Greece

Law 927/1979 (mod. 1419/1984 et 2910/2001) "on punishing acts or activities aiming at racial discrimination" criminalizes:

Section 1.1

a) to wilfully and publicly, either orally or by the press or by written texts or through pictures or any other means, incite to acts or activities which may result in discrimination, hatred or violence against individuals or groups of individuals on the sole grounds of the latter's racial or national origin or [by virtue of article 24 of Law 1419/1984] religion;

(…)

b) to express publicly, either orally or by the press or by written texts or through pictures or any other means offensive ideas against any individual or group of individuals on the grounds of the latter's racial or national origin or religion.

Section 1.2 Constitution or
membership of an organisation whose aim is to organise propaganda or activities of any nature involving racial discrimination.

Section 2 Covers the expression in speech, via the press, in writings, by pictures or by any other means of any ideas offensive to an individual or a group of individuals by virtue of their racial or ethnic origin or their religious affiliations.

Regulation n° 1 of the National Radio and Television Council (CNR) on journalistic ethics for radio and television (Code of Journalistic Ethics for Radio and Television) of 20 June
1991 (Official Gazette 421/B/21.6.91), Article 5 states:
"It is not permissible to depict persons in a way liable, in practice, to encourage the degradation, social isolation or unfavourable discrimination against a section of the public for reasons relating, in particular, to sex, race, nationality, language, religion, ideology, age, sickness or infirmity, genetic orientation or occupation".

Case Law

Greece

A number of persons have been successfully prosecuted in the last couple of years for antisemitic or anti-Roma publications under, inter alia, Law 927/1979 which prohibits incitement to racial hatred. On 19 September 2008, the Court of Appeals of Athens sentenced the publisher of the newspaper "*Eleftheros Kosmos*" and one of its former columnists to a five-month suspended sentence under this law for an article in the newspaper's 12 March 2006 issue which contained antisemitic statements. The same persons were also convicted, with a third defendant for an article published in the same paper on 18 June 2006 with language inciting hatred against Roma. On 13 December 2007, a person well known for his extreme right-wing opinions was also sentenced, by the Athens Court of Appeal under Law 927/1979, for a patently antisemitic book to a 14 month suspended sentence and 3 years probation. The defendant was acquitted on 27 March 2009. At the time of writing, reports indicated that civil society actors would seek all possible remedies against the acquittal.
[ECRI, Fourth report on Greece, adopted on 2 April 2009, CRI(2009)31, § 16]

Un certain nombre de personnes ont été condamnées ces dernières années pour la publication d'articles antisémites ou hostiles aux Roms, en application notamment de la loi 927/1979 qui interdit l'incitation à la haine raciale (et aussi, notamment, la violence à motivation raciste). Le 19 septembre 2008, la Cour d'appel d'Athènes a condamné l'éditeur du journal « *Eleftheros Kosmos* » et l'un de ses anciens éditorialistes à une peine de cinq mois de prison avec sursis pour des propos antisémites contenus dans un article paru le 12 mars 2006. Les mêmes personnes ont également été condamnées, ainsi qu'une tierce partie pour un article paru le 18 juin 2006 dont le libellé incitait à la haine envers les Roms. Le 13 décembre 2007, M. K. Plevris a également été condamné par la Cour d'appel d'Athènes à une peine principale de 14 mois assortie d'un sursis probatoire de 3 ans en application de la loi 927/1979 pour avoir publié un livre manifestement antisémite. Le défendeur a été acquitté le 27 mars 2009. Lors de la rédaction du présent rapport, des informations indiquaient que des acteurs de la société civile intenteraient tout recours possible contre cet acquittement.
[ECRI, Quatrième rapport sur la Grèce adopté le 2 avril 2009, CRI(2009)31, § 16]

Greece / Plevris' trial

Inventory No.	CASE 163 1
Deciding body	Athens Court of Appeal
Date	Decision date: 13.12.07
Deciding Body	National court / tribunal
Grounds of discrimination	Discrimination on ground of racial or ethnic origin
Form of Discrimination	Instruction to discriminate / incitement to discrimination
Keywords	Greece, Racial hatred, legal finding, court decision, Anti-Semitism, Promotion of racial discrimination and hatred
Abstract	Key facts of the case: Lawyer C. P. was handed a 14-month suspended sentence for inciting racial hatred through his book 'Jews: The Whole Truth,' which denies that Holocaust took place. Main reasoning/argumentation: The court found that the accused 'incited deeds and actions that could provoke discrimination, hatred and violence against persons and groups of persons, solely because of their racial and ethnic origins, and expressed offensive ideas against a group of persons because of their racial and ethnic origin. 'Key issues (concepts, interpretations) clarified by the case: The court found that the accused 'incited deeds and actions that could provoke discrimination, hatred and violence against persons and groups of persons, solely because of their racial and ethnic origins, and expressed offensive ideas against a group of persons because of their racial and ethnic origin. 'Results (sanctions) and key consequences or implications of the case: The Athens Court of Appeal condemned the accused to a 14-month suspended sentence.

