

AMNESTY INTERNATIONAL

SUBMISSION TO THE
EUROPEAN COMMISSION
AGAINST RACISM AND
INTOLERANCE ON GREECE

**AMNESTY
INTERNATIONAL**



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1. INTRODUCTION

Amnesty International submits this contribution to the European Commission against Racism and Intolerance (ECRI) on the occasion of its fifth country monitoring cycle that includes Greece.

This submission focuses on: 1. Violations against asylum-seekers and migrants including collective expulsions and ill-treatment; racial profiling and arbitrary arrests during the sweep operation codenamed “Xenios Zeus”; and attacks against migrant workers; 2. Forced evictions and segregation in education of Roma children in Greece and violations arising out of police raids at Roma settlements; 3. Restrictions of the right to marry in Greek legislation for same sex couples and harassment experienced by transgender individuals by the police; 4. Flaws into the investigations of hate crimes and gaps in pertinent legislation, the draft legislation on hate speech discussed in the Greek Parliament and concerns arising out of the investigation into hate crimes and other offences attributed to Golden Dawn leaders and members. Furthermore, it includes recommendations on the above issues.

2. REGIONAL LEGAL INSTRUMENTS

Greece has yet to implement some of the recommendations put forward by ECRI on the occasion of the fourth monitoring cycle in 2009.¹ Greece has not yet ratified the Framework Convention for the Protection of National Minorities, Additional Protocol 12 to the European Convention on Human Rights and the Convention on Cybercrime and the Additional Protocol to the Convention on Cybercrime. It has also not signed the European Convention on Nationality or the Convention on the Participation of Foreigners in Public Life at Local Level.

¹ ECRI report on Greece (fourth monitoring cycle), adopted on 2 April 2009, at <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Greece/GRC-CbC-IV-2009-031-ENG.pdf>.

3. ASYLUM-SEEKERS AND MIGRANTS

3.1. COLLECTIVE EXPULSIONS AND ILL-TREATMENT

Since July 2012, Amnesty International has observed an increase in the allegations of ill-treatment of refugees and migrants during protests or riots at immigration detention centres. It has also received many allegations of ill-treatment of refugees and migrants during push-backs to Turkey at the Evros river and at the Aegean sea and some allegations during sweep operations by police. Between March and October 2013, Amnesty International interviewed 42 individuals who described at least 44 separate instances of collective expulsions from Greece to Turkey, which they claimed to have experienced themselves between August 2012 and July 2013.

Almost everyone who spoke to Amnesty International about their experiences of collective expulsions, whether at the land border or at sea, said that they had either experienced or witnessed violence or degrading treatment. People described being slapped, beaten and manhandled.²

The victims of these abuses prefer to not file complaints. Many of them said to Amnesty International that they were scared of reprisals because of their irregular status and while they were in detention; in addition they do not believe that such complaints would lead to the perpetrators being punished.

31 JULY 2013: MORE THAN 40 REFUGEES PUSHED BACK BY COASTGUARDS

M, from Syria, said he and more than 40 refugees and migrants were pushed back to sea on 31 July 2013 when they tried to reach Samos island by boat. Amnesty International has interviewed nine other refugees in relation to this incident and has expressed its concerns to the Greek authorities.³

...When the police tied the two boats together, they asked us to give in the children and women to the other boat and then they threw them on the ground of their ship as if they were unbreakable commodity. After that, the men started to get into the boat and the officers pushed us down and shouted loudly at us as if we were terrorists. ... When anyone tried to look around to see what was going on, he was beaten.

Furthermore, the Greek state continues to show a lack of political will to take the necessary legislative steps to deal with the scale and systematic nature of human rights violations committed by law enforcement officials and the persistent impunity.

² Between March and October 2013, Amnesty International interviewed 42 individuals who described at least 44 separate instances of collective expulsions from Greece to Turkey, which they claimed to have experienced themselves between August 2012 and July 2013. See 'Frontier Europe: Human Rights Abuses on Greece's Border with Turkey', Amnesty International, July 2013, AI Index EUR 25/008/2013, at www.amnesty.org/ar/library/info/EUR25/008/2013/en. For further allegations of ill-treatment by refugees and migrants reporting collective expulsions by the Greek police and coastguard, see *Pro-Asyl, Pushed Back: Systematic human rights violations against refugees in the Aegean sea and at the Greek-Turkish land border*, November 2013.

³ TG EUR 25.2013.022, 12 September 2013.

