

HELLENIC REPUBLIC
NATIONAL COMMISSION FOR HUMAN RIGHTS

Neofytou Vamva 6 (3rd floor), GR 106 74 Athens, Greece
Tel: +302107233221, +302107233216
fax: +302107233217; www.nchr.gr, e-mail: info@nchr.gr

**Submission by the Greek National Commission for Human Rights (NCHR) to the
UN Human Rights Council's Universal Periodic Review**

I. METHODOLOGY AND CONSULTATION PROCESS

1. The NCHR contributes to the UPR process without having had sight of the Greek State Report, which will be submitted in early 2011. Nevertheless, according to its mandate, the NCHR intends to provide its comments to the draft submission and will request that this be made available to the Commission. At the time of writing, we have no indication from the Government regarding the launch of a consultation process with all relevant stakeholders, as envisaged in para. 15 (a) of Res. 5/1. In the present submission, the NCHR highlights the principal elements, which may be useful within the framework of the UPR, from the long list of its recent reports and resolutions.¹ The NCHR underlines that in the current severe financial crisis with dire effects on the social situation, the State needs to strike a balance between conflicting interests and make choices in terms of priorities and resources. Those circumstances notwithstanding, the State must still strive to ensure the widest possible enjoyment of fundamental rights and protect the vulnerable members of society.

II. CURRENT NORMATIVE AND INSTITUTIONAL FRAMEWORK

A. Scope of International Obligations

2. Greece has ratified most human rights and humanitarian international instruments. The NCHR has recommended that Greece ratify the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; the International Convention on the Rights of All Migrant Workers and Members of their Families; the Convention on the Rights of Persons with Disabilities; Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms; European Social Charter (revised); Framework Convention for the Protection of National Minorities; Council of Europe Convention on Action against Trafficking in Human Beings; European Convention on Nationality; Convention concerning Labour Clauses in Public Contracts; Convention concerning Migration for Employment (revised); Convention concerning Benefits in the Case of Employment Injury; Convention concerning Migrations in Abusive Conditions and the Promotion of Equality of Opportunity and Treatment of Migrant Workers; Protocol of 2002 to the occupational Safety and Health Convention. The NCHR points out the recent (September 2010) ratification by Greece of the UN Convention against Transnational Organised Crime and its three Protocols (L. 3875/2010)

¹ The reports of the Greek NCHR are accessible at www.nchr.gr.

B. Institutional and Human Rights Infrastructure

3. In the recent years Greece has experienced the establishment of a multitude of independent authorities and of other bodies competent for the protection of human rights (including the establishment of the NCHR itself in 1998). The NCHR is accredited with status A by the International Co-ordinating Committee of NHRIs. In spite of the fact that the NCHR is a body with a consultative role, it fully exercises its power to tackle human rights issues at its own initiative. Four Independent Authorities and/or bodies are member institutions of the NCHR². Besides, the Commission collaborates closely with other independent authorities which have relevant competences.

C. Policy measures

4. The absence of a National Human Rights Action Plan (following the recommendation by the UN World Conference on Human Rights that took place in Vienna in 1993), of a National Action Plan against Racism (following The Durban Conference as well as its follow-up Conference) and that of an Action Plan for Children's Rights remains a problem. The NCHR rejoices the recent (September 2010) launch of a National Plan for the Substantive Gender Equality 2010-2013, which includes a number of legislative and policy components.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Cooperation with human rights mechanisms

5. The NCHR monitors the State's engagement with the Treaty Bodies, the co-operation with the Special Procedures, as well as with other regional human rights mechanisms, such as the European Committee for the Prevention of Torture or the Council of Europe's Commissioner for Human Rights. The NCHR regrets the fact that State reports under the treaty-bodies reporting procedure are not submitted in a timely manner, nor are they systematically presented for reviewing by the Commission prior to their submission. The NCHR has repeatedly stressed that the State reports should not be limited to the reiteration of relevant legislative acts, but that they should contain extensive and concrete information on the implementation of the legislation and on the challenges and/or constraints met in the process. Moreover, the NCHR expresses its concern for the insufficient compliance of the State to the concluding observations and/or recommendations of the Treaty Bodies.

