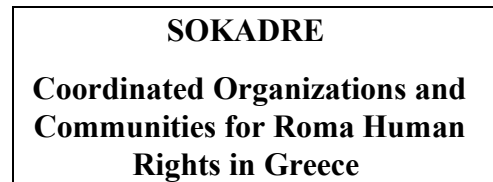


## Greece - Summary and recommendations for CAT 48<sup>th</sup> Session



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 United Nations Committee Against Torture (CAT). 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 Council of Europes Committee for the Prevention of Tortures (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. From March 2012 Greece has stepped up its efforts to detain undocumented migrants, planning to create 30 detention centers for migrants, and especially targeting migrants and asylum-seekers with infectious diseases. In this sense, the Commissioner for Human Rights of the Council of Europe Thomas Hammarberg rightly called for the “*limited use of the detention centers for undocumented migrants,*” recalling that “*the vast majority of them have not committed any crime;*” he added that “*it is very important to respect the dignity of foreigners in Greece.*”<sup>1</sup>

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

<sup>1</sup>Daily “To Vima” (in Greek) <http://www.tovima.gr/world/article/?aid=450963>

claim, effectively making the undignified detention conditions a deterrent to apply for asylum. Regularly, police chases the asylum seekers away (including cases of use of force and tear gas), as detailed in this report and its update, in the case of the migrants waiting in line at Attica Aliens Directorate.

Unaccompanied minors within this situation remain a very vulnerable group and Greek authorities does not attend their needs. 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. Indeed, between 1998 and 2002, 502 Albanian Roma street children were arrested by Greek authorities for begging and accommodated to the Athens children's institution Aghia Varvara until their repatriation to Albania, which never occurred because, soon after their assignment there, they went missing. Despite various recommendations asking for a judicial investigation from notably the UN Special Rapporteur on the sale of children and on trafficking, Greece claimed in its March 2012 written replies to UN Committee for the Rights of the Child's list of issues that following the preliminary investigation in 2004, the file was closed because no commission of a criminal act could be substantiated and that the 502 children "left with their own will".

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<sup>2</sup>, 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. Furthermore, on various occasions, members of the press have been violently beaten by the Greek police. Finally, OMCT - GHM - MRG-G – SOKADRE are concerned by the impunity in cases of trafficking in human beings. Judges and prosecutors insufficient knowledge of the the Palermo Protocol, and no interpretation available to the victim in trafficking trials, as exemplified in this report, poses serious obstacles to the access to justice of the victims of such crimes.

Finally, OMCT - GHM - MRG-G – SOKADRE point to shortcomings in Law 3500/24-10-2006 on domestic violence, which does not address at all, or use as a term "violence against women". While material in form of a manual for police officers has been produced, there is no adequate training provided on how to implement the manual.

## **Recommendations:**

### **Conditions of detention**

1. 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 judgements by the European Court of Human Rights.
2. 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.

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<sup>2</sup> 14 EtCH convictions regarding inhuman detention conditions as of February 2012 f.ex.

3. 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.
4. Allegations of torture and ill-treatment of detainees should be efficiently investigated.
5. An independent body of inspection of detention facilities should be established, and its reports should be made public.

### **Asylum**

1. 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.
  6. Immediately put a stop to the police's practice of chasing asylum seekers away while quieting to lodge their claims, especially end any use of force or tear-gas against trying to access the asylum procedure
  7. Review the practice of indiscriminate detention of undocumented migrants the majority of which has not committed any crime.
  8. Dedicate necessary resources to clear out the backlog of 47,000 pending cases of appeal of decisions on asylum.

### **Unaccompanied alien minors**

9. 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.
10. 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**

11. Implement the European Court of Human Rights judgements and Human Rights Committee views regarding law enforcement officers' use of violence, and carry out sanctions against the individuals responsible for the incriminated actions.
12. Efforts should be made to make all police officers aware of the implications of the European Court of Human Rights judgements on police actions, and they should lead to an effective change in the procedures of arrest and interrogation.
13. 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.
14. Available data regarding persons tried and convicted for the crime of torture, attempt or complicity in torture, should be produced.
15. Audio or videotaping during interrogation should be introduced in order to prevent torture – and ill-treatment.
16. 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**

17. 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.

18. In particular, Greece should automatically offer redress to victims of violence which has been ascertained by international bodies like the European Court of Human Rights and the Human Rights Committee, without waiting for the victims to bring new cases to that effect before domestic authorities

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

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

### **Use of police violence against members of the press**

22. Take steps to prevent the use of police violence against journalists

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

23. 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.
24. Make available comprehensive detailed information on prosecution and convictions of perpetrators of trafficking, including on the sentence and possible suspension.
25. Information should be made available on the concrete actions of the Athens public prosecutors on human trafficking.
26. Account for the effective legal and social assistance provided to the victims of trafficking.
27. Respect international conventions providing the right to a fair trial (which includes the right to the free assistance of an interpreter) for trafficking victims.
28. Ensure training of lawyers and judges regarding the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime ratified by Greece in January 2011.

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

29. Include provisions regarding gender based breaches of the Convention, including sexual violence in the criminal code, and monitor such crimes.
30. 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, and give prosecutors increased authority to issue restraining orders.
31. Greece should provide information on prosecution and convictions under this legislation.
32. Courts and competent authorities should be made aware of the provisions in the law, as well as the arbitration procedure.

33. Police should be trained to effectively apply the provisions of the Convention regarding violence against women, in particular to assure the safety of the victims and assist them to seek legal action and redress.

**Rights of street children**

34. Adopt a comprehensive policy to combat violation of the rights of street children.
35. Follow up on the “Aghia Varvara” case: \_
36. Complete in a thorough and efficient manner the pending criminal investigation for abduction of children younger than 14 years before charges become time barred in 2013
37. CAT is urged to ask Greece in collaboration with the government of Albania to promptly create a bilateral commission composed of relevant authorities of both states, the Ombudsmen offices, and relevant NGO, to
38. Coordinate the efforts to locate the children whose whereabouts remain unknown
39. Identify disciplinary and criminal responsibilities

**Other**

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