[FRA Database]

Article :	CCPR-OP-2 / CCPR-20-2 / CCPR-26
Subject :	prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence / equal protection of the law / equal before the law
Keywords :	incitement to discrimination / discrimination / race / equal before the law
Communication :	1570/2007
Parties :	Maria Vassilari et al. v. Greece
Reference :	views of 19 March 2009

Facts :

1.1 The authors of the communication are Ms. Maria Vassilari, born in 1961, Ms. Eleftheria Georgopoulou, born in 1964, Mr. Panayote Dimitras, born in 1953, and Ms. Nafiska Papanikolatos, born in 1955, all Greek citizens. They claim to be victims of violations of article 20, paragraph 2, taken together with article 2, paragraphs 1 and 3(a); article 26; article 14, paragraph 1; and article 18, paragraph 1, read alone and in conjunction with article 2, paragraphs 1 and 3(a), by Greece. The authors are represented by counsel, Mr. Panayote Dimitras from the Greek Helsinki Monitor.

1.2 On 24 September 2007, the Committee, acting through its Special Rapporteur on New Communications and Interim Measures, decided to examine the admissibility of the communication together with the merits.

AUTHOR'S SUBMISSIONS:

2.1 On 17 November 2001, a letter to the Rector and the Rector's Council of the University of Patras entitled, "Objection against the Gypsies: Residents gathered signature for their removal", was published in the newspaper "Peloponnisos". The letter was sent by the representatives of local associations of four districts of Patras, and contained 1200 signatures of non-Roma residents who lived in the vicinity of a Roma settlement situated in the area of Riganokampos. The settlement was built on land owned by the Rector and the Rector's Council of the University of Patras. The signatories of the letter collectively accused the Roma of specific crimes, including physical assault, battery, and an arson attack on a car, and demanded that they be "evicted" from the settlement and failing eviction threatened with "militant action".

2.2 On 29 March 2002, the first and second authors, who reside in the settlement, filed a criminal complaint against the local associations under the Anti-Racism Law, and joined the criminal proceedings to be initiated by the Public Prosecutor as civil claimants. They claimed violation of article 2 of the Anti-Racism Law 927/1979, because of the public expression of offensive ideas against the residents of the settlement on account of their racial origin. They also claimed a violation of article 1 of the same law, by the incitement, by means of public written expression, of discrimination, hatred or violence against the residents of the settlement on account of their racial origin.

2.3 A preliminary judicial investigation was opened, and those who had written the letter were charged. On 17 March 2003, the signatories of the letter and the owner and editor of the newspaper were indicted for the public expression of offensive ideas, in violation of article 2 of the Anti-Racism Law but the charge under article 1 of that law was dropped. On 25 June 2003, the trial took place at the Misdemeanors Court of Patras (the Patras Court). The criminal offences of which the Roma community had been accused of by the signatories of the letter were found to be unsubstantiated by the competent police authority. According to the authors, this fact was ignored by the Patras Court.

2.4 During the proceedings, the presiding judge allegedly made comments which compromised her impartiality and indicated a prejudicial attitude against the Roma. In reply to a comment made by defence counsel that Roma commit many crimes, the authors allege that she stated "it is true" and that there were, "many cases pending against Roma in the court of Patras". When the first author indicated that the letter had offended her, the judge responded "you have to admit, you Roma do steal though".

2.5 During the trial, the third and fourth authors were examined as witnesses. In the context of taking the oath, they had to declare that they were not Orthodox Christians but atheists, and that they could not take the Christian oath under article 218 of the Code of Criminal Procedure (CCP), which reads "I swear to God that I will tell in full conscience the whole truth and only the truth, without adding or hiding anything". Instead, they made use of article 220 (2) of the CCP, which provides that "(..) if the investigating judge or the court are convinced after a related statement that the witness does not believe in any religion, the oath taken would be the following: I

declare on my honour and conscience that I will tell the whole truth and only the truth, without adding or hiding anything". According to the authors, to make this affirmation under article 220 (2) of the CCP, the witness must declare his/her religion or non-belief in any religion. However in the present case, it was mistakenly recorded in the minutes of the trial that the witnesses had taken the Christian oath rather than the civil oath.

2.6 On 25 June 2003, the defendants were acquitted and the court concluded that there was no violation of article 2 of the Anti-Racism Law, on the basis that "doubts remained regarding the ... *intention* [emphasis added] to offend the complainants by using expressions referred to in the indictment." The Court found that the impugned letter merely intended to draw the authorities' attention to the plight of the Roma in general. The Court did not examine whether such remarks were indeed offensive and did not provide any reasoning as to why the defendants could not be said to have intended to offend the complainants.

2.7 To support their complaint, the authors provide copies of reports from various NGOs and INGOs, which they claim attest to the forced eviction of Roma by the State party.

