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# Torture and other forms of ill-treatment in Greece in 2003

The situation of women, Roma and aliens

A report prepared by  
Greek Helsinki Monitor (GHM) and  
the World Organisation Against Torture (OMCT)  
for  
the EU Network of Independent Experts in Fundamental Rights  
at its Hearing of 16 October 2003

Brussel, October 2003

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## Preliminary remarks

With the support of Greek Helsinki Monitor, the OMCT has been regularly reporting on violations of human rights in Greece for the past months, revealing an absence of improvement, if not a deterioration, of the occurrence of violence against the weakest sectors of the population i.e. women, minorities, aliens, etc. This is one of the reasons why GHM and OMCT have decided to focus on Greece their first contribution to the annual report of the EU Network of Independent Experts; the second one is the perspective of the 2004 Olympic Games to be held in Greece and whose preparations also led to violations of human rights particularly against Roma, thus contradicting the original spirit of fair-play and tolerance of the Olympic Games.

The detailed monitoring of Greece reveals that many serious human rights violations can and do happen in an EU country, despite its long democratic tradition. GHM and OMCT believe that equally serious concerns exist for many other EU countries; in some cases, they may be as if not more serious than in some EU accession countries, whose human rights record has been the object of detailed reports and recommendations by the EU. To avoid being criticized for double standards, EU must scrutinize with the same consistency the human rights situation within and outside the Union.

Greece is party to several international instruments relating to human rights: the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture, the Convention on the Elimination of All Forms of Discrimination Against Women, the Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Racial Discrimination. Greece has also ratified both Optional Protocols to the International Covenant on Civil and Political Rights as well as the CEDAW Optional Protocol.

At the regional level, Greece has been a member of the Council of Europe since 1949. In 1981, Greece was incorporated into the European Economic Community (EEC) as its 10th member and is currently one of the fifteen partner countries of the European Union (EU). Greece has been a participating State in the Organisation for Security and Co-operation in Europe (OSCE) since the Organisation's creation.

The Greek Constitution of 1975 explicitly declares the superiority of international law over domestic law. Initial direct reference to international law is found in Article 2 paragraph 2 of the Constitution:

*“Greece, adhering to the generally recognised rules of international law, pursues the strengthening of peace and of justice, and the fostering of friendly relations between peoples and States.”<sup>1</sup>*

The term “generally recognised rules of international law” is elaborated in Article 28, paragraph 1 of the Constitution, which governs the relationship between international and domestic law:

*“The generally recognised rules of international law, as well as international conventions as of the time they are ratified by statute and become operative according to their respective conditions, shall be an integral part of domestic Greek law and shall prevail over any contrary provision of the law. The rules of international law and of international conventions shall be applicable to aliens only under the condition of reciprocity.”<sup>2</sup>*

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<sup>1</sup> [http://confinder.richmond.edu/greek\\_2001.html](http://confinder.richmond.edu/greek_2001.html).

<sup>2</sup> [http://confinder.richmond.edu/greek\\_2001.html](http://confinder.richmond.edu/greek_2001.html).

Article 36 paragraph 2 of the Greek Constitution establishes a further typical requirement for the implementation of a category of international treaties in the Greek legal order:

*“Conventions on trade, taxation, economic co-operation and participation in international organisations or unions and all others containing concessions for which, according to other provisions of this Constitution, no provision can be made without a statute, or which may burden the Greeks individually, shall not be operative without ratification by a statute voted by the Parliament.”*<sup>3</sup>

In practice, all international obligations signed by the Greek government are submitted to Parliament for ratification and made part of Greek law. The ratifying clause in any statute ratifying international law into national law is as follows: “Ratified and having the effect provided for in article 28, paragraph 1 of the Constitution...”, and usually a full translation of the international law in Greek follows.<sup>4</sup>

Law 1342/1983 implements the Convention on the Elimination of All Forms of Discrimination against Women into Greek law and contains a full translation of the Convention in Greek. It should be noted that Law 1342/1983 has never been invoked by a Greek court.

The regulations of the EU have, under certain conditions, direct effect in the Greek legal order and can be invoked before Greek courts without requiring ratification by Parliament or transformation into national law.

Many of the internationally recognised human rights standards are vested in the Greek Constitution.

Article 2 paragraph 1 of the Greek Constitution states:

*“Respect and protection of the value of the human being constitute the primary obligations of the State.”*<sup>5</sup>

Article 25 of the Greek Constitution states:

*“1. The rights of man as an individual and as a member of the society and the principle of the constitutional welfare state are guaranteed by the State. All agents of the State shall be obliged to ensure the unhindered and effective exercise thereof. These principles also apply to relations between private individuals to which they pertain. Restrictions of any kind which, according to the Constitution, may be imposed upon these rights, should be provided either directly by the Constitution or by the law, in case a reservation exists in the latter’s favour, and should respect the principle of proportionality. 2. The recognition and protection of the fundamental and inalienable rights of man by the State aims at the achievement of social progress in freedom and justice.”*<sup>6</sup>

The above constitutional provisions are interpreted as obliging the State to take appropriate legislative and administrative measures in order to guarantee the unhindered exercise of individual rights, including the protection of such rights from acts of private individuals against one another.<sup>7</sup> Thus, the State is obliged to adopt relevant legal and administrative measures to regulate the exercise and protection of such rights within society.

<sup>3</sup> [http://confinder.richmond.edu/greek\\_2001.html](http://confinder.richmond.edu/greek_2001.html)

<sup>4</sup> K. Ioannou, K. Oikonomidis, Ch. Rozakis, A. Fatouros, *Public International Law, Relationship of National and International Law*, Sakkoulas 1990, pp. 163-175).

<sup>5</sup> [http://confinder.richmond.edu/greek\\_2001.html](http://confinder.richmond.edu/greek_2001.html)

<sup>6</sup> [http://confinder.richmond.edu/greek\\_2001.html](http://confinder.richmond.edu/greek_2001.html). Please note that in Greek the text reads “the right of human” (anthropos) rather than “the right of man.”

<sup>7</sup> P.D. Dagtoglou, *Constitutional Law, Individual Rights*, vol. 1, Sakkoulas 1991, p. 101, 199.

## **I. VIOLENCE AND DISCRIMINATION AGAINST ROMA PEOPLE**

The Greek National Commission for Human Rights (NCHR) and the Chair of the Council of Europe's Specialist Group on Roma/Gypsies have stated that a considerable number of Roma in Greece live under "apartheid" conditions, in racially segregated ghettos that stand in stark contrast to other residential areas in Greece.

### **A. Threats of eviction of Roma communities**

Roma communities are regularly facing threats of eviction, actual evictions, or violations of their right to adequate housing from the Greek authorities, particularly in the framework of the preparation for the 2004 Olympics. For instance, one of the Roma communities that have settled in the various areas of Athens and surroundings (area of Aspropyrgos) have been facing repeated threats of, and actual forced evictions, notably in July 2000 and September 2001. Moreover, the local authorities in Aghia Paraskevi, Ano Liosia, Halandri and Marousi have openly claimed that they want the land on which the Roma have settled, or were meant to be settled, to build sport facilities for the 2004 Athens Olympic Games. In this respect, the National Commission for Human Rights noted in its 2001 report that "It is a fact that with the opportunity of the Olympic Games the eviction of the Gypsies from many areas has been organized."

In the case of the Nea Alikarnassos municipality, the first order of administrative eviction issued in December 1997 was turned down by the Heraklion County Court after the challenge of the eviction order by the families. The same scenario happened in August 2002 but despite the cancellation of the eviction order by the Heraklion County Court, in mid January 2003 the Mayor of the Nea Alikarnassos Municipality, Mr. Sissamakias, authorized municipal employees to break into the site attributed to the resettlement of the local Roma community, including forcing the entrance lock and placing iron props inside.

The arbitrary seizure of the resettlement site destined for Nea Alikarnassos Roma is also related to the preparation of the 2004 Olympic Games. Indeed, Mr. Sissamakias clearly stated that the establishment of a Roma settlement was inappropriate next to a basketball court built with the budget of the 2004 Olympics. In addition, he stated in an interview to the daily "Eleftherotypia" (27.01.03) that Roma blemish one's sense of good taste, that they deal drugs, that he does not want them in his municipality and that they should not be accorded any privilege –such as the creation of a settlement-, that they could rent houses in Heraklion or Nea Alikarnassos.

This arbitrary seizure of this central government authorized resettlement site destined for Nea Alikarnassos Roma reportedly occurs against the background of ongoing attempts to drive the Roma away and to oppose any resettlement plan that would take place within the Nea Alikarnassos administrative borders.

There are fears, therefore, that as the date for the Olympics draws nearer, municipalities that want to evict their Roma communities will increasingly invoke the Olympics in order to evict the Roma without causing public censure or reactions from the Greek central authorities. With respect to this situation Mr. Alvaro Gil-Robles -the Council of Europe's Human Rights Commissioner- requested the Olympic Organising Committee to publish the list of the sites that have been selected for the 2004 Olympic Games in order to prevent that pressure is being put on the Roma that have settled or wish to settle in those areas. According to Greek Helsinki Monitor, this request remains, so far, unanswered.

The International Secretariat of OMCT is gravely concerned by the attempted forced evictions of Roma settlements, as well as by their alarming frequency. These have all similar characteristics, including the disregard for national and international law, the absence of eviction orders in many cases, the lack of alternative housing and compensation to the

victims, as well as the absence of prompt and impartial investigation into the actions of the municipalities.

Moreover, the absence of basic services has been reportedly used as a siege tactic, by the municipality authorities, in order to get rid of the Roma.