Thus, despite repeated recommendations by Amnesty International, the United Nations Committee Against Torture and the Council of Europe Commissioner of Human Rights, the Greek authorities have failed to establish a truly independent and effective police complaints mechanism to investigate allegations of unlawful police conduct.⁴ In April 2013, the Council of Europe Commissioner for Human Rights called on the Greek authorities to eliminate the institutional mentality of impunity, and establish an independent and effective police complaints mechanism that covers all law enforcement officials and draws on the experience of other member states.⁵

Amnesty International believes that the Office for Incidents of Arbitrary Conduct, as envisaged by Law 3998/2011, does not have institutional independence because it will operate within the Ministry of Public Order and Citizens' Protection, which is the Ministry responsible for the police. Concerns have also been expressed over this office's effectiveness, including its very limited powers to carry out investigations and only in those cases that the law categorizes as "serious complaints or incidents", subject to the discretion of the competent Minister.⁶ Two years after the adoption of the law, the Office for Incidents of Arbitrary Conduct has not yet started operating.

Amnesty International calls the Greek authorities to:

- **Ensure that all those intercepted in the Aegean or apprehended at the land border with Turkey have access to individualized procedures to seek international protection or raise other protection needs;**
- **Ensure that all those intercepted in the Aegean or apprehended at the land border with Turkey have access to an effective remedy against any deportation decision;**
- **Investigate allegations of collective expulsions (push-backs) and ill-treatment at Greece's land border with Turkey and in the Aegean and prosecute officials involved;**
- **Establish a truly independent and effective police complaints mechanism. In particular, this mechanism should:**
 - **Have no structural or organizational connection with the police, such as in the form of an independent non-departmental public body, for example a specialized Police Ombudsman or Independent Police Complaints Body. Such body should be adequately staffed and headed by professionals of acknowledged competency, impartiality, expertise, independence and integrity, who are not members of the law enforcement agencies. It should have at its disposal its own corps of independent expert investigators to investigate complaints.**
 - **Be mandated to investigate all allegations of serious human rights violations by law enforcement officials, including deaths in custody, fatal and non-fatal shootings, torture and other ill-treatment and racially-motivated or other discriminatory misconduct.**

⁴ Police Violence in Greece: Not just 'Isolated Incidents', July 2012, AI Index EUR 25/005/2012.

⁵ Report of the Council of Europe Commissioner for Human Rights following his visit in Greece, op.cit.

⁶ Police Violence in Greece: Not just 'Isolated Incidents', July 2012, AI Index EUR 25/005/2012.

- **Have its own powers to investigate, and not simply to collect, record and evaluate complaints that are then forwarded to the competent investigating bodies; such powers should not be limited to the disciplinary aspects of a complaint and should not be dependent on the discretion of the Minister of Citizens' Protection.**
- **Have investigation powers which include the power and resources to immediately secure and examine the scene of the incident, and the power to summon witnesses and to order the production of evidence and documents.**
- **Have the power to refer a case directly to the prosecuting authorities for criminal prosecution where appropriate and the power to appeal any decision made by the prosecution authorities to a court.**
- **Have the power to make binding decisions that apologies should be granted or criticism made, and the power to recommend adequate compensation be paid to victims.**

3.2. SWEEP OPERATION CODENAMED XENIOS ZEUS

In the last few years, Greece has invested millions of Euros in keeping migrants out. In 2012, it completed a 10.5 kilometre fence along its land-border with Turkey and deployed almost two thousand new border guards there. During the same year, the Greek authorities also intensified the practice of routinely detaining irregular migrants and asylum-seekers for prolonged periods and since August 2012, they started a large-scale sweep operation codenamed "Xenios Zeus" with the purpose to crack down irregular migration. The mass roundups are still on-going.

Amnesty International has repeatedly expressed its concerns over the routine detention of asylum-seekers and irregular migrants for prolonged periods and the very poor detention conditions in various immigrations detention facilities and police stations in Greece.⁷

Under Greek law, the Greek police is tasked to control migration and order the detention and/or deportation of third country nationals under certain conditions.⁸ Moreover, under Article 74 of the Presidential Decree 141/1991, police can transfer a person to a police station for an identity check if they do not have papers proving their identity or if the circumstances such as the person's conduct or the place that he/she is found has caused a police officer the suspicion that the person concerned has committed an offence. Furthermore, during the investigation of an offence, the Greek police can invite or transfer for questioning to a police station, individuals for whom there are serious suspicions that they are involved in the commission of the offence investigated.⁹

⁷ See amongst others, Greece: Systematic and Prolonged Detention of irregular migrants and asylum-seekers provokes riot, AI index: 25/014/2013, at www.amnesty.org/en/library/asset/EUR25/014/2013/en/cd88850b-c123-417a-857e-b41d6a743cd3/eur250142013en.html.