THE COMPLAINT:
3.1 The first and second authors claim to be the victims of a violation of article 20, paragraph 2, read in conjunction with article 2, paragraphs 1 and 3 (a), of the Covenant, because the Patras Court failed to appreciate the racist nature of the impugned letter and to effectively implement the Anti-Racism Law 927/1979 aimed at prohibiting dissemination of racist speech. The present case allegedly discloses a violation of the State party's obligation to ensure prohibition of the advocacy of racial hatred that constitutes incitement to discrimination, hatred or violence. In the authors' view, the requirement of the law in question to prove intent is an impossible burden on the civil claimants, as the burden of proof in such criminal cases to prove such intent, "beyond reasonable doubt", is almost impossible to prove. This point they argue is reflected in the fact that there has been no convictions to date under this Act. In this regard, the authors state that it is for this reason that national courts of other States, as well as other international human rights bodies, hold that racist remarks can be made even by negligence, in other words, where there is an absence of intent.

3.2 The four authors claim a violation of article 26, read alone and in conjunction with article 2, paragraphs 1 and 3, because the writers of the letter accused an entire group on the basis of their racial origin for the alleged actions of a few individuals of the same racial group. The claim that the law itself is inadequate, as argued above, is also said to violate article 26, as the failure to punish perpetrators deprives potential victims from protection from such attacks. In addition, the failure of the State party's authorities, in particular the Patras court, to prosecute the signatories of the letter in question, thereby implementing the Anti-Racism Law, is said to constitute a violation of article 26.

(...)

STATE PARTY'S OBSERVATIONS:
(...)

4.3 On 4 December 2007, the State party provided its comments on the merits of the case. It submits that the authors exaggerate and provide inaccurate statements, including the inaccurate translation of words from the letter under consideration, and produce evidence that has nothing to do with their case. For the State party the claims are manifestly ill-founded. The words "eviction" and "militant action" do not appear in the original letter. According to the State party, the correct translation of the former would be "removal" and of the latter "dynamic mobilizations" which implies protests or demonstrations.

4.4 As to the letter itself half of it, as described by the third author in his Court testimony, refers to the poor living conditions of the Roma in the settlement and focuses on the lack of proper hygiene and prevalence of diseases. The authors of the letter then refer to incidents they claim had occurred, including the theft of fruit, swearing, beating etc and conclude that the Rector should "remove" the Roma from the settlement (not to evict them), otherwise any delay would lead to "dynamic action". In its evaluation, the court did not consider that the letter "was not insulting" to the authors, but merely found that the legal condition, namely the offence of a "public, via the press, expression of offensive ideas against a group of people, by virtue of their origin", is intentionally committed, was not met beyond reasonable doubt. It so concluded, after hearing all witnesses and evaluating all of the available evidence. While one may agree or disagree with the Court's evaluation of the evidence, there is no reason to regard its finding as arbitrary. In this regard, the State party refers to the Committee's jurisprudence that it is not for the Committee to evaluate the facts and evidence and interpretation of law in a case, unless it can be shown that the decision was manifestly arbitrary or amounted to a denial of

justice.

(...)

4.6 The State party affirms that the claim under article 26 is manifestly ill-founded. The authors have not substantiated their claim and have not demonstrated that persons in a similar situation have been treated differently. As to the claim of a violation of article 2, the State party invokes to the Committee's jurisprudence that this right does not constitute a substantive right guaranteed under the Covenant.

(...)

4.8 As to the NGO and INGO reports produced by the authors, the State party submits that these reports do not directly refer to the current case and, in its view, are only provided as a substitute to the lack of evidence provided by the authors.

AUTHOR'S SUBMISSIONS:
(...)

5.3 On the merits, the authors defend their definition of the two terms questioned by the State party, namely "eviction" and "militant". The former, they claim, is not so different from the term "evacuation", which is the translation in the Oxford Greek-English dictionary. The latter refers to the militant action threatened by the signatories of the letter, which could include the use of force. The authors take issue with the State party's assessment of the importance of the NGO and INGO reports provided by them, and with its contention that these reports were only submitted to effectively slander Greece. The authors dispute that the purpose of the impugned letter was to draw the attention of the authorities to the poor living conditions of the Roma, but rather to force the authorities to take action and relocate the Roma, to another place. According to the authors, extensive reference was made to the alleged increase in the crimes committed by Roma, without producing any evidence but by merely holding them collectively responsible for certain offences, that some of them undoubtedly committed, as well as serious offences. They should not have collectively accused the Roma of committing crimes without, at the very least, producing evidence of a relatively higher crime rate among Roma as compared with non-Roma, to make their claims look bona fide rather than racist. In the authors' view, the signatories of the letter used this issue of criminality in an attempt to have the Roma evicted. The Court should have paid more attention to the nuanced anti-Roma speech and should have refrain from making, let alone silently endorsing, anti-Roma statements.