For example, it is reported that since the establishment of the current provisional Roma camp, the Nea Alikarnassos authorities are doing their best to drive the Roma away. For instance, the authorities refuse to have the Roma registered in the municipal list even if most of them live there permanently and despite the fact that 200 children were born there. Roma children were also reportedly not able to attend local schools from 1987 to 1998 because the camp was not within the enrolment boundaries of any school. Following 1998 and the efforts of the Heraklion Prefecture, a school for Roma children was eventually founded away from the municipality of Nea Alikarnassos, as part of the 34th Elementary School of Heraklion. In 2002, some children who attended the school for Roma went to regular schools in the municipality of Nea Alikarnassos but most of them dropped out very quickly; no Roma child of the camp has graduated from elementary school.

The Roma camp of Aspropyrgos is reportedly made of shanty houses with no water supply, electricity, sewage system or organised garbage collection and is reportedly awaiting the provision of water and electricity as promised by the Greek authorities. Despite all assurances given by the Greek delegation to the Council of Europe on September 11th 2002 that “all necessary measures have been taken in order that the Roma/Gypsy settlement of Aspropyrgos is provided with all public facilities”, the settlement still does not have any running water and electricity.

## **B. discrimination against the Roma by local institutions**

### *1. The Roma living conditions in Greece*

There is a clear pattern of segregated living conditions for the Roma in Greece due to the failure of local institutions to carry out their responsibilities to provide services to the Roma community on an equal basis with other citizens.

For example, the Prefecture Council of Argolida that settled the Roma in Glykeia had a duty, under the Sanitary Provision, to provide sanitary facilities to them. Specifically, Article 3 paragraph 4 of the Sanitary Provision requires that “the organized encampments must have the necessary infrastructure that would allow for healthy living, such as facilities for drinking water, sanitary toilets, containers for garbage collection and disposal and, preferably, facilities for individual cleaning in commonly used baths and laundry facilities.”

However, the Prefecture has failed to perform this duty. On the contrary, the Roma settlement in Glykeia is one of the most destitute settlements GHM has visited. Besides being located next to the Tiryntha Prison, it lies next to a factory and fields where garbage and rubble are dumped. The site has no electricity or telephone service, and it has only three taps providing poor-quality water. It is also reported that municipal police frequently set up checkpoints on the roads, at which they verbally abuse the Roma inhabitants.

Moreover, since November 1998, 27 Roma living in Glykeia, Municipality of Nea Tiryntha, Prefecture of Argolida, Southern Greece, have been indicted for having violating national sanitary provisions regulating living conditions in temporary settlements<sup>8</sup>. It is reported that these charges do not have adequate grounds for prosecution, as the settlement of the Roma in Glykeia was decided by the Prefecture Council of Argolida. Moreover, these charges have

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<sup>8</sup> For further details see in annex: OMCT APPEALS Case GRE-FE 110803.1 Follow-up to Case GRE-FE 110803

been maintained even though the court acquitted the same 27 Roma of the same charges in 1999.

The Roma are scheduled for trial in the Misdemeanour Court of Nafplio (the seat of the Prefecture of Argolida) on 1 December 2003 and face penalties of up to three months imprisonment and/or a fine.

Thus OMCT and GHM consider that the living conditions of the Roma community in Glykeia, contravene, *inter alia*, the inhabitants' right to water and to adequate housing; i.e., the right of all women, men and children to gain and sustain a secure place to live in peace and dignity. The Greek authorities especially violate those citizens' entitlements to security of tenure, access to public and environmental goods and services, information, freedom from dispossession, an appropriate housing location, participation, compensation, and physical security. All are elements to the right to the human right to adequate housing are enshrined in international law. Specifically, the authorities have breached their treaty obligations under articles 1, 2, 4, 11, 12, and 15 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which Greece acceded to on 16 August 1985. The State has been derelict in its obligations as elaborated in the UN Committee on Economic, Social and Cultural Rights General Comments Nos. 4 and 7 on the human right to adequate housing, and in General Comment No. 15 on the right to water. Greece has also breached articles 1, 5 and 6 of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD), which it ratified on 18 July 1970.

The situation of the Roma settlement of the Spata Municipality at the end of September 2003 is also representative of the failure by the authorities to honour their commitments towards the 22 Roma families who were compulsorily relocated in October 2000 to what was presented as a 'model settlement'. Despite what was promised by the authorities, the Roma settlement still has no electricity connection. Water is transported daily to the settlement, stored in plastic tanks and does not always cover the residents' needs. This situation unfortunately highlights a lack of vigilance and political will towards the implementation of the positive policies announced by the Greek government.

## 2. Access to school

Another aspect of this discrimination against Roma by the local institutions is the issue of access to school. While nothing prevent the parents from enrolling their children in the public schools, many times the geographical situation does not allow them to effectively attend. For example, on September 11, 2003, 14 Roma children living in the settlement of the Spata Municipality could not attend their first day of school, in spite of the guarantees given by the authorities to provide them with a school bus on June 5, 2003<sup>9</sup>.

Transportation constitutes a crucial element for the Roma children's school attendance. The Roma settlement is located 5 kilometres away from the last house of Spata Municipality. There is no public transportation to and from the settlement and people have to use a dusty and unpaved road of 1.5 kilometres to reach it. The distance from the Municipality makes it virtually impossible for the Roma children to reach school without transportation and since the Roma have been compulsory relocated in October 2000 to this settlement, children's school attendance has remained a recurrent problem.

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<sup>9</sup> For further details see annex : OMCT APPEAL OPEN LETTER TO MR. CONSTANTINE SIMITIS, PRIME MINISTER OF GREECE 29/9/2003

## CONCLUSIONS

OMCT and GHM consider it an urgent priority for the Greek government to show decisiveness in implementing its programme for Roma integration, and to combat widespread racism against Greece's largest indigenous minority. Required firmness should include unequivocal condemnation of racist practices or statements by local authorities and law enforcement agencies, as well as an end to impunity for all those violating Greek laws against ill-treatment and racism. Greece has a remarkable record of swiftly housing large populations of quake victims in recent years and, over many decades, of millions of internal migrants and Greek refugees from Turkey and the former Soviet Union. Hence, having Europe's worst Roma settlements cannot be explained by any other reason but effective lack of political will and widespread prejudice against Roma.

## **II. ILLEGAL PROCEEDINGS AND ILL-TREATMENT OF ALIENS IN THE FRAMEWORK OF MIGRATION POLICY**

### **A. Unaccompanied Alien Minors**

OMCT is seriously concerned by the excessive number of illegal proceedings against Unaccompanied Alien Minors including arbitrary arrests and detention, detention with adults, illegal deportation orders and slow procedures for family reunification.

For example, GHM has been informed of the illegal proceedings in the trial of a child asylum seeker that had been arbitrarily arrested and detained in Greece.

Hormez Wisam, 17 year old, had been sentenced to 4 months imprisonment for illegal entry in Greece, following the obstruction of his application for asylum by the Greek police<sup>10</sup>. On November 4th, 2002, Hormez Wisam went to the Aliens' Department of West Attica in order to submit his application for political asylum but he was constantly prevented from doing so.

On February 10th, 2003, while waiting at a bus stop, Hormez Wisam was arrested by two police officers for lack of legal documents. He was tried in flagrante delicto before the Second Misdemeanors Court of Athens two days after, without legal representation by a defence lawyer. The court sentenced him to 4 months imprisonment for illegal entry in the country, suspendable upon execution of his deportation. Due to inconsistencies in the definitions of a child within the Greek legislation, including that under civil law a minor is a person who has not reached age 18 while under penal law a minor is a person who has not reached 17, Hormez Wisam had reportedly been arrested, tried, sentenced as an adult, but detained as a minor. Hormez Wisam was finally acquitted on appeal on 4 June until which point he was in prison,. Wisam is now free and the whole family have been legally registered as asylum applicants by the Greek authorities but OMCT and Greek Helsinki Monitor believe that there was a lack of due process. Greek Helsinki Monitor also had to initiate a motion for compensation, as the appeals court refused to rule on such demand during his trial, even though mandated to do so by law.

OMCT and GHM also report a 100-day delay in the case of 2 unaccompanied Somali children seeking asylum in Greece and trying to be re-united with their mother currently residing lawfully in Sweden.<sup>11</sup>

These two Somali children, aged 6 and 13, were held in Rhodes for three months, in a single room along with adults, due to Greek and Swedish authorities' negligence.

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<sup>10</sup> For further details see annex : OMCT APPEALS Case GRC190203.1 CC Follow-up of Case GRC 190203.CC Child concern/Arbitrary detention/Fair trial

<sup>11</sup> For further details see annex :OMCT APPEAL Case GRC 260803.CC



The children entered Greece illegally, through the island of Leros, on 23/5/2003 and were transferred to Rhodes on 28/5/2003. There, they were hosted under detention in the former "Voice of America" facility, along with other adults.

Local Greek police authorities failed to inform the Prosecutor's Office in Rhodes of the presence of unaccompanied alien minors, in order for the Prosecutor's Office to take the necessary actions as far as their custody status is concerned under Greek law. On the contrary, on 26 May, Hellenic Police (EL.AS.) issued an effectively illegal deportation order ref. no. 6634/2/03/295b for them along with orders for the 19 other adult aliens that were on the same boat. EL.AS. had arbitrarily decided that their custody was at the hands of the children's half brother who was with them on the boat, and thus ordered the deportation of the three, as in the case of children accompanied by their parents.

Such decision is illegal as deportation orders should not be issued for asylum seekers; especially for unaccompanied children, who require the agreement of the Prosecutor who has their custody. The deportation order was finally suspended for six months by the General Secretary of the Region of Southern Aegean .

GHM also contacted the Swedish Embassy, on 8/7/03, to initiate the procedures for transferring the children in Sweden. But it is only following the intervention of UNHCR and the Swedish Red Cross, that the Swedish Embassy started the procedures. In fact, the children were never put under the legal custody of the Prosecutor or anyone else to look after their best interest, and were detained for three months. The reunion procedures, moreover, were following a very slow pace both in Greece and in Sweden. OMCT and GHM welcome the fact that Swedish authorities have finally provided the two Somali minors with the necessary documents and that they have now being reunited with their mother but regrets the lengthy procedures and illegal proceedings against minors.