B. Implementation of international human rights obligations

B1. Equality and non discrimination

6. The NCHR has commented upon national legislation on equal treatment and prohibiting discrimination on several occasions so as to comply with the letter and the *ratio* of the EU directives. The NCHR considers that the Greek Ombudsman should become the full fledged Equality Body in Greece so that it promotes and monitors the implementation of all aspects of the equal treatment principle in all sectors. The L. 3304/2005 should be amended so as to prohibit multiple discrimination and to prevent any prohibited discriminatory treatment against third country nationals by invoking their nationality. The scope of the Law should include the access to self-employment or to occupation, and it should clearly declare that positive action be adopted with a view to ensuring full equality in practice. The legal provision abolishing maximum age limits for hiring employees in the public sector should be introduced,

² See composition of the NCHR on its website.

whereas its scope of application should be expanded in the private sector and in the other areas covered by the Law.

7. The NCHR has repeatedly underlined the need for legal recognition of same sex couples on the basis of international human rights law prohibiting discrimination based on sexual orientation. The civil union pact, enacted in 2008, expressly excludes same sex couples, which constitutes direct discrimination on the basis of sexual orientation and runs contrary to articles 8 and 14 ECHR.

8. For the harmonization of family and professional life the NCHR recommends that the parental leave be granted as an autonomous, non-transferable right to all employees of both sexes. The paternal leave, in all categories of occupation, should be taken at the same time as the maternity leave and it should be further extended. Special measures should be taken for single-parent families. Any arrangements of working time should be adopted by Law or through collective bargaining or other consultation mechanisms, so as not to allow for unilateral arrangement by the employer.

9. The NCHR is deeply concerned at the persistent inequalities facing the Greek Roma community in all walks of life, including access to education of Roma children, right to housing and the excessive exercise of police violence, despite all the Treaty Bodies consistently urging the Government to address these inequalities, the convictions of the country by the ECtHR, and the recommendations of other quasi-judicial international bodies.

B2. Right to life, liberty and security of the person

10. The NCHR has repeatedly turned its attention on the dramatic situation of Greek prisons, police stations and aliens' detention facilities, resulting in a series of reports and resolutions.³ It has thoroughly considered issues related to the rights of the detainees and of the criminal record of juveniles and young adults. Its positions/proposals are congruous with the observations/recommendations of all international bodies competent on the matter. Thus, the NCHR has encouraged the Greek Government to implement the recommendations of CAT, CPT, the Council of Europe's Commissioner for Human Rights, and the UN Special Rapporteur on Torture. All of the above, in the same fashion with the NCHR, are adamant on the need for Greece to improve the appalling detention conditions in quasi all detention facilities, while being aware of the magnitude of the challenge this constitutes for the country. In any event, all instances seem to agree that a major reform of the management of both the immigration and asylum granting system need be, on a burden sharing basis between European destination countries.

11. The NCHR re-iterates its position urging the Government to ratify the OPCAT.

12. The NCHR participates on an advisory basis in the current process of amendment of the Correctional Code. It is of the view that action be taken in order to correct the fact that several provisions of the Correctional Code remain inoperative due to lack of infrastructure, human resources and proper administrative organization. Post-correctional care should be substantially strengthened. It is necessary to develop a new and comprehensive correctional policy, in particular regarding drug related offences, on the basis of substantiated scientific study emphasizing on prevention.

13. The NCHR is concerned that the Police Service is not appropriately trained to fully comply with HR standards during the exercise of their routine functions. It is of the view that a reform of the training of the Police is needed, with emphasis put on respect of human rights and new interrogation techniques.

³ See list of reports under the section NCHR DECISIONS AND ADVISORY OPINIONS>DETENTION CONDITIONS, at the Commission's website.

In order to fight impunity in the Police, an independent Investigative Office of Complaints needs to be established, and the recommendations of the Greek Ombudsman's regarding the Police Disciplinary Law should be adopted.

14. With regards to the current legislative framework on the issue of violence within the family, the NCHR has proposed, inter alia, the strengthening of victim support structures, the need for specialised training of Police and for the adoption of a comprehensive National Action Plan for the prevention of the phenomenon. The National Plan for the Substantive Gender Equality 2010-2013 recently launched, includes the revision of the legislative framework regarding the issue of violence within the family, and the NCHR is involved in the Drafting Committee of the new Law, which addresses the lacunae observed at the implementation level, such as the functioning of the legal aid provision, as well as other issues raised by the NCHR.