5.4 The authors argue that although "intention" is required in violation of article 1 of the Anti-Racism Law 927/79, it is not for violations of article 2 and that an incorrect notion of intent was applied by the court. As the authors had already made this argument in their initial submission which, they submit, remains answered by the State, they claim that the State party implicitly admits that the arguments are correct.

5.5 As to the possibility of filing a complaint concerning the impartiality of the judge, the authors acknowledge that an application for the disqualification of a judge may be made under article 17.2 of the Code of Criminal Procedure. However, such an application must be made early on in the proceedings and as the grounds for such disqualification only arose during the proceedings, such a request would have been rejected as inadmissible. The authors wrote to the Minister who could have asked the Appeals Prosecutor to file an appeal leading to a second trial where an impartial panel of judges would have evaluated the case anew. This was the only quasi-judicial means open to them to seek redress for the violation of their rights. On article 26, the authors submit that they have provided sufficient evidence to demonstrate prejudice specifically in this case and submit that the burden of proof is now reversed and rests on the State party. They maintain that it is mandatory in criminal proceedings to declare that one does not adhere to the Christian faith to be allowed to take the civil oath, despite the State party's argument that one has a free choice of oath. The assumption that one will take the Christian oath unless otherwise expressly stated is reflected in the continued use of pre-printed forms, with the oath set out therein.

Decision on admissibility :

6.1 Before considering any claim contained in a communication, the Human Rights Committee must, in accordance with rule 93 of its Rules of Procedure, decide whether or not it is admissible under the Optional Protocol.

6.2. The Committee has ascertained, as required under article 5, paragraph 2 (a), of the Optional Protocol, that

the same matter is not being examined under another procedure of international investigation or settlement.

(...)

6.5 Without determining whether article 20 may be invoked under the Optional Protocol, the Committee considers that the authors have insufficiently substantiated the facts for the purposes of admissibility. Thus, this part of the communication is inadmissible under article 2 of the Optional Protocol.

6.6 As to the claim of a violation of article 26 in conjunction with article 2, the Committee considers that the authors have provided sufficient substantiation to consider these claims on the merits.

Views :

7.1 The Committee notes that the authors claim violations of article 26 in conjunction with article 2 of the Covenant, insofar as the Anti-Racism Law 927/79 is said to be inadequate for the purpose of protecting individuals against discrimination and because in this case the courts application of the law failed to protect the first and second authors from discrimination based on racial origin. The Committee notes that article 26 requires that all persons are entitled, without discrimination, to equality before the law and to receive equal protection of the law.

7.2 The Committee notes that the Anti-Racism Law provides for sanctions in the event of a violation. It observes that the signatories of the impugned letter were tried under article 2 of this Law but were subsequently acquitted. An acquittal in itself does not amount to a violation of article 26 and in this regard the Committee recalls that there is no right under the Covenant to see another person prosecuted. [Footnote 2: Communication No. 578/94, *De Groot v. the Netherlands*, Decision adopted on 14 July 1995, Communication No. 396/90, *M. S v. the Netherlands*, Decision adopted on 22 July 1992.] The authors challenge the failure of the Court to convict the defendants on the basis of the Court's interpretation of the domestic law, in particular, whether the requirement of "intent" is a necessary prerequisite for the finding of a violation of article 2 of the Anti-Racism Law. Both the authors and State party provide conflicting views in this regard. They also present conflicting opinions on the English translation of certain parts of the impugned letter. The Committee is not in a position to reconcile these disputed issues of fact and law. Upon a thorough review of the information before it, and bearing in mind the conflicting views of the authors and State party, the Committee finds that the authors have failed to demonstrate that either the terms of the Anti-Racism Law 927/79 or the application of the law by the courts discriminated against them within the terms of article 26.

8. The Human Rights Committee, acting under article 5, paragraph 4, of the Optional Protocol to the International Covenant on Civil and Political Rights, is of the view that the facts before it do not disclose a violation of any of the articles of the International Covenant on Civil and Political Rights.

Remedy proposed :

Individual Opinion :

Individual opinion of Committee member Mr. Abdelfattah Amor (dissenting)

"Without determining whether article 20 may be invoked under the Optional Protocol, the Committee considers that the authors have insufficiently substantiated the facts for the purposes of admissibility. Thus, this part of the communication is inadmissible under article 2 of the Optional Protocol." This is the conclusion reached by the Committee in paragraph 6.5 of its Views in the Vassilari case.