Another case of an unaccompanied minor was brought up by the OMCT and GHM in the beginning of September 2003. Nagar Ali Abdyin<sup>12</sup>, citizen of Sudan, who states to be born in 1988, has been illegally held in detention in the former "Voice of America" facility along with adults, after its arrival. He arrived in Rhodes with 24 other aliens on 25<sup>th</sup> August 2003. His sister, Emtithal Ali Abdein Mohamed Ahmed, and her husband Abuobeida Abdalla Eljak, are legal residents of Denmark. Nagar Ali Abdyin is entitled to be set free immediately in Greece and file for reunification with his sister but is still currently held in detention by the Greek authorities.

It is only after the OMCT and GHM appeals that there was a mobilisation from the part of the police authorities of Rhodes, which detained the minor asylum seeker along with adults. This time they interviewed him in order to proceed, as provided by relevant legislation, to further action, such as informing the Prosecutor's Office, according to the Greek legislation. Finally, in mid-September the minor was reportedly moved to a Greek Council for Refugees hosting facility.

These were three of the fourteen UAMs deprived of their right to adequate protection identified by GHM between June-October 2003 among some 130 asylum seekers in the islands of Mytilini and Rhodes<sup>13</sup>: no special care was ever taken for the majority of them, while it is only after mobilisation of NGOs that some like the ones mentioned above were finally treated according to the legal provisions. It demonstrates the urgent need for all Greek Police and local Prosecutor services to be fully informed of the relevant procedures to be followed in cases of unaccompanied minors entering Greece, seeking asylum or reunification with their families residing in another EU country.

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<sup>12</sup> For further details see annex: OMCT APPEAL Case GRC 120903.CC Child concern

<sup>13</sup> This amounts to 10% of the overall asylum seekers' population in reception centres in the 2 islands. In addition, many more minors with parents are held together with other adults. For further details and names, see annex: OMCT Appeal case GRC 091003 from 10 October 2003

## **B. Illegal proceedings and arbitrary detentions of aliens and asylum seekers**

Cases are regularly reported of the systematic and potentially very widespread detention for longer than the 3-month lawful maximum detention period of aliens who have entered Greece illegally, as well as the unlawful and irregular treatment of asylum seekers. For example, the forced transfer after three months of detention in a temporary refugee detention facility of 30 applicants from the Rhodes reception centre to Athens on December 27th, 2002 without any provisions having been made for their hosting upon arrival<sup>14</sup>. This lack of provisions has reportedly resulted in 7 men and 2 children aged between 7-8, who could not be accommodated by Medecins du Monde and the Sisters of Calcutta, being left homeless in freezing conditions. In addition 9 more of them were left homeless on New Year's Eve and New Year's Day 2003, while 3 more persons followed on January 3<sup>rd</sup>, 2003.

12 more aliens, who entered Greece illegally, have reportedly been detained illegally in Rhodes by EL.AS<sup>15</sup>. On October 10th, 2002, they were transferred to Rhodes and immediately filed asylum applications. They were detained for over three months by EL.AS., in the same facility, instead of being provided with the necessary pink cards and released, as should be the case with asylum seekers.

The 12 asylum-seekers were released from detention on December 31st, 2002 thus 10 additional days over the 3 months period. 9 of them were forced to board the boat departing at 8 pm. from Rhodes to the Piraeus Port, Athens, with the prospect of spending at least the first few days of 2003 homeless in Athens. The three persons who had been allowed to stay in Rhodes were reportedly shipped to Piraeus without a place to stay on January 2<sup>nd</sup>, 2003.

Moreover, EL.AS in Rhodes reportedly refused to receive the applications of asylum-seekers that arrived in three groups after mid-October 2002, an action that is against the law and has reportedly been criticized by the Greek Ombudsman when it had previously happened in Rhodes in early 2002. It resumed accepting such applications after NGO appeals in early 2003, but has stopped again accepting them in October 2003.

Furthermore, the police authorities in Rhodes - ignoring relevant recommendations made by the Ombudsman and claiming to be acting on an official order from the Ministry of Public Order - on January 7<sup>th</sup>, 2003 denied access to the detention area to a representative of the Rehabilitation Centre of Torture Victims of Rhodes (also visiting under her capacity of GHM representative), although four detainees had specifically asked her to visit them, as she spoke their mother-tongues. One of the asylum seekers had kidney pain, which increased considerably after he had allegedly been ill-treated by a drunk policeman during his detention on the island of Simi, while another had reported blood in his urine. Despite a July 2003 police circular regulating NGO access, NGOs that sought access to asylum seekers in detention facilities in Rhodes and Mytilini have since been repeatedly refused such access.

In addition, there were also reports indicating that around 1,000 aliens who also entered Greece illegally and were being hosted in the area of Thrace, in late 2002, were being held in conditions that constitute ill-treatment, with many of them thought to be held beyond the 3-month period. Similar information was reported in the mainstream newspaper "Eleftherotypia" on December 23<sup>rd</sup>, 2002 for some 100 asylum seekers in the island of Chios. A great number of them have reportedly been detained for more than three months.

OMCT and GHM welcome the fact that reportedly the UNHCR's annual reports on Greece describe all the issues presented here and hopes that Greek authorities would heed to UNHCR's constructive criticism.

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<sup>14</sup> For further details see annex : OMCT APPEALS Case GRC 200103 / GRC 200103.CC

<sup>15</sup> Idem

## **C. ill treatment of detained migrants and asylum seekers**

### **1. violence during forced deportations**

The International Secretariat of OMCT is gravely concerned by allegations that the Greek authorities are continuing to use ill-treatment and torture against migrants and asylum seekers, including forceful sedation and electric shocks in the context of forced deportations, and the impunity which accompanies these acts.

Indeed, there have been reported cases<sup>16</sup> of the use of sedative drugs on illegal migrants in order to deport them from Greece. The victims had been brought by some police officers against their will to hospitals where they had been subjected to ill treatment to prevent them from resisting deportation.

According to the information received, Jahangir Alam was being deported to Bangladesh on September 19, 2001 when police officers brought him to Eginitio Hospital against his will where he was given a sedative drug via intramuscular injection by doctors of the University Psychiatric Clinic. According to the information received, the doctors were aware of the fact that Mr. Alam was brought to the hospital unlawfully. Mr. Alam was reportedly returned to Greece, because the authorities failed to provide him with the appropriate documents, leading to the Bangladeshi authorities refusing to allow him into the country.

On October 20, 2002, Onuchukwu Uchenna Ezekiel faced a similar situation upon its attempted deportation to Nigeria. Having failed to sedate Mr. Ezekiel, the police then reportedly brought him to the airport, where the airline refused to take him on board the airplane, as he had begged the airline representatives not to assist the authorities with his attempted deportation. It is reported that during the attempted deportation, he was subjected to ill-treatment, with sign of this visible to representatives for Greek Helsinki Monitor when they saw him three days later.

On June 25th, 2002, Joseph Emeka Okeke, who is married to a Greek woman, also resisted his attempted deportation to Nigeria. He was reportedly brought to the Hellenic New Holding Center, at which time Mr. Okeke bore marks of ill-treatment from electric shock with stun gun.<sup>17</sup> The Greek authorities assigned Police Brigadier General G. Metropoulos, the Director of the Aliens Department, to conduct a Sworn Administrative Investigation (EDE). Gen. Metropoulos concluded that all allegations regarding torture ".....are all lies, as was confirmed by the individual who was allegedly ill-treated and by his fellow detainees."

After receiving the letter on September 20th, 2002, Mr. Okeke's attorney, who was hired by GHM, visited him to investigate the allegations. Mr. Okeke reportedly stated that he had never withdrawn his original allegations and that he had never signed a statement for the EDE, since the text was in Greek. In addition, none of Mr. Okeke's fellow detainees had been called as witnesses; neither had Mr. Okeke's wife; nor his attorney, who had reportedly seen his injuries at the time. In addition, Mr. Okeke was never cross-examined during this process. According to the information received, the Greek authorities are refusing to hand over the copies of Okeke's records, to Greek Helsinki Monitor, which is legally representing Mr. Okeke.

With the help of GHM, both victims filed complaints to the Greek Ombudsman who has yet to act on them.

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<sup>16</sup> For further details see OMCT APPEALS Case GRC 160403 Ill-treatment / Torture <http://www.omct.org/displaydocument.asp?DocType=Appeal&Index=3095&Language=EN>

<sup>17</sup> For further details see OMCT urgent appeal in July 2002 – Case GRC 010702 <http://www.omct.org/displaydocument.asp?DocType=Appeal&Index=2102&Language=EN>

## 2. Detention of asylum seekers under inhuman and degrading conditions

Cases of detention under inhuman and degrading conditions of asylum seekers in Greece are also reported, including the violation of their rights to seek for asylum.

According to the information received by GHM, on July 19th, 2003, a boat carrying 24 asylum seekers, mainly Somalis, Sudanese and Afghans, reached the coast of Nees Kidonies, Mytilini.<sup>18</sup>

The asylum seekers were reportedly first handed over to the police and port authorities to be transferred to the former prison establishment of Lagadas, which is currently being used as a detention centre for aliens, both asylum seekers and those awaiting deportation. The facility is designed to hold approximately 70 individuals but is now housing 223 persons living in very poor conditions.<sup>19</sup> They have reportedly all submitted asylum applications individually, but have taken no copy of them back, with the date written on it and a protocol number. This has been reported to the Ombudsman, as there is no guarantee that their asylum applications will be properly processed or that they have even been registered as a result of this.

Upon the arrival of the 24 new asylum seekers, local residents protested, resulting in the Hellenic Police's (EL.AS) decision to relocate the new asylum seekers. They were moved to an ironbound open-air area in the Mytilini port. The asylum seekers, including the 7-month old baby, were subjected to intense heat during the day, cold at night, and in the first day were not provided with adequate water or access to a doctor. Some local residents volunteered to bring the asylum seekers water when they realized that the port authorities had not provided enough.