15. Trafficking in Persons is an issue addressed by the NCHR through proposals on the legislation, prosecution, victim protection, and prevention and public awareness levels. The UN Convention against Transnational Organised Crime and its three Protocols recently ratified by Greece (L. 3875/2010), strengthen the fight against trafficking. The framework protection includes the removal of the condition of the victim's co-operation with the prosecution authorities in order to benefit from the protection measures such as the residence permit, the strengthening of the witness protection system, the provision of free legal aid to the victim, the extension of the period of reflection etc, all of which have been part of the NCHR's recommendations.

B3. Administration of justice and the rule of Law

16. The NCHR has addressed various aspects of the right to a fair trial. A major problem is the non-compliance of Public Administration with domestic judgments. The NCHR has noted that even after they entry into force of L. 3068/2002 -providing for a judicial monitoring system assigned to three-member councils of the three highest courts in order to ensure the Administration's compliance with domestic judgments- the situation has not improved considerably. The NCHR recommended several amendments to the Law so as to ensure the prompt and actual compliance of the Administration.

17. Concerning legal aid the most important deficiencies of L. 3226/2004 are: a) non inclusion of cases before administrative courts in its scope and b) no provision for legal aid to asylum seekers in the context of the administrative procedure of their applications' examination. Furthermore, the existing legal aid scheme is quite dysfunctional in practice because of the lawyers' unwillingness to register to the legal aid catalogues of the Bar Associations communicated monthly to courts due to the low fees and the great delays in their reimbursement. This problem becomes even greater if one takes into account article 3 of L. 3226/2004 according to which a lawyer can be assigned only 1 case.

18. The NCHR has noted in several occasions the major structural deficiency of the judicial system which is the great delays and the absence of an effective domestic remedy for the violation of the right to a fair trial within a reasonable time. The NCHR also notes the need for the abrogation of the judicial competences of the Greek Mufti.

B4. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

19. The inexistence of a mosque in the city of Athens which hosts a considerable number of Muslims constitutes a serious oversight. The NCHR has stressed the need to modify the procedure of issuing permits for the functioning of places of worship, which is quite restrictive. The NCHR has also requested the abrogation of religious oath –provided for in several Laws such as the Code of Criminal Procedure, Code of Civil Procedure, the Code of Civil Servants- as violating the negative aspect of the freedom of religion and its replacement by the civil oath. The NCHR considers as problematic the appointment process of the Greek Mufti in Thrace by the Greek State.

B5. Right work and to just favourable conditions of work

20. The NCHR has examined the conditions of work in the context of the increasing number of contract works and other flexible forms of occupation. It has recommended that existing legislative gaps should be filled by specific provisions consolidating workers' rights and imposing financial and insurance guarantees for them under the threat of serious and direct sanctions. The effectiveness of the inspection mechanisms should be assured by increasing their resources. Contractors having committed serious offences of labour and social security legislation should be denounced and excluded in the future.

B6. Right to education and to participate in the cultural life of the community

21. Inclusion of Roma children in the educational process should become a priority: their registration should be facilitated and further incentives should be given to teachers so that they remain in schools with Roma students for a reasonable period. The Commission's report on the situation of the Roma⁴ includes proposals in order to address this problem.

22. The NCHR regrets the lack of a comprehensive inclusion of a human rights dimension in the school curricula, as well as the lack of a National Action Plan on Human Rights Education within the framework of the UN World Programme on Human Rights Education, or any other active engagement in this process.

B7. Migrants, refugees and asylum-seekers

23. Greece is the main entry point to the EU for mixed migration flows. A large number of undocumented migrants, part of them asylum seekers whose application for refugee status has wrongfully been rejected, reside mainly in Athens and they are deprived of any rights. Incidents of racist violence have increased the last two years. Especially in some areas of Athens hate speech has reached its peak and attacks against foreigners tend to become a daily phenomenon. Addressing the needs of unaccompanied minors remains a great problem given that the reception conditions are insufficient and the institution for their temporary custody is dysfunctional.

24. Access to the asylum procedure for asylum seekers is extremely limited, especially in the border area of Evros. The abrogation of the 2nd instance and the reform of the 1st on the basis of PD 81/2009 has deteriorated to a great extent the already problematic Greek asylum procedure. At the moment there is a backlog of almost 45.000 applications. The lack of adequate in number and training personnel and the lack of interpreters are also structural deficiencies of the system. The NCHR participates in the drafting committee of a new law regarding the asylum procedure established by the Ministry for Citizen Protection.

⁴ See report on the website under the section NCHR DECISIONS AND ADVISORY OPINIONS>ROMA