I cannot agree with this conclusion, which prompts me to make the following remarks:

(1) The Committee has not ventured an opinion on the applicability of article 20, paragraph 2, to individual cases. While it may, of course, decide to do so in the future, the reasons for evading the question are puzzling. There is no logical or objective reason to do this. In stating that "any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law", article 20, paragraph 2, provides protection for individuals and groups against this type of discrimination. Article 20 is not an invitation to add another law to the legal arsenal merely for form's sake. Even if this was the purpose, which

is not the case in Greece, such a law would be ineffective without procedures for complaints and penalties. In fact, the invocation of article 20, paragraph 2, by individuals who feel they have been wronged follows the logic of protection that underlies the entire Covenant and consequently affords protection to individuals and groups. It would be neither logical nor legally sound to consider excluding its applicability under the Optional Protocol. By declining to give an opinion on this aspect of the communication, the Committee allows uncertainty to persist on the scope of article 20, paragraph 2, particularly as, given the points raised, discussion was needed at the very least with regard to the question of admissibility. In my opinion, this approach is, frankly, questionable, especially given that:

(2) The State party did not object to the admissibility of the communication either on the grounds of the applicability of article 20, paragraph 2, or any other grounds. The Committee's settled jurisprudence holds that, when the State party raises no objection to admissibility, the Committee declares the communication admissible unless the allegations are manifestly groundless or not serious or do not meet the other requirements set out in the Protocol.

(3) The Greek courts concerned ruled directly on the merits, without raising questions of admissibility or the individual nature of the complaint of racism.

(4) To say that, in the case in point, the authors have insufficiently substantiated the facts for the purposes of admissibility relies on an assessment that cannot be confirmed or justified by the contents of the file. While the facts may be discussed on the merits, they are sufficiently serious not to present an obstacle to admissibility under article 2 of the Optional Protocol. The case in point concerns a letter signed by 1,200 non-Roma individuals, entitled "Objection against the Gypsies: Residents gathered signatures for their removal". The letter accuses the Roma, as a group, of physical assault, battery and arson. The signatories demand that the Roma be "evicted" - "removed" according to the State party - from their settlement and threatened to take "militant action". Individual Roma, as individual victims, initiated judicial proceedings for the public expression of offensive ideas expressing discrimination, hatred and violence on account of their racial origin, under the Greek Anti-Racism Law. The court hearing the case found no violation of that law, as "doubts remained regarding the ... intention to offend the complainants by using expressions referred to in the indictment". The authors took their case to the Committee, claiming to be the victims of a violation by the State party of article 20, paragraph 2, read in conjunction with article 2, paragraph 1, of the Covenant, because the court "failed to appreciate the racist nature of the impugned letter and to effectively implement the Anti-Racism Law 927/1979 aimed at prohibiting dissemination of racist speech". This allegedly "discloses a violation of the State party's obligation to ensure prohibition of the advocacy of racial hatred that constitutes incitement to discrimination, hatred or violence". Was it advocacy of racial hatred or just words? Was a racist offence committed or not? Was there the intention to offend, and who must prove this? These are questions that should be discussed, analysed and assessed on the merits. To say, subsequently, that *the facts have been insufficiently substantiated for the purposes of admissibility is indefensible both legally and factually*. Sometimes there are reasons which the legal mind knows nothing of!

(*Signed*): Mr. Abdelfattah Amor

Individual opinion of Committee members Mr. Ahmad Amin Fathalla and Mr. Bouzid Lazhari

We associate ourselves with the opinion of Mr. Abdelfattah Amor's in this case.

(*Signed*): Mr. Ahmad Amin Fathalla

(*Signed*): Mr. Bouzid Lazhari

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-ΠΡΟΣΚΛΗΣΗ ΕΚΔΗΛΩΣΗΣ ΕΝΔΙΑΦΕΡΟΝΤΟΣ**

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-ΣΥΝΟΨΗ ΤΡΟΠΟΠΟΙΗΣΕΩΝ
-ΔΕΛΤΙΟ ΤΥΠΟΥ**

**Οκτώβριος 2010 - ΔΙΕΡΕΥΝΗΣΗ ΥΠΟΘΕΣΗΣ ΕΞΑΣΘΕΝΟΥΣ ΧΡΩΜΙΟΥ ΣΕ ΠΟΣΙΜΟ ΝΕΡΟ: ΤΟ ΛΗΞΙΑΡΧΕΙΟ ΜΕΣΣΑΠΙΩΝ ΔΙΝΕΙ ΣΤΟΙΧΕΙΑ ΓΙΑ ΑΡΙΘΜΟ ΚΑΙ ΑΙΤΙΕΣ ΘΑΝΑΤΟΥ ΤΩΝ ΚΑΤΟΙΚΩΝ ΤΟΥ ΔΗΜΟΥ ΜΕΤΑ ΑΠΟ ΠΑΡΕΜΒΑΣΗ ΤΟΥ ΣΥΝΗΓΟΡΟΥ ΤΟΥ ΠΟΛΙΤΗ
-ΣΥΝΟΨΗ ΔΙΑΜΕΣΟΛΑΒΗΣΗΣ**