It has been reported that the detention is probably illegal under article 44.3 of 2910/01 on migrants as amended with article 21.7 of law 3013/02, which states that the asylum seekers may be held for up to three days after the prosecutor has abstained from prosecuting, but an administrative deportation order must be issued to continue the detention past three days. According to Greek law, the asylum seekers should also be informed of their rights in a language that they understand. The 24 asylum seekers have been held for more than five days under these conditions, without an administrative deportation order, and their rights have not been explained in a language that they understand. In addition, the Initiative for Refugees - Mytilini (IR-M), a local NGO, has been prevented from informing the asylum seekers of their rights. Hence, they have been prevented from filing their asylum applications.

On 24 July 2003, the 24 asylum seeker detainees were moved to an open-air facility belonging to the state, where they, along with another 15 persons who arrived on another boat on 27 July, have been living in five tents, and there are no toilets or showers there. Meanwhile, in the main asylum seekers detention facility, there are still some 215 persons - ten to fifteen in each room - while some 20 of them live outdoors, in the courtyard. For all of them there are only three toilets, two showers and three washbasins.

On 24 July 2003 a group of eight asylum seekers were told by the police to prepare their belongings in order to leave from the reception area, but they were not told where they would be going. They did leave, escorted by the police at 17 00. They had all applied for asylum but they had not been given a copy of their application with a date of deposition and a protocol number (as provided by Article 12 of Law 2690/1999 for all applications deposited with the administration) guarantying the registration of their application. Upon their departure they were not given the special identity card of an asylum applicant and were not given any paper informing them of their deportation. There is no other news about their current situation.

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<sup>18</sup> For further details see annex : OMCT urgent appeal Case GRC 060803 Arbitrary detention / Ill treatment

<sup>19</sup> The identities of 101 of these detainees can be found in the list that you can access by going to <http://www.omct.org/pdf/general/GRC060803list.doc>

## CONCLUSIONS

GHM and OMCT ask the Greek authorities to take all necessary measures to immediately guarantee the adequate reception and protection of the unaccompanied minors seeking asylum as well as to engage in a proactive campaign directed at all police and justice services dealing with asylum seekers informing them of the specific rights of and procedures for unaccompanied minors to be implemented in accordance with Greek law and EU regulations

GHM and OMCT therefore request that the Greek authorities take all necessary measures to guarantee the rights of all aliens and asylum-seekers,. We request that the authorities ensure that unlawful detention exceeding the three-month period in all of Greece's reception centres, such as that found in Rhodes, be immediately halted, as this represents violations of both Greek law and European and International human rights laws and standards. We call upon the Greek authorities to release all aliens being detained illegally throughout Greece, including all those detained despite that they have filed asylum applications. Moreover, Greek authorities should regulate effective unhindered access of NGOs to aliens' detention facilities. Moreover, Greek authorities should define clear rules for an effective protection of the rights of unaccompanied minors; and they should also systematically adopt the recommendations made to them by the Greek Ombudsman and the UNHCR.

In addition, we call on the authorities to guarantee that a prompt and impartial investigation is launched into all cases of ill-treatment and other aliens' rights violations that are brought to their knowledge; to ensure that the case files and all relevant material is made available to the victims' legal representation; to ensure that appropriate reparation is awarded to the victims, and that the perpetrators of these acts are brought to justice. We call on the authorities to ensure that practices such as forced sedation and the use of electric shocks, as well as all other forms of ill-treatment and torture, are halted immediately and that perpetrators be punished.

### **III. TRAFFICKING OF WOMEN AND CHILDREN**

Greece is a destination and transit country for women and children trafficked for the purpose of sexual exploitation. According to a government source, as many as 18,000 people were trafficked to Greece in 2002. Major countries of origin include Albania, Bulgaria, Moldova, Romania, Russia, and Ukraine. Women from Asia, Africa and other countries are also trafficked to Greece, and in some cases are reportedly trafficked on to Cyprus, Turkey, and the Middle East. While sources in Greece find that child trafficking has decreased, the problem persists and Albanian children are known to make up the majority of children trafficked for forced labor, begging, and stealing. Children from the Greek Roma community are also trafficked for labor.

In both 2002 and 2003 U.S. State Department reports Greece is given the lowest rating possible -along with Afghanistan, Armenia, Bahrain, Belarus, Bosnia & Herzegovina, Burma, Cambodia, Indonesia, Iran, Kyrgyz Republic, Lebanon, Qatar, Russia, Saudi Arabia, Sudan, Tajikistan, Turkey, United Arab Emirates- for failing to combat trafficking and protect victims.<sup>20</sup> According to this report, Greece "does not fully comply with minimum standards for the elimination of trafficking and is not making significant efforts to do so."<sup>21</sup>

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<sup>20</sup> United States Department of State, « Trafficking in Persons Report, » June 2002, at <http://www.state.gov/g/tip/rls/tiprpt/2002/10678.htm>

« Trafficking in Persons Report, » June 2003 <http://www.state.gov/g/tip/rls/tiprpt/2003/21275.htm>

<sup>21</sup> <http://www.state.gov/g/tip/rls/tiprpt/2002/10679.htm#greece>

According to a research by the sociologist Gregory Lazos, many of the victims of trafficking interviewed were ignorant of the day, the month, the time of year, ignorant of the city or country they were in, had difficulties with describing their surroundings and were incapable of conducting simple exchanges of everyday life.<sup>22</sup>

However, despite some anti-trafficking initiatives at the international and regional levels, the Greek government seems not ready to recognize the problem in its own country and has failed to address it adequately.<sup>23</sup>

In October 2002, the government passed a new anti-trafficking legislation to criminalize and punish traffickers, as well as to develop victim support, but there is no provision for labour trafficking<sup>24</sup>. Moreover at this date, there have not been any prosecutions or convictions under the laws criminal provisions, which became immediately effective upon passage last October. There were approximately 140 trafficking-related arrests under the new law, but there is no data yet on convictions. Lack of progress on arrests limits the ability to measure the overall effectiveness of the new law. Prosecution of traffickers is limited due to a slow and inefficient judicial system. A training module on trafficking is given to new police recruits as part of their introductory training, while more senior police attend a five-day seminar on trafficking issues. Some NGOs report that local police are still often complicit and bribed by sex club owners. The Pan Hellenic Confederation of Police Officers publicly acknowledged the involvement of the police in networks that traffick women. To date, there are no convictions of police officers complicit in human trafficking. With the exception of regional working groups, bilateral engagement to date is poor with source countries such as Bulgaria, Albania and Moldova.

The provisions of the new anti-trafficking law outlining victim protection and assistance are regulated in a decree published in August 2003. The government's financial commitment to develop and implement the provisions of the new anti-trafficking law on victim support, such as shelters, medical and psychological assistance and protections from police detention and immediate deportation, regulated therein have yet to be effectively implemented. Victim assistance mechanisms have therefore not yet been implemented and NGO cooperation remains weak, while Greek courts do not appear eager to defend victims' rights.

As an illustration of this situation, on May 23, 2003, a court acquitted a police officer who was accused of raping a 19 year old Ukrainian trafficking victim, Olga B., in 1998<sup>26</sup>. According to the victim, she was never summoned to testify or to be present at the proceedings. In the absence of the victim at the trial, the court concluded that she had consented to sexual intercourse with the police officer. The other witnesses, one of which is called Irina, who had testified on behalf of the victim at the preliminary hearings also were not summoned and were not present at the trial. Additionally, there was a lack of due diligence in investigating the victim's claim of rape, and the case came to trial five years after the initial claim was made.

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<sup>22</sup> Newspaper "To Vima", (the X-Ray of Horror), 10 March 2002.

<sup>23</sup> Although Greece has incorporated the term "trafficking in human beings" in Law 2605/98 with which Greece has ratified the Europol agreement, the term has never been invoked officially before a Greek court of law. Greece is also a member of the SouthEastern European Cooperation Initiative (SECI), which has a task force on trafficking in human beings. One of the main objectives of the Stability Pact Task Force (SP TF), set up in the summer of 2000 under the auspices of OSCE/ODIHR, is to enhance and further strengthen regional co-operation among the various anti-trafficking actors in the Balkan region and among the governments of the countries in the region. Greece contributes 20% of SECI's budget, but has no further involvement in the implementation of the task force.

<sup>24</sup> See <http://www.state.gov/g/tip/rls/tiprpt/2003/21275.htm>

<sup>25</sup> [http://www.hrw.org/background/eca/greece/greece\\_memo\\_greece.htm](http://www.hrw.org/background/eca/greece/greece_memo_greece.htm)

<sup>26</sup> For further details see annex : OMCT APPEAL Case GRE 020703.VAW

At the trial, the police officer was given a 2 year suspended sentence for breach of duty as a police officer since he knew that trafficking victims were being held in a bar, did not report the crime, and engaged in intercourse with one of the victims. The bar owner was sentenced to 3 years in prison for trafficking and three other defendants were also sentenced to two years in prison each for procuring women or assisting in the trafficking of women. However, the sentences of these 4 co-defendants were converted into fines (1600 Euros per year) as the court concluded that “a pecuniary fine is sufficient to deter them all from repeating the crime, after evaluating their characters and surrounding circumstances.”

A motion has been introduced for the cassation of the acquittal of the police officer but only on the grounds that the verdict “lacked specific and detailed explanation,” and not because she was not properly summoned. If the Supreme Court follows the motion, Olga B. will have to face separately a rape trial in first instance and a trafficking appeals trial. It is characteristic that it needed the Minister of Public Order’s personal request to the Prosecutor of the Supreme Court so that the motion is filed. Yet, when the Supreme Court held a hearing for it, on 7 October 2003, Olga B. was again not summoned while the alleged perpetrator was.

