



HELLENIC REPUBLIC
NATIONAL COMMISSION FOR HUMAN RIGHTS

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Dear Madam/Sir,

We would like to thank you for your letter requesting to provide our input on the study of the WGEID on the topic of ‘Standards and public policies for an effective investigation of enforced disappearances’.

The Greek National Commission for Human Rights (hereinafter ‘GNCHR’) is the independent advisory body to the Greek State on matters pertaining to human rights protection. It was established by Law 2667/1998 in accordance with the UN Paris Principles and constitutes the National Human Rights Institution, accredited with A-status by the Sub-Committee on Accreditation (SCA) of the Global Alliance of National Human Rights Institutions (GANHRI).

Greece has ratified the International Convention for the Protection of All Persons from Enforced Disappearance (hereinafter ‘the Convention’) on 9 July 2015 and entered into force on 8 August 2015. The Greek law (L. 4268/2014) ratifying the Convention amended certain provisions of the Greek Criminal Code and the Greek Civil Code in order to harmonize the domestic legal order with the provisions of the Convention. In particular, according to the amended Criminal Code, enforced disappearance constitutes a specific, self-standing criminal offense, distinct from other related offenses, punished as a serious crime. Three new articles were introduced in the Greek Criminal Code regarding ‘Enforced disappearance of a Person’ (article 322A), ‘Aggravated Cases’ (article 322B) and ‘General Provisions’ (article 322C). In addition, the crime of enforced disappearance has been included in the list of the basic felonies (article 187 par. 1 of the Greek Criminal Code) that establishes the offence of criminal organization. Furthermore, the Greek Law 3948/2011 listed enforced disappearance, under certain circumstances, as a crime against humanity, in accordance with the Rome Statute of the International Criminal Court (ratified by Greece in 2002). Regarding the rights of the person accused and the criminal procedures to be followed, such as investigation, there are governed by the general provisions of the Code of Criminal Procedure applicable to felonies. Finally, the amended Civil Code introduced a specific provision on the illegality of adoption of children victims of enforced disappearance

The Initial Report on the implementation of the Convention is currently under preparation by the competent national authorities. A draft report was submitted to the GNCHR in order to provide its views. Accordingly, the GNCHR, within its mission to promote the implementation of the Convention and assist the State Party to meet its reporting obligations (see Greek L. 2667/1998, Article 1 par. (b), (e) and (f)) submitted its [Observations](#) on the Initial Report last December. Allow me to highlight some relevant issues:

a) The Greek state adopted the definition of the Convention (article 2), containing all three constitutive elements of the crime. Namely, article 332A par. 2 of the Greek Criminal Code reads as follows: “As enforced disappearance shall be considered the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty of by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law”. This provides, according to the GNCHR, an important guarantee for the protection against disappearance, provided that the criminal courts will abide by this view. So far, no judicial proceedings on alleged crimes of enforced disappearance have been initiated at national level.

b) The Greek legislator decided not to treat the attempted crime as completed, rather to address the attempt in the framework of the General Part of the Greek Criminal Code (articles 42 and 83), applicable to all crimes, providing for a reduced sentence. However, there are a few points of concern, since it is not easy to define when the crime of enforced disappearance is attempted or completed. If the victim is deprived of his/her liberty with state complicity and no further concealment of their fate and whereabouts follows, then these provisions are irrelevant. On the other hand, if the person is deprived of his/her liberty and there is subsequent concealment of their fate or whereabouts (and the prerequisite of State complicity is fulfilled) then the crime is completed irrespective of how long the victim will remain under their captor’s authority.

c) Article 322 A par. 3 of the Greek Criminal Code equates the penalty of superiors who order the commission of a disappearance to that of the perpetrator, which is to the right direction.

In brief, the stipulation of the crime and the effective punishment of the perpetrators are at the time being the most important guarantee the national legal order might offer to potential victims of disappearances, given that the correlative human rights prohibition is not stipulated as such in the national legislation but emanates from the right to personal liberty (article 5 par. 3 of the Greek Constitution). At the political level, emphasis should be drawn to the new methods that fall under the definition of a disappearance and occur time and again in western democracies, given that is most unlikely for an ‘archetypical’ disappearance to take place nowadays under a well established political regime.

The GNCHR remains vigilant when it comes to safeguarding the full enjoyment without discrimination of human rights and is at your disposal for any further information.

Sincerely,

Eva TZAVALA

Legal Officer, GNCHR