⁸ See Law 3386/2005 at www.astynomia.gr/images/stories/2010/fekA212-2005-N3386.pdf and Law 3907/2011 at www.synigros.gr/?i=foreigner.el.metanastis-nomoi.

⁹ Since 2000, the Greek Ombudsman has also repeatedly pointed to the abusive nature of transfers of individuals to police stations for identity checks when there is no individualized suspicion of an offence being committed.

However, non-governmental organizations, the Council of Europe Commissioner for Human Rights and the Greek Ombudswoman pointed to the discriminatory and abusive nature of stop and searches on foreign nationals, and their mass transfers and detention to police stations during the operation “Xenios Zeus” which resulted on many cases to arbitrary deprivation of liberty.¹⁰ In particular, the non-governmental organization Human Rights Watch documented extensively the use of racial profiling and arbitrarily arrests of foreign nationals during such operations at its July 2013 report “Unwelcome Guests”.¹¹

The difference between the number of third country nationals transferred to police stations and the number eventually held for lacking the necessary papers supports the concerns about the discriminatory nature of these police operations and the abusive character of such practices. Between August 2012 and 15 February 2013, police had stopped around 80,073 foreign nationals for identity checks and taken them to police stations. Of those, only 4,538 were found to have no papers.¹²

Several of the irregular migrants arrested during sweep operations and interviewed by Amnesty International, during visits to detention facilities in April 2013, said that they felt that they had been stopped and searched because of their skin colour. Individuals who have already received international protection, or whose deportation has been suspended, have described to Amnesty International the manner in which they were stopped during these operations. They have expressed their fear of being stopped and searched every time they had to go out.

K, a member of the Board of the Greek section of Amnesty International, who is also a recognized refugee, reported that he was stopped and searched on the evening of 11 October 2012 at Mesogheion Street in Athens by four police officers riding two motorbikes. At the time, he was at work as a mentor for volunteers for a non-governmental organization. K said:

When I tried to call my work, one of the officer[s] took my phone by force, he cut my call and he handcuffed me. Then, another officer came to me and asked me lower my height in order not to be taller than him when he was talking to me...

K was subsequently taken to a police station for an ID check despite the fact that he had shown his identity as a refugee to the police and subsequently released.

¹⁰ On the sweep operations coded “Xenios Zeus” see “Greece must halt mass police crackdown on ‘irregular migrants’, 8 August 2012, at www.amnesty.org/en/news/greece-must-halt-mass-police-crackdown-on-irregular-migrants-2012-08-08; “Greece: The end of the road for refugees, asylum-seekers and migrants”, AI Index: EUR 25/011/2012, December 2012; Greek Ombudswoman, Special report on racist violence – “The phenomenon of racist violence in Greece and how is being dealt with”, Athens, September 2013, see <http://www.synigoros.gr/resources/docs/eidikiekthesiratsistikivia.pdf>; Report of the Council of Europe Commissioner for Human Rights following his visit in Greece between 28 January and 1 February 2013, 16 April 2013, Comm DH (2013) 6, at www.coe.int/t/commissioner/Activities/countryreports_en.asp.

¹¹ Human Rights Watch (HRW), “Unwelcome Guests: Greek Police Abuses of Migrants in Athens”, July 2013, at www.hrw.org/reports/2013/06/12/unwelcome-guests.

¹² According to the Greek Ombudswoman, the disproportion in the numbers between those stopped and searched and those found to have not papers was not just obvious but could not be challenged. The Ombudswoman also noted that this was the possible reason why the announcements by the Greek police after mid-February 2013 provided statistics that only referred to the number of people actually arrested for lack of papers, rather than the total number of the third country nationals who were checked. See Special report on racist violence, op.cit. pp. 33-38.

Serious concerns have also been expressed about how such operation fuel further discrimination and prejudice against refugees and migrants in a country where there has been an alarming rise in racist attacks in the past few years.¹³ Statements issued by the Minister of Public Order and Citizens' Protection and the Greek police presenting migrants as a threat to Greece or linking them to crime have exacerbated xenophobia. For example, the Minister of Public Order and Citizens' Protections defended operation "Xenios Zeus" by saying that the failure to crack down on irregular migration would lead to social collapse and that the invasion of migrants was the biggest that Greece has faced since the Dorian invasion.¹⁴

Amnesty International calls the Greek authorities to:

- **Publicly acknowledge the real extent of identity checks by police based on ethnic and racial characteristics, condemn racial profiling as discriminatory and illegal, according to international law, and state clearly that it is also illegal to select individuals for identity checks or detention based on their real or perceived ethnic or