According to the information received, and despite the new presidential decree, Olga B. has to this day not received any form of effective protection during these proceedings despite the risks she faces and the threats she has received. Furthermore, because of the lack of proper procedure, Olga B. now faces lengthy, expensive multiple court costs, with no offer of assistance from the government. She also has no identity papers and is formally facing deportation. The Ukrainian consulate has not issued her a new passport, her former passport having been seized by the bar owner in 1998.

OMCT and GHM denounce the unfair trial procedures where the victim was not present to support her claims of rape and trafficking and the continuing lack of due diligence in bringing this case before the court. OMCT is also deeply distressed by the inadequate punishments handed down by the court; as well as by the fact that, despite the new legislation, Greek authorities have not provided effectively legal residence papers, protection and assistance to the trafficking and rape victim.

## CONCLUSIONS

OMCT notes that Greece is a party to the Convention on the Elimination of All Forms of Discrimination Against Women, which mandates all State Parties to take all measures to eliminate trafficking in women, including the development of appropriate legislation and sanctions. Greece is also a party to the International Covenant on Civil and Political Rights which guarantees individuals the right to a remedy when asserting rights covered by the Covenant.

While the government has taken some legislative and policy measures to address the issue of trafficking, these efforts have thus far proved inadequate. Consequently, victims of trafficking are afraid to file complaints with the Greek authorities, and therefore remain trapped in abusive situations and the human rights abuses committed against them go unpunished.

GHM and OMCT would suggest that Greece promptly effectively implements and when necessary strengthen the new legislation, in ways that will call for the authorities to seek out and assist victims rather than waiting for the victims to turn up and struggle with complicated administrative and expensive judicial procedures to defend their rights and secure protection. They would also recommend that the Greek government to ratify the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and children, supplementing the United Nations Convention against Transnational Organized Crime and to implement its provisions.

## IV. VIOLENCE AGAINST WOMEN IN GREECE

Violence against women is not generally portrayed in the Greek media as a social problem which violates human rights and should be addressed by policies for prevention, prosecution and protection. On the contrary, one might say that most images in the media reinforce the stereotype of men exulting power by being violent, and women exulting femininity and submission by accepting violence and acknowledging its necessity. To the Greek mentality, a slap in the face is a form of emotional communication for both sexes; and the Mediterranean temperament excuses such gestures as an indication of passion.

The Greek Research Centre on Equality Matters (KETHI) issued an informative booklet on violence against women in 2000, where it stressed that violence against women is not caused by poverty and unemployment. The cause for violence against women is the fact that Greek society does not recognize substantial equality between men and women in every day life. The relationships amongst the two sexes are relationships of power and subordination, not of companionship and respect. Thus, violence against women is easily excused, at least more than any other form of violence is excused, and many times the victim is accused of provoking such violence. Men learn that it is their right to control the mind, heart and life of their women, and learn to feel security when their companion is dependent and submitted. A completely independent female companion breeds insecurity since it is not her priority to make a man happy. Women themselves learn to be submissive, to be patient with violence, to remain silent and not demanding. As a result, there is a lack of solidarity among women who experience violence that reinforces inactivity against violence.<sup>27</sup>

### **A. Violence against Women in the Family**

#### *1. Domestic Violence*

There is no adequate, comprehensive data on the extent of domestic violence suffered by Greek women. It has been estimated, however, that 83% of Greek women has suffered from some form of domestic abuse, either psychological or physical; 16% of these women have experienced psychological, physical and sexual violence together.<sup>28</sup>

It is noted with concern that there is no legislation that specifically protects women against domestic violence, which would take into account the special relationship and the inter-dependence that exist between the victim and the perpetrator of domestic violence.

Most Greek women suffering from abuse do not press charges against their abusive partners for the following various reasons. Apart from the heaviness of the judicial system regarding family violence (on average, a criminal case takes 3-5 years for complete adjudication), there is an extremely limited infrastructure for the empowerment and support of victims of family violence. Subsequently, even if a woman chooses to take legal action against her violent spouse and press criminal charges, there is no welfare solution or alternative provided for her by the State, as in adequate support facilities that may provide help and protection to her and her children for the years she will be involved in judicial adventures.

In addition to the fact that there is no effective legislation to deal with domestic violence and a lack of support from public authorities, women subjected to domestic violence also often choose not to pursue criminal complaints due to social and familial pressure. In those rare instances when incidents of domestic violence are reported, the cases are usually regarded

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<sup>27</sup> Research Center on Equality Matters (KETHI), *Break the Silence*, booklet, 2000.

<sup>28</sup> "To Vima" 3 March 2002.



as private matters by the police and other law-enforcement officials and women are often encouraged to settle their cases extra-judicially.

Even doctors in hospitals try to reduce the importance of the incident and to persuade the woman victim to prioritise the family unity, also because they are reluctant to find themselves involved in judicial proceedings as witnesses.

## 2. Marital Rape

Marital rape is not considered a crime under the Greek Penal Code. Article 336 of the Greek Penal Code prohibits rape as follows:

*“1. Whoever with physical violence or with threat of grave and direct danger forces another to extra-matrimonial intercourse or to tolerance or action of an indecent act, is punished with incarceration.”*

Article 338 of the Greek Penal Code prohibits indecent assault as follows:

*“1. Those who take advantage of the insanity situation of a woman or her disability to resist in order to perform with her extra-matrimonial intercourse are punished with incarceration of at least ten years.*

*2. Those who take advantage of the above situations and perpetrate indecent acts with a man or a woman are punished with six months imprisonment at minimum.”*

If a husband uses “illegal violence”, resulting in physical injury, in order to force his wife to have sexual intercourse with him, a wife can press charges only on the basis of the physical injury provisions, which are punishable under Greek criminal law.

In Greece sexual gratification of the other spouse is considered a general obligation of marriage. Refusal to fulfill the other spouse's sexual needs may be considered a reason for divorce and carries heavy social consequences: it is the wife's fault if her husband seeks other female sexual companionship, since she refuses him. Consequently, marital rape remains a hidden form of violence against women in Greece.

OMCT and GHM are very concerned that rape as a criminal act is limited to extra-marital situations. The marital relationship figures as a cover for violence in the home. However, we believe that marriage may not, in any circumstances, relieve the husband of criminal responsibility, if he is the perpetrator of rape. The impunity enjoyed by the husband who forces his wife to have sexual intercourse nullifies the enjoyment of women of their right to equality and heightens the risk of physical and psychological violence in the home.

## 3. Incest

Incest is a crime under article 345 of the Greek Penal Code. However, incest victims rarely press charges. Cases of incest including rape in the context of incest are very rarely reported, since the perpetrator is a close relative of the victim, upon whom the victim is usually dependant; the cases that are mostly reported are the ones where the incest has resulted in pregnancy. In most incest cases, the victim is a minor.<sup>29</sup>

The selectivity in prosecution of the Greek legal system is evident through the small number of incest cases that have reached Greek courts. Since less than 1% of the total of incest cases reach the Greek courts, according to criminologist A. Tsigris the major problem lies with the selection process applied by the police and eventually judicial officers in promoting which cases will be further investigated, prosecuted and indicted before a court of law. Incest cases are preferably not promoted.

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<sup>29</sup> A. Tsigris, «Sexual Violence Against Women and Children: Greek Report», Athens 2002, p. 22-25.

## **B. Violence Against Women in the Community:**

### **1. Rape and other forms of Sexual violence**

Since the revision of the Greek Penal Code in 1984, rape is included in the category of “crimes against sexual freedom and economic exploitation of sexual life.” The fact that gender-specific forms of violence, such as rape, insult of sexual dignity, peculation for indecent act, etc. are categorized as “crimes against sexual freedom and crimes of economic exploitation of sexual life” and not as “crimes against personal freedom”, such as the crimes of slave-trading, abduction, kidnapping, illegal detention, illegal violence, is largely debated by women’s groups in Greece.

Victims of the acts described in the category “crimes against sexual freedom and economic exploitation of sexual life” are mostly women and girls. It is feared that even though almost all crimes of this category contain the element of violence, the acts are not considered as crimes against the personal freedom of women, but are recorded in the subordinated category of sexual crimes. Moreover, the category of sexual crimes entails lower punishments than the category of crimes against personal freedom.<sup>30</sup>

Article 336 of the Greek Penal Code reads:

*“1. Whoever with physical violence or with threat of grave and direct danger forces another to intercourse extra-matrimonial or to tolerance or action of an indecent act, is punished with incarceration.”*

Rape is punished with incarceration, and gang rape is punished with incarceration of at least 10 years. Case law has interpreted extra-matrimonial intercourse in article 336 of the Penal Code broadly, including various forced sexual acts in the definition of rape. As mentioned above, rape is punishable only if committed outside marriage.

The crime of rape is prosecuted *ex officio*. However, there is an exception laid down in article 344 of Greek Penal Code. According to this article, the criminal prosecution of the perpetrator may end definitely if the victim, or her legal representative, submits that publicity from prosecution will result in a grave psychological trauma of the victim, despite evidence against the perpetrator. This particularity in the prosecution of the crime of rape has been severely criticized by women’s rights advocates, because it allows for multiple discriminatory practices such as blackmails, corruption, bribery, defamation, to take place behind the scenes.

Relatively few cases of rape are actually reported to the police and fewer cases proceed to prosecution. As with other forms of violence against women, women who are the victims of rape in Greece are often unwilling to report the crime largely due to shame, fear, social attitudes and the lack of confidence in law enforcement response to rapes.

Research has shown that every year in Greece approximately 4500 rapes are committed, from which only 270 are reported to the police, only 183 result in the arrest of a suspect, only 40 reach court adjudication, only 20 end in a conviction, and finally less than 10 rapists are sentenced to more than five years imprisonment.<sup>31</sup> On the other hand, 60% of rape victims experience feelings of guilt, and 35% of rape victims respond that they could have avoided their rape if they had reacted differently.<sup>32</sup>

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<sup>30</sup> For example, in the 18th Chapter of the Greek Penal Code, named crimes against personal freedom, article 323 prohibits slave-trading with punishment incarceration (which means 5-20 years unless otherwise specifically specified). In the 19th Chapter of the Greek Penal Code, named crimes against sexual freedom, etc., article 351 prohibits ‘white flesh’ trade with punishment imprisonment of 1-3 years and a fine.