**Οκτώβριος 2010 - ΠΑΡΑΤΑΣΗ ΤΗΣ ΣΥΝΤΑΞΙΟΔΟΤΗΣΗΣ ΜΑΘΗΤΩΝ ΠΟΥ ΕΝΗΛΙΚΙΩΝΟΝΤΑΙ ΠΡΙΝ ΤΗΝ ΑΠΟΦΟΙΤΗΣΗ ΤΟΥΣ
-ΣΥΝΟΨΗ ΔΙΑΜΕΣΟΛΑΒΗΣΗΣ
-ΈΓΓΡΑΦΟ ΠΡΟΣ ΙΚΑ-ΕΤΑΜ**

**Οκτώβριος 2010 - ΠΡΟΣΤΑΣΙΑ ΥΓΡΟΤΟΠΟΥ ΒΟΥΡΚΑΡΙΟΥ ΜΕΓΑΡΩΝ ΜΕΤΑ ΑΠΟ ΠΑΡΕΜΒΑΣΗ ΤΟΥ ΣΥΝΗΓΟΡΟΥ ΤΟΥ ΠΟΛΙΤΗ
-ΣΥΝΟΨΗ ΔΙΑΜΕΣΟΛΑΒΗΣΗΣ**

**Οκτώβριος 2010 - ΤΟ ΥΠΟΥΡΓΕΙΟ ΠΑΙΔΕΙΑΣ ΕΞΕΔΩΣΕ ΕΓΚΥΚΛΙΟ ΓΙΑ ΤΑ ΔΙΚΑΙΩΜΑΤΑ ΤΩΝ ΠΑΙΔΙΩΝ-ΜΑΘΗΤΩΝ ΤΩΝ ΟΠΟΙΩΝ ΟΙ ΓΟΝΕΙΣ ΒΡΙΣΚΟΝΤΑΙ ΣΕ ΔΙΑΣΤΑΣΗ, ΥΙΟΘΕΤΩΝΤΑΣ ΤΙΣ ΘΕΣΕΙΣ ΤΟΥ ΣΥΝΗΓΟΡΟΥ ΤΟΥ ΠΟΛΙΤΗ
-ΠΕΡΙΛΗΨΗ
-ΕΠΙΣΤΟΛΗ ΣΥΝΗΓΟΡΟΥ ΠΡΟΣ ΤΟ ΥΠΟΥΡΓΕΙΟ ΠΑΙΔΕΙΑΣ
-ΕΓΚΥΚΛΙΟΣ ΥΠΟΥΡΓΕΙΟΥ ΠΑΙΔΕΙΑΣ**

**Οκτώβριος 2010 - ΟΛΟΚΛΗΡΩΣΗ ΤΗΣ ΔΙΑΔΙΚΑΣΙΑΣ ΕΠΙΛΟΓΗΣ ΓΙΑ ΤΗΝ ΠΛΗΡΩΣΗ ΤΕΣΣΑΡΩΝ (4) ΘΕΣΕΩΝ ΕΙΔΙΚΩΝ ΕΠΙΣΤΗΜΟΝΩΝ ΜΕ ΕΞΕΙΔΙΚΕΥΣΗ ΣΕ ΘΕΜΑΤΑ ΔΗΜΟΣΙΟΥ ΔΙΚΑΙΟΥ ΣΤΗΝ ΑΝΕΞΑΡΤΗΤΗ ΑΡΧΗ «ΣΥΝΗΓΟΡΟΣ ΤΟΥ ΠΟΛΙΤΗ»
-ΑΝΑΚΟΙΝΩΣΗ**

**Οκτώβριος 2010 - ΕΡΓΑΖΟΜΕΝΗ ΕΠΑΝΑΠΡΟΣΛΗΦΘΗΚΕ ΜΕ ΕΥΝΟΪΚΟΤΕΡΟΥΣ ΟΡΟΥΣ
-ΣΥΝΟΨΗ ΔΙΑΜΕΣΟΛΑΒΗΣΗΣ**

**Οκτώβριος 2010 - ΟΙ ΣΥΝΗΓΟΡΟΙ ΤΟΥ ΠΑΙΔΙΟΥ ΔΙΕΚΔΙΚΟΥΝ ΙΣΧΥΡΟΤΕΡΗ ΚΑΤΟΧΥΡΩΣΗ ΚΑΙ ΠΡΟΑΣΠΙΣΗ ΤΩΝ ΔΙΚΑΙΩΜΑΤΩΝ ΤΟΥ ΠΑΙΔΙΟΥ ΣΤΗΝ ΕΥΡΩΠΗ
-ΔΕΛΤΙΟ ΤΥΠΟΥ**

PERMANENT MISSION OF GREECE
TO THE UNITED NATIONS' OFFICE
IN GENEVA

URGENT

Ref. No AS 1861

NOTE VERBALE

The Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to the latter's Verbal Note GVA 0471, dated April 4th, 2007, has the honour to provide attached herewith ***the information of the Greek Government*** regarding the implementation of the United Nations' General Assembly resolution 61/164 (A/RES/61/164), dated December 19, 2006, entitled «Combating Defamation of Religions »,

The Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva avails itself of the opportunity to renew to the Office of High Commissioner for Human Rights the assurances of its highest consideration.

