to the extent possible, are taken with due consideration for their views and concerns (para. 6 (m)).<sup>90</sup> What steps have been taken by the State party to prevent the recurrence of cases such as the Aghia Varvara children's institution? Please provide information on the fate of these children, where available, as well as the status of any judicial investigation.***

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

As is evident from the state report Greece has failed to make significant efforts in the direction of these recommendations. As the NCHR in its observations issued on 29 May 2008 on the then draft Greek state report to UN CRC noted, Greece must adopt a comprehensive policy to combat this phenomenon.<sup>91</sup> It should be noted that the number of street children appear to have been reduced in recent years.

However, OMCT-GHM-MRG-G-SOKADRE would like to urge CAT to take up with Greek authorities the issue of the 500 hundreds of Albania Roma street children rounded up by Greek authorities in the state institution “Aghia Varvara”, from which almost all went missing without any Greek institution having seriously investigated this massive disappearance. **Greece** in its report

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<sup>87</sup> <http://www.amnesty.gr/news/2006-02-20-1.htm>

<sup>88</sup> “*Sex lessons from a Bishop*” *Espresso* 18 May 2006; there was no disclaimer by any church or secular authority of this position, made in an interview by Bishop of Lagada, that also included the Church’s known position against homosexuality. The interview is available at: <http://cm.greekhelsinki.gr/index.php?sec=192&cid=2195>

<sup>89</sup> Ios “*Unnamed violence*” comprehensive dossier in *Eleftherotipia* 12/2/2006 available at: [http://www.enet.gr/online/online\\_fpage\\_text/dt=12.02.2006,id=92702448,5279408,13308976,27426224,35308336](http://www.enet.gr/online/online_fpage_text/dt=12.02.2006,id=92702448,5279408,13308976,27426224,35308336)

<sup>90</sup> See also CRC/C/15/Add.170, paras. 72 and 73; CCPR/CO/83/GRC, para. 10; and E/CN.4/2006/67/Add.3, para. 116.

<sup>91</sup> [http://www.nchr.gr/media/gnwmateuseis\\_eeda/paidia/Apofasi\\_CRC.doc](http://www.nchr.gr/media/gnwmateuseis_eeda/paidia/Apofasi_CRC.doc)

submitted to CAT on 20 September 2010<sup>92</sup> provided no information on the fate of these children and the status of the judicial investigation.

The problem continues to exist. GHM filed a complaint in 2004 and is legally representing the victims in court in what is supposed to be an investigation by a judge for the felony of abduction for children less than 14 years of age (**Athens First Instance Prosecutor** case file number Δ 2004/1945). GHM knows that the judicial investigation was never serious and has been stalled for years, while only four children have been located to date in Albania. Greece also ignored the specific recommendation of the **UN Special Rapporteur**: “*The Special Rapporteur suggests the establishment of a bilateral commission with representatives of relevant public authorities and NGOs from Greece and Albania to handle in a cooperative manner, issues related to unaccompanied children and child victims of trafficking. This commission could also join with various actors both in Greece and Albania to try to locate children who went missing after having entered Aghia Varvara between 1998 and 2002.*”

UN CAT is urged to ask Greece to provide specific and detailed information on the fate of these children and on the judicial investigation which as explained above is stalled and was never seriously carried out.

### Other

*29. Pursuant to the recommendation of the Committee, does Greece envisage the ratification of the Optional Protocol to the Convention against Torture? (para.8) If so, does Greece envisage setting up or designating a national mechanism which would conduct periodic visits to places of deprivation of liberty in order to prevent torture or other cruel, inhuman or degrading treatment or punishment?*

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

Greece signed on 3 March 2011 the OPCAT but has yet to ratify it.

*30. Pursuant to a previous recommendation by the Committee, please provide detailed information on any measures adopted by the State party, aiming at the prevention and prohibition of the production and use of equipment specifically designed to inflict torture or other cruel, inhuman or degrading treatment or punishment (para. 6 (n)).*

#### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The failure of Greece to provide an answer to this question should be read as an admission that no such measures have been taken. OMCT - GHM - MRG-G – SOKADRE are aware that stun guns are easily available in the market.

*31. Please provide information on the legislative, administrative and other measures the Government has taken to respond to the threat of terrorism, and please indicate if, and how, these have affected human rights safeguards in law and practice.*

### **General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention**

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<sup>92</sup> [http://www2.ohchr.org/english/bodies/cat/docs/AdvanceVersions/CAT-C-GRC-5\\_6.pdf](http://www2.ohchr.org/english/bodies/cat/docs/AdvanceVersions/CAT-C-GRC-5_6.pdf)



*32. Please provide detailed information on the relevant new developments on the legal and institutional framework within which human rights are promoted and protected at the national level, that have occurred since the previous periodic report and the relevant parts of the follow-up information submitted, including any relevant jurisprudential decisions.*

*33. Please provide detailed relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level, that have occurred since the previous periodic report and the relevant parts of the follow-up information submitted, including on any national human rights plans or programmes, and the resources allocated to it, its means, objectives and results.*

*34. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report, including the necessary statistical data, as well as on any events that have occurred in the State party and are relevant under the Convention.*

### **OMCT - GHM - MRG-G – SOKADRE Contribution**

The failure of Greece to provide an answer to these questions, other than listing some international treaties that have been ratified should be read as an admission that there has been no other important development and that no statistical data have been gathered since the last review. OMCT - GHM - MRG-G – SOKADRE would like to note that Greece's report to CAT as well as CAT's previous recommendations remain unknown to most persons in Greece. Moreover, in the Ministry of Foreign Affairs' web page on human rights issues,<sup>93</sup> the report to CAT is available in Greek<sup>94</sup> and in English<sup>95</sup> but not CAT's 2004 conclusions and recommendations or even the list of issues. In NCHR's web page on UN CAT,<sup>96</sup> one can find CAT's 2004 conclusions and recommendations in English<sup>97</sup> but not in Greek, while neither CAT's list of issues or Greece 2010 report are available.

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<sup>93</sup> <http://www1.mfa.gr/exoteriki-politiki/pagkosmia-zitimata/anthropina-dikaiomata.html>

<sup>94</sup> [http://www1.mfa.gr/images/docs/pagkosmia\\_zitimata/5i\\_6i\\_ekthesi\\_gr.pdf](http://www1.mfa.gr/images/docs/pagkosmia_zitimata/5i_6i_ekthesi_gr.pdf)

<sup>95</sup> [http://www1.mfa.gr/images/docs/pagkosmia\\_zitimata/5i\\_6i\\_ekthesi\\_en.pdf](http://www1.mfa.gr/images/docs/pagkosmia_zitimata/5i_6i_ekthesi_en.pdf)

<sup>96</sup> [http://www.nchr.gr/category.php?category\\_id=252](http://www.nchr.gr/category.php?category_id=252)

<sup>97</sup> [http://www.nchr.gr/media/keimena\\_diethwn\\_organismwn\\_kai\\_forewn/diethneis\\_ektheseis\\_gia\\_ta\\_dta\\_stin\\_ella/cat\\_observations\\_04.pdf](http://www.nchr.gr/media/keimena_diethwn_organismwn_kai_forewn/diethneis_ektheseis_gia_ta_dta_stin_ella/cat_observations_04.pdf)