<sup>31</sup> A. Tsigris, *Sexual violence yesterday, today and tomorrow*, newspaper «Kathimierini», January 4, 2002.

<sup>32</sup> A.Tsigris, (2002), *Sexual Violence Against Women and Children: Greek Report* (in Greek), Kastaniotis ed., p.14.

The crime of rape has certain characteristics: it is almost always committed with no witnesses and more often than not it leaves no evidence. Although the testimony of a rape victim to the police is theoretically enough for prosecution to be initiated, without concrete evidence written in a forensic report the case is not considered strong enough for a conviction, except if there were witnesses to the crime willing to testify, which is rarely the case. But access to forensic departments with the adequate medical function is generally not possible at the time rape usually occur (nights and/or during weekends) and regular medical documents from hospitals do not have the same legal significance. Therefore the victim faces the dilemma of either remaining unclean and risking her health (both physical and psychological) or taking care of herself and losing evidence. Hospitals doctors would face the same dilemma in order to secure the victim's health (STDs and pregnancy).

The police are, in general, inadequately trained and ill-equipped to handle complaints from women and girls who allege that they have been the victims of rape and other forms of sexual violence, considering the discriminatory attitudes of many police officers and the psychological state of the victim of much confusion and fear. Further criminalisation of the victim may occur, particularly during trial. Indeed, while the past of the perpetrator is usually used as a mitigating argument, on the contrary the past of the victim, including previous sexual relationships, her behaviour or dressing is painstakingly scrutinised in view to insinuate that she has been promiscuous, provocative or "deserving it" in one way or another.

Unfortunately in Greece there is very little training concerning post-rape treatment of victims at all levels. If there is no obvious physical injuries or bruises, what is further accepted as a presumption of rape is the presence of semen. But this remains mostly theoretical as most rape cases do not result in the ejaculation of the perpetrator. Psychological violence (direct and indirect) is not considered an element of the crime of rape.<sup>33</sup>

Therefore Greek women generally do not believe that they will find justice if they report rape and/or other forms of sexual violence, leading to the subsequent under-reporting and prevailing impunity for these crimes.

## 2. Sexual Violence against Girls

Sexual abuse of children is also a serious problem in Greece, despite the threat of criminal prosecution. According to article 339 of the Greek Penal Code, the age of statutory rape in Greece is 15 years old.

Greek Helsinki Monitor has highlighted the published findings of the organization "The Child's Smile" and of criminologist Angelos Tsigris, which show an extremely low percentage of sexual abuse charges, to the United Nations Committee on the Rights of the Child. The reasons for the low percentage of sexual abuse charges are that the interrogating authorities (prosecutor and police) often try to dissuade the victim from pressing charges, and/or the fear of public abuse of the minor victim. The press and electronic media play a decisive role in public abuse, using sensationalist tactics that do not respect their obligation to protect the minor victim, and by irresponsibly making public cases and even interviews with the victims. The superimposition of an electronic "mosaic" over the victim's face or using initials instead of a name, when the context makes it easy to identify the victim is inadequate if not hypocritical.

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<sup>33</sup> Conference Proceedings, "Violence: Zero Tolerance", Athens, January 1999, organized by the NGO Democratic Women's Movement, as part of the European Union program DAPHNE.

<sup>34</sup> E. Agathanos-Georgopoulou and Maria Tsangari, *Guide to the Rights of the Child*, Institute of Children's Health, Athens, 1999, p. 92.

## CONCLUSIONS

GHM and OMCT would recommend that effective measures be taken with respect to the enactment of legislation on domestic violence along the lines of the guidelines submitted by the United Nations Special Rapporteur on violence against women to the fifty-second session of the United Nations Commission on Human Rights (U.N. doc. E/CN.4/1996/53, Add.2). The measures that the government should envisage incorporating within domestic violence legislation should include the establishment of a system for the enforcement of *ex parte* restraining and protective orders that would have the effect of ensuring that the perpetrator could not approach the victim or other witnesses and that the perpetrator be obliged to vacate the family home; as well as provisions on the rights of victims to receive appropriate legal, medical and other assistance including alternative shelter and reparations. The Penal Code should criminalise marital rape. Moreover, GHM and OMCT would insist on the necessity of training for law enforcement officials and members of the judiciary in relation to the investigation, prosecution and punishment of cases of violence occurring in the family. The government should also collect and maintain accurate statistics on the scope and nature of domestic violence and develop a broad-based public awareness campaign concerning domestic violence.

GHM and OMCT would recommend that all law enforcement personnel are given appropriate gender-sensitive training in responding to cases of rape and other forms of sexual violence against women. Moreover, during the trial, the focus should be on the perpetrator and not on the (sexual) history of the victim. The law should be revised in such a manner that victims of rape and other forms of sexual violence cannot be put under pressure to stop the prosecution of the case.

GHM and OMCT believe that there is a particular need to address social and cultural attitudes that reinforce the subordinate position of women and leave them vulnerable to violence in the family, in the community and at the hands of State officials. To this end, GHM and OMCT would recommend that the government of Greece develop and implement a comprehensive strategy for the prevention and elimination of all forms of violence against women and that this strategy include training for those responsible for enforcing the law at all levels, such as law enforcement officials, judicial personnel, health care professionals and Muslim judges and priests, as well as a public education programme designed to change social and cultural attitudes which impair the fundamental rights and freedoms of women.

Finally, OMCT would insist upon the need for the Government to fully implement all of the provisions of the Convention for the Elimination of All Forms of Discrimination Against Women, the Beijing Rules and Platform for Action and the Declaration on the Elimination of Violence Against Women as these instruments provide detailed protection for women against violence in the family, in the community and at the hands of State officials.

## V. VIOLENCE AGAINST INDIVIDUALS IN PRISONS AND BY LAW ENFORCEMENT AUTHORITIES

### A. Conditions of detention in prisons

OMCT and GHM welcome the last CPT report on Greece<sup>35</sup> which exposes an unpleasant and, at times, dark picture of detention facilities (police detention and prisons) as well as allegations of detainees being ill-treated; these allegations are almost never investigated or reported since even the detainees' lawyers themselves discourage their clients from doing so. In addition, the report establishes the existence of a general xenophobia and "Albanophobia" climate among law enforcement officers. The observations and the conclusions reached by the Committee totally confirm and complement years of allegations made by GHM and the relevant findings of the recent joint Amnesty International and International Helsinki Federation report *"In the shadow of impunity – Ill-treatment and the misuse of firearms"*.

In the Ministries' replies<sup>36</sup>, apart from general references to laws, regulations, circulars or steps towards improvement etc., the Ministry of Public Order attempts to give a specific reply to the allegations made over the insufficient inquiry in the Messolongi Roma case. In this reply, the Ministry of Public Order misinforms the Committee by saying that the Sworn Administrative Inquiry could not track those responsible, when it is a fact that the Sworn Administrative Inquiry was able to find them and recommended strict penalties. Furthermore, the Ministry claims that one of the suspects on trial was acquitted of the charges because his victims, supposedly, could not recognize the perpetrators or the time of their ill-treatment, a statement contradicting the minutes of the trial: the court simply decided to ignore their testimony and the forensic medical examiner's report in order to acquit an officer who "has brought to justice many drug-related cases"... The case, handled by GHM, is now with the European Court of Human Rights. In addition, the Ministry of Public Order informs the Committee falsely that unannounced visits to detention facilities are done by non-governmental organizations, when access has been denied to GHM and Médecins du Monde, even after prior request: this ban, combined with Greek state statements to international organizations to the contrary, have been reported by GHM to the Greek Ombudsman; it has since been confirmed many times (see above on alien detainees).

The OMCT and GMH will only summarise the main points of the CPT report on Greece and suggest to the E.U. Network of Independent Experts on Fundamental Rights to directly refer to the full report for further details.

- Ø The Committee notes that it received no information on places being used on an ad hoc basis for the detention purposes of aliens, by the police, the Coast Guard or even the Customs authority, which is in breach of Article 8, paragraph 2 (b) of the Convention (paragraph 7 of the report).
- Ø The Committee found that the conditions of detention in the Kozani and Iraklion Police Headquarters were wholly unacceptable. For these two establishments, the Committee had asked for the authorities' immediate intervention to remedy the shortcomings observed, and the Greek authorities had assured that appropriate measures were taken. (8).