REPUBLIQUE HELLENIQUE MISSION PERMANENTE DE LA GRECE - GENEVE -

Geneva, August 21st, 2007

To: the Anti Discrimination Unit of the
Office of the High Commissioner for Human Rights
Attn Ms Marie-Dominique Perret
Palais Wilson
Rue des Paquis 52
CH-1211 Geneva 10

OHCHR REGISTRY
23 AOUT 2007
Recipients : ADU

4, rue du Léman, C.P. 56, 1211 Genève 21
Tel : +41 22 9098940, Facs: +41 22 7322150, Email : mission.greece@ties.itu.int

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Information of the Greek Government regarding the Implementation of the General Assembly Resolution 61/164, dated December 19th 2006, on Combating defamation of religions"

1. In Greece, **freedom of religious conscience** and worship of any known religion, which does not offend the public order or principles is **protected by the Constitution** (article 13). A "*known religion*" is defined as one which, on the one hand, has open beliefs that are taught in public, and on the other hand, whose worship is also open. Moreover, it is immaterial if such a religion is a sect, in relation to the religion prevailing in Greece, as well as if believers of this religion do not have cleric authorities, or if its religious officials have not been ordained in the sense of the term used by the Orthodox Church (plenary session of the State Council 2105/75, 2106/75 Plen., 2484/80, 4260/85).

2. The International Treaty of Rome of 4th November 1950 "*On the protection of human rights and fundamental freedoms*" was initially ratified by law 2329/1953 and again by decree 53/1974 and has, therefore, in compliance with article 28 paragraph 1 of the Constitution, an enhanced procedural force. Article 9 of this treaty establishes the individual right to religious freedom.

3. The **Criminal Code** includes some provisions which aim to **safeguard religious peace of citizens**. Moreover, in compliance with case-law, any offence against religious peace is considered an offence against the public interest (see First Instance Judgment No. 1/2000). In principle, article

198 prohibits public and intentional profanity against God and public blasphemy or absence of respect of religion, whereas article 199 of the Criminal Code prohibits public and intentional profanity against the Eastern Orthodox Church of Christ and of any other religion acceptable in Greece. In addition, article 200 of the Criminal Code prohibits the obstruction and disruption of religious meetings or ceremonies which are accepted by the law of the state, as well as insulting or indecent actions in places that are used for such religious meetings.

4. The specific law 927/1979 "*On punishment of actions or activities aimed at racial discrimination*", as amended by article 24 of law 1419/1984, expressly prohibits the encouragement of actions or activities that may lead to discrimination, hatred or violence against people or groups of people because of their racial or national origin or their religion. Such encouragement is illegal and is prosecuted, whether it is verbal or written and includes illustrations or any other means whatsoever. In addition, any ideological offence against persons or groups of persons due to racial or national origin or religion expressed through the press, written texts or illustrations or any other means whatsoever is prohibited and punished.

Violation of such provisions entails imprisonment and/or fines. In the same way establishment of and participation in organizations aiming at organized propaganda or actions of any kind leading to racial or religious discrimination is also prohibited. Moreover, by virtue of article 39 of law 2910/2001, all above-mentioned actions and activities are prosecuted ex officio.

In addition, article 3 of law 927/1979, which formerly established the offence of denial to supply goods or provide services due to racial or national

origin or due to religion was abrogated by article 16 paragraph 2 of law 3304/2005. Now paragraph 1 of article 16 of the latter law provides that: "*Anyone violating the prohibition of discrimination due to reasons of national or racial origin or religion or other beliefs, disability, age or sexual orientation, in the field of commercial distribution of goods or provision of services to the public shall be punished with imprisonment of six (6) months and a fine of one thousand (1000) to five thousand (5000) euros*". The **new criminal regime** provides **a more effective protection** in comparison to the former one in article 3 law 927/1979 in cases of violation of the principle of equal treatment regarding distribution of goods and provision of services, because it is of a wider content, since it also includes cases of "*other beliefs, disability, age or sexual orientation*" and the penalties foreseen are stricter.

5. Law 3304/2005 establishes the general regulatory context for the **combat and elimination of discrimination due to racial or national origin as well as religious or other beliefs**, disability, age or sexual orientation in the field of employment and labour, according to Council Directives 2000/43/EC of 29th June 2000 and 2000/78/EC of 27th November 2000, which are based on articles 6 paragraphs 1 and 13 of the Treaty of the European Union, so as to ensure implementation of equal treatment. The provisions of such law cover particular and specific aspects of the issue, introduce legal means of protection and provide for effective sanctions so as to discourage any discrimination. At the same time, a complete institutional framework for the promotion of the principle of equal treatment is in place.