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<sup>35</sup> Rapport CPT/inf (2002) 31

<sup>36</sup> Rapport CPT/inf (2002) 32

- ∅ The Committee received a “considerable number” of allegations by persons who alleged that were ill-treated, mainly by law enforcement officers and to a less extent by Coast Guard officials, usually during questioning: kicks and blows with hands, fists, batons or various other objects. For those cases where ill-treatment was relatively recent, the delegation’s doctors found marks verifying the allegations and they describe in detail four representative cases of detainees’ ill-treatment at Khania and Igoumenitsa Police Headquarters and at the Piraeus Port Police Station (11-12).
- ∅ The head of the Coast Guard Police at Piraeus Port and certain officers admitted that using some force (e.g. slapping) was acceptable during interrogations to obtain information from detainees, particularly those arrested in connection with drug-related offences. The Committee also noticed the disrespectful attitude displayed towards immigration detainees, particularly those of Albanian origin (14).
- ∅ The Committee notes that Greece seriously underestimates the scale of the problem of detainees’ ill-treatment by law enforcement officials and calls upon the authorities to remind their will to stamp out ill-treatment of detainees and to draw the attention to the provisions of Articles 137A, 137B and 137C of the Criminal Code dealing with torture and ill-treatment by state agents (15-16).
- ∅ The Committee calls upon Greece to examine diligently all complaints of ill-treatment and, where appropriate, to impose a suitable penalty. It also notes that the victims of such ill-treatment reported a lack of interest from the side of the authorities and that even their own lawyers tried to discourage them on the grounds that it would not be in their best interests. The Committee calls upon the prosecutors and judges, in particular, that whenever there are allegations of ill-treatment, these should be recorded in writing, a forensic medical examination should be ordered immediately, and that the allegations are properly investigated. At the same time, appropriate steps must be taken so that victims are not dissuaded from lodging a formal complaint and are enabled to ask for a forensic medical examination themselves, a recommendation made by the Committee in previous reports that has yet to be implemented. Finally, it asks independent organizations and the prosecutors to make regular and unannounced visits to detention facilities (18-22).
- ∅ The Committee thought that the conditions of detention in the Police Station at the Kozani Police Headquarters and in the Iraklion Police Headquarters were also “wholly unacceptable” and that the premises in Athens Police Headquarters (7th floor), in Khania and Igoumenitsa Police Headquarters, at the Iraklion Security Department and in Chersonissos and Drapetzone Police Stations were “unhygienic” and “dirty”. It also found that the new facilities at Hellenikon have no exercise yard and pointed out that the Athens and Piraeus Transfer Centers are still as unsatisfactory as in the past, despite of the Committee’s previous recommendations and the government’s promises to relocate Piraeus Transfer Centre. Conditions at Kristalopigi and Mesopotamia Border Guard Posts for holding immigration detainees subject to immediate readmission procedures were also far from ideal, as was the situation at Hellenikon and Piraeus Holding Centers for Aliens (26-32).
- ∅ The Committee reminds of Greece’s longstanding obligation to materialize the Committee’s recommendations as regards minimum cell sizes, equipment and hygiene as well as proper food (35-36). It also reminds of the relevant Greek regulations (38). It calls upon Greece to stop detaining aliens for prolonged periods in ordinary law enforcement agency detention facilities which are designed – quite often insufficiently – for short stays (39).
- ∅ The Committee expressed its concerns for not respecting detainees’ rights to inform a close relative of their situation, to have access to a lawyer, to have access to a doctor and

to be informed of their rights (40-46). It also recommends the existence of a single and comprehensive custody record for each person detained (48), and access to free legal aid and interpreting services for all detainees that might need them (49). It also asks that the aforementioned rights are guaranteed for the persons subject to immediate readmission procedures at the borders (50).

Ø The Committee has pointed out that it has been reassured by the Greek authorities and organizations active in the domain of refugees that, the persons seeking asylum are not returned to countries where there are might be a risk of being subjected to torture or ill-treatment. However, CPT observes that group and/or informal deportations to Turkey take place (52-53).

Ø The Committee observes significant improvements in the detention conditions but stresses that the overcrowding problem has not changed since 1993 (8,500 prisoners for 5,000 places), reaching “new heights” at Korydallos Prison Complex. The Committee does not think that the building of new prisons will solve the problem, and reminds of Recommendation No. R (99) 22 of the Council of Europe’s Committee of Ministers to introduce new alternative penalties that do not deprive persons of their liberty and to decriminalize certain offences or adopt penalties not entailing the deprivation of liberty. Whereas in older prisons there were no complaints of ill-treatment, there were some complaints of ill-treatment at Malandrino Prison (Fokida). Contrary to the Alicarnassos, Khania and Korydallos Prisons, the material conditions of detention at Malandrino Prison were of a high standard. However, in all prisons there are problems with the programs of activities, especially for prisoners serving lengthy sentences (including life sentences) who require special activities. In addition, health-care services are problematic in all establishments and the Committee recommends a detailed audit. It also condemns the segregation of HIV-positive prisoners and signals the absence of a prevention policy where drug abuse and trafficking is concerned, as well as suitable assistance to all persons concerned (54-104). Disciplinary unit conditions should also be improvement and prisoners should be made aware of their rights (108-112).

Ø The Committee points out the unacceptable conditions of visiting booths: at Korydallos Prison, the minimum visiting entitlement of 30 minutes per week is not always respected, while only the visiting booths at Malandrino Prison are adequate. In addition, the Committee rejects the practice of prisoners lacking physical contact with their visitors during lengthy periods and recommends that the Greek authorities organize visits at the Malandrino Prison because of its geographical isolation (105-107).

Ø The Committee notes the ill-treatment of Albanians detained by military personnel at the borders while trying to enter Greece and lack of the rights referred to all prisoners invariably (115-117).

In view of the above, it is to be said that so far the Greek authorities have taken no action or initiative in order to start effectively implementing the CPT recommendations and improving the detention conditions in most prisons and other places of custody.

This has been illustrated by the suicide of a detainee (Alexandros Kallias, age 55) at the General Police Directorate of Attica (GADA) a police holding facility, on February 25<sup>th</sup> 2003, while this detention facility was supposed to be closed two months prior to the incident<sup>37</sup>. GADA’s detention facilities are known for their poor detention conditions, as stated by both the CPT and the Council of Europe Commissioner for Human rights. Tens of aliens detained pending expulsion are held in the 7<sup>th</sup> floor for several weeks despite an obvious shortage of

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<sup>37</sup> For further details see annex : OMCT Appeal case GRC 280203 – ill treatment/ death in detention

space, the lack of any facility for physical activities and outdoor exercise and very precarious conditions. The CPT also stated dirty mattresses and blankets as well as poor state of repair and unhygienic premises.

OMCT and GHM remain gravely concerned with the physical and psychological integrity of other detainees being held on the same floor.

### Women detainees

In addition, conditions in detention for women in Greece are below international human rights standards. There is only one prison for women in Greece, the Closed Central Prison in Korydallos Prison Complex, Athens and this prison is overcrowded.

A main problem is the non-distinction of female prisoners in various categories because there is only one women's prison. Thus, under-age female prisoners cohabit with adult prisoners, as there is no special female juvenile prison. Also, there is no psychiatric clinic for women, so drug-addicts and/or women with psychiatric problems remain in the main prison. There are few public bathrooms, one for every twenty prisoners. Preventive medical care is non-existent and medical care is scarce. Diseases are spreading, hepatitis being the most common.

A large number of the women prisoners were reportedly addicted to prescription drugs, and the over-prescription of such drugs was explained officially as a method of controlling and maintaining prison order.

With regard to ill-treatment from guards, 25% of the total of women prisoners admitted that incidents of violence against prisoners and bribery of guards take place. Incidents of sexual harassment from male correctional officers were also reported. Many women prisoners had experienced violence from police officers while in custody, specially due to the fact that women and men are held together in the same police establishments where women, men and children have to share the same facilities. In the areas where women are held, a shortage of female police personnel was noticed.

The prison conditions of women who are awaiting deportation after having been trafficked to Greece and the violence they are subjected to are of particular grave concern to GHM and OMCT. GHM and OMCT are concerned by reports of violence against women by state officials, and it is feared that Roma women are particularly vulnerable to violence at the hands of state officials.

### **B. Ill-treatments, including killings, by law enforcement officers**

Finally, in the last few weeks a series of serious incidents of ill-treatment, injury or death of Albanian citizens at the Greek-Albanian border has highlighted both the "Albanophobia" of law enforcement authorities and the inadequate or no investigation of previous such cases which leads to widespread impunity.

In a just released appeal, OMCT reported on 44 such cases. OMCT has been informed by Greek Helsinki Monitor, a member of the OMCT network, and the Albanian Rehabilitation Centre for Torture and Trauma of the recent severe beatings, injuries and death of 17 Albanian citizens at border areas in Greece.

According to the information received, on Monday, September 15<sup>th</sup>, 2003, at about 5:00, Albanian citizens **Ligor Halimi**, age 41, **Mili Halimi**, age 43, and **Rahman Pashollari**, age 62, were severely abused by Greek policemen. The three Albanians had been working since September 5<sup>th</sup>, 2003 in Greece and were returning to Albania when they were stopped near the border by six Greek police patrol officers dressed in camouflage uniforms and black



hoods. The officers searched them, took the money they were carrying, and reportedly began to punch, kick and hit them with wooden batons on all parts of their bodies.

Following this, the three men were taken to a detention facility in Pili (Florina), where their identity data were recorded. No violence was reportedly used against them at the detention facility, where they were kept for approximately one hour. The policemen then took them to the Kapshtica (Kristalopigi) border crossing point. In Kapshtica, the three men allegedly received no assistance from the Albanian police, even though the gravity of their injuries was clear. They managed to travel towards their homes in Elbasan. The victims sought medical attention at the hospital of Elbasan. Of the three travellers, Ligor Halimi experienced the most severe injuries, while Mili Halimi and Rrahman Pashollari suffered only light bruises on their knees and arms. Ligor Halimi was hospitalized in Elbasan and was diagnosed with injuries to the abdomen and a rupture spleen, accompanied by internal haemorrhaging. L. Halimi underwent surgery to have his spleen removed due to his injuries.

Separately, on September 23<sup>rd</sup> an 18-year old Albanian, **Vullnet Bytyçi**, was shot in the back of his head and killed by members of the Greek police near the Kristalopigi checkpoint while he was attempting to escape arrest. Four other Albanian persons with whom he was travelling to Greece in order to find work, **Alfred Ramadan Metaliaj, Emri Saetr Metaliaj, Beqir Osman Metaliaj and Bilbil Selman Metaliaj** were arrested and were later released and returned to Albania on September 27<sup>th</sup>, 2003. A sixth person, **Luan Metaliaj**, reportedly escaped arrest and hid for 24 hours before returning to Albania. A bullet reportedly went through his jacket without injuring him during his escape. The Greek police reported that one police border guard shot in the air to prevent their escape as well as their threatening attitude towards one of his fellow guards. There are reports that at the time of his shooting, Mr. Bytyçi had stopped running away and did not present any danger. The authorities have reported that the police border guard responsible for the shooting would be tried according to Greek law. He has been charged released pending an investigation into these events.

In another incident, three Albanians -**Leonard Shëmbilko, Dashamir Brakolli and Sokol Hallko**- were reportedly subjected to ill-treatment by Greek policemen on September 22<sup>nd</sup>. Mr. Shëmbilko and Mr. Brakolli reportedly regularly visit Greece for employment purposes and had valid documents, but were nevertheless arrested by the Greek police near Kastoria and were beaten with hard objects, before being taken to the Mesopotamia police station, where the beatings allegedly continued for several hours. Of the three Mr Brakolli was the one who was mostly wounded; however he did not officially report the incident to Greek authorities out of fear for the consequences.

In addition, 35-year-old **Gani Ibrahim Rama** from Kruja was reportedly shot at on September 25<sup>th</sup> by Greek soldiers, wounding him in the arm, as he was running to evade them having crossed the border illegally. He was arrested and detained for several days before being released and returned to Albania.

The whereabouts of 25-year-old **Sokol Allkja**, 31-year-old **Ardian Allkja** and **Edmond Sula** also have remained unknown, according to their relatives, since they left for Greece from Cerrik, Albania, allegedly on September 19th, although reports indicate that Sokol Allkja was wounded by the Greek police and is possibly in Korca hospital, while his brother Ardian is in prison. Nothing further is currently known about Edmond's situation.

**Arjan Torka** from the town of Gramsh reported to have been beaten and insulted by an official on the premises of the Greek customs point at Kristalopigi between the 4<sup>th</sup> and 5<sup>th</sup> of October 2003. The police officer checking his passport claimed that it was forged and started punching and kicking him when Arjan Toka was insisting that it wasn't. After refusing to sign a form in Greek which he could not understand, he was asked to leave the Greek territory and issue a new passport and visa. Korca police, who promised to investigate the case,

reportedly stated that the passport was not forged whilst there reportedly was an undertaking on the part of the Greek authorities (Director of Police of Kozani) that measures will be taken so that similar incidents do not occur in the future.

### Background

Similar cases of ill treatment, injuries or death of 25 Albanians trying to cross either legally or illegally the Albanian Greek borders have been reported in the past, but most of them have not at all or very inadequately been investigated and the perpetrators have as a result never been punished. On 1/11/2000, **Bledar Qoshku**, 23 years old, was killed after a fire exchange as claimed by Greek Police (ELAS), but the gun he was supposed to be carrying was never found, while the other six Albanians with him at the time claimed under oath that they were ill-treated during their custody in order to testify that the victim was armed. Albanian judicial authorities started a prosecution while the Greek Ministry of Public Order informed that "the case was archived from both a legal and a disciplinary respect". In addition, the Public Prosecutor's Office in Florina refused to submit the evidence requested by the Public Prosecutor's Office in Tirana.

In another incident, **Kreshnik Shenaj**, a 17 years old, reported to have been shot at and then beaten when found by border guards on Greek territory on 16/11/2000. No investigation was carried out by the Greek authorities.

**Blerina Meçe**, was allegedly ill treated by police officers-border guards on 10/2/2001 during her transfer for deportation to the border-point of Kakavia, along with **Luftim Krosi** a co passenger who attempted to intervene. The administrative inquiry concluded that the incident that allegedly took place could not have happened as she had been arrested for theft and had been deported twice on 17/08/2000 and 11/07/2001 and not on 10/2/2001. GHM believe that EL.AS. and the Ministry were probably referring to another individual with the same name, an argument strengthened by the fact that the Ministry claimed to have no information on the case of Luftim Krosi either.

On 4/6/2001, the 15 year old **Afrim Salla**, was shot and consequently paralyzed from the waist down, after –as claimed by ELAS– the gun of a Border Guard went off accidentally when he tripped over while firing warning shots against unarmed Albanians trying to enter Greece. Greek authorities stated that "From a criminal and disciplinary respect, the case is archived".

**Astrit Lleshi**, from Rukaj village, Burrel district, **Kastriot Rrapi**, from Arëz village, Mirdita district and **Dashmir Troshku**, from Fier district, reported that on 13/6/2001, as they were attempting to cross into Greece they were arrested by Greek border guards. They were beaten and had their possessions, including money, taken away. As GHM was informed by ELAS on 16/8/2002 no involvement of any policeman or border guard was established still though the money were returned to their owners

**On 26 July 2001** Greek coastguards opened fire on a speedboat carrying Albanian passengers trying to enter Greece illegally via the island of Corfu, injuring four of them, two of them women. The four were admitted to hospital in Corfu. The Corfu port authorities alleged that the passengers had initiated the shooting, opening fire with an AK-47 rifle on the coastguard vessel. This account was reportedly disputed by the remaining passengers on the boat, who on their return to Albania denied there were any weapons. Initial criminal charges against the Greek coastguards were quashed by the naval military court of Piraeus with the ruling 91/2002.

**Halim Munga** from the village of Markat (Saranda district, Albania) was shot dead by a border patrol in the early hours of 1/12/2001 near the Greek border village of Palaba-

according to the police in an exchange of fire initiated by the Albanians with a Kalshnikov-reportedly after they had stolen and killed a calf which they were attempting to transport back to Albania on a mule. The judicial preliminary inquiry resulted in persecution of his companion Veisi Beqir for animal theft and weapons possession whilst those responsible for Halim Munga's death were not finally prosecuted as they were found to be in self defence.

Another fatal incident took place on 2/11/2002 at the Mesopotamia area of Kastoria, when **AK**, son of D, was shot dead by border petrol. In its press release ELAS had concluded, before any investigation took place, that the border guards were in legal self defence. The judicial preliminary inquiry resulted in the prosecution and detention of the other three Albanians that were with AK and the discharging of those responsible for his death. Following GHM intervention, a judicial inquiry was initiated whose results are know to this day.

The CPT (European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment), in its CPT/inf (2002)31 report on Greece, has also mentioned two border cases of alleged ill treatment of Albanians, by ELAS and by the military. Two detainees at Igoumenitsa Police Headquarters (north-west Greece) -who according to ELAS had been arrested on September 28<sup>th</sup> 2001, near the Greek-Albanian border zone trying to smuggle drugs into the country- complained to CPT that they had been brutally beaten by police. One alleged that during interrogation he had been beaten on the back and legs with a truncheon. A medical examination confirmed that he had bruises on his shoulders and left leg. The other detainee complained that he had been beaten on the soles of his feet [*falanga*]. The Greek authorities replied that "The tenability of the allegations made to the Committee were not ascertained by the relevant investigation that was carried out, " as the detainees had not made any allegations of ill-treatment to the police and judicial authorities before whom they were brought.

Moreover, two Albanians, arrested by a military patrol on border duty, complained to CPT in October 2001 that they had been ill-treated by army personnel while being detained on military premises; both of them bore injuries consistent with their allegations. No answer was given from the part of the Greek authorities on this case.

Finally during conversations held with law enforcement officials in several of the establishments visited, the CPT delegation reported that it "could not fail to note the disrespectful attitude displayed by some officers when referring to detainees, particularly those of Albanian origin." In one occasion officials even reportedly admitted to the delegation that in certain cases some force was used during interrogation in order to extract information, especially if the detainee had been arrested for drug dealing, but said this was limited to some "slaps" and that severe ill-treatment was not permitted

The only known exception to the rule where an investigation was launched before the involvement of GHM and related publicity is the case of **Ferhat Ceka**, an Albanian pensioner, shot and wounded near the border by Greek soldiers as he was attempting to illegally cross the Greek-Albanian border on 8/3/2002. The military's administrative inquiry concluded that the soldier's action was an "irregularity" for which he received a ten-day jail as disciplinary sanction whilst no criminal persecution was recommended. However a prosecutor of the Military Court of Thessaloniki investigated the case and pointed to many irregularities and even criminal responsibilities of the officers involved in the handling of the incident and the ensuing administrative investigation, and asked for a disciplinary and criminal investigation of their actions. A court martial date was set for 3 April 2003, but was postponed as the Greek authorities failed to send the summons to Ferhat Cekan in Albania. Following GHM intervention, Ferhat Ceka came to Greece and testified before the military court prosecutor on 11/6/2003. The prosecutor has as a result widened the investigation to include possible charges of ill-treatment.

The OMCT and GHM are gravely concerned by these recent reports of violent beatings and shootings at several Albanian men who were crossing the border into Greece by Greek police officers; as well as the several previous cases of similar incidents that were not investigated leading to impunity of the perpetrators. OMCT and GHM are particularly concerned by the extrajudicial execution of Mr. Vullnet Bytyçi and the disappearance of Mr. Edmond Sula.

## CONCLUSIONS

GHM and OMCT would recommend that the government of Greece take steps to ensure that all allegations of torture and ill-treatment within prisons and other places of detention are promptly, thoroughly and impartially investigated. Those responsible should be identified, brought before a competent and impartial tribunal and the sanctions provided for by law should be applied.

GHM and OMCT would recommend that steps be taken to improve detention facilities' conditions and that in doing so account be taken of the United Nations Standard Minimum Rules for the Treatment of Prisoners, the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, and the Basic Principles for the Treatment of Prisoners, as these principles establish fundamental rules and safeguards in order to protect detained persons from being subjected to torture and other cruel, inhuman or degrading treatment or punishment. In order to prevent sexual violence against women in detention, male staff should not be allowed to supervise female inmates, to undertake body searches, and to be present where female inmates are naked and women, men and children should be separated. GHM and OMCT would also recommend that an amendment be made to article 137A of the Penal Code on torture to explicitly include rape and other forms of sexual violence as a form of torture.

OMCT and GHM call upon the Greek authorities to take all necessary measures to guarantee the physical and psychological integrity of all persons crossing its border, and to order an immediate, impartial and effective investigation into the circumstances of these recent and past events, identify those responsible, bring them before a competent and impartial tribunal, and apply the sanctions provided for by law. OMCT and GHM urge the authorities to guarantee that the victims are provided with adequate reparation, including medical assistance, and that perpetrators be punished in proportion of the seriousness of their acts.