According to article 19 of law 3304/2005, the **Greek Ombudsman**, the **Equal Treatment Commission** and the **Labor Inspectorate** are the entities which promote the principle of equal treatment. These three bodies are

independent of each other and each one acts within the framework of its competences provided for by the law.

In particular:

A. The competent body for the promotion of the principle of equal treatment, in case of violation by public services, is the Greek Ombudsman. Public services mean the services referred to in the first subparagraph of article 3, law 3094/2003. In particular these services might be (a): the state, (b) first- and second-level local government organizations, (c) other public law legal entities, (d) governmental private law legal entities, public enterprises and enterprises of local government organizations as well as enterprises whose administration is directly or indirectly appointed by the state by means of an administrative act or in its capacity as a shareholder thereof.

B. With the exclusion of the sector of employment and labor, the competent body for the promotion of the principle of equal treatment, in the case of violation by natural or legal entities apart from those mentioned above, shall be the Equal Treatment Commission.

C. In the sector of employment and labor, the competent body for the promotion of the principle of equal treatment, in the case of violation by natural persons or legal entities apart from those mentioned above (case A), is the Labor Inspectorate.

The Equal Treatment Commission was established by the Ministry of Justice through article 21 of law no. 98623/10-10-2005, was formed by the Minister of Justice (OGG B'1489/27-10-2005), and has been operating under the chairmanship of the Secretary General of the same Ministry. Furthermore,

with article 23 of the same law, the Equal Treatment Service was established within the Central Service of the Ministry of Justice, and operates at division level, being competent, inter alia, for the examination of complaints concerning violation of the principle of equal treatment, the conduct of reconciliation efforts, the drafting and filing of a concluding report to the Equal Treatment Commission in case of failure of such reconciliation action, and the secretarial and scientific support of the Commission. Citizens can use the four-digit contact number of this service which is 1529.

The Ministry of Justice follows international developments against racism, xenophobia and racial discrimination and actively participates in the related international activities. Indicatively, it should be mentioned that **within the framework of the European Union the adoption of a Framework-Decision for the combat of racism and xenophobia is in its final stage**.

Finally, within the framework of the Council of Europe, Greece has signed, but has not yet ratified, the European Convention on cyber crime and its supplementary protocol, concerning penalization of actions of a racist or xenophobic nature conducted through computer systems. The processing of a draft bill for the ratification and incorporation of the said Convention and its Protocol in Greek law has been already assigned to a special legislative committee by the Ministry of Justice, so that the bill may be presented to Parliament for adoption and be promulgated.

Specifically concerning the Hebrew religion, the Greek Parliament in 2004 unanimously designated 27th January as "*Greek Jews Holocaust Martyrs and Heroes Remembrance Day*". The designation of this day dedicated to Greek Jews who perished in the Holocaust is the fulfillment of a moral obligation of the Greek state to the innocent victims of Nazi racism and

intolerance. It is also an admonition to all citizens always to be vigilant in protecting and defending human rights and ideals.

Since October 2005 **Greece has been officially included in the list of countries which designate 27th January as Jews Holocaust Martyrs and Heroes Remembrance Day**. In November 2005 Greece was unanimously accepted as a full member of the International Organization for Holocaust Cooperation, Education, Remembrance and Research, established in 1998 on the initiative of Sweden.

In this framework measures have been taken to teach the history of the Holocaust in schools, aiming to make students conscious of the need to defend democracy, freedom and respect for diversity.

In addition to the above and **in line with implementing resolution 61/164** of the United Nations' General Assembly, the Greek government pays particular attention to ensuring that **young people and especially those in school learn from an early age to accept and respect religions** followed by other people or groups.

Specifically by circular no. 61723/G2/13 of June 2002 which is based on article 13 of the constitution, **students of creeds and religions other than the Orthodox religion are lawfully exempt**, at primary and secondary educational levels, at the request of their parents or guardians, **from attending classes in which religion is taught.** This exemption is extended to all other obligations of the students directly or indirectly relating to religion (morning prayer, attending mass, etc.).

In order to avoid potential discrimination against different religions, only printed material that has been authorized by the Ministry of Education can be circulated in schools, so as to avoid negative presentation of religions.

Concerning **religious minorities**, the Greek state, in accordance with its obligations stemming from international law, has for decades provided by law for the operation of minority schools for the Muslims in Thrace (which is also in line with reciprocal provisions for persons of the Orthodox religion in Istanbul). In the islands of the Cyclades the teaching of religion to Roman Catholic students is undertaken by Roman Catholic theologians, in agreement with the local religious communities. In both cases, this policy is justified by the presence of groups of persons who follow their religious faiths in these areas.

The legislation permits also any other **religious or linguistic communities** to operate their own schools if they so wish.

It is also to be noted that in Greek schools students do not face any restrictions on the clothing they may wear, provided that their dress meets common standards of decency and social acceptance. Any problems that may arise in this area are handled by the board of teachers in collaboration with student communities and parents and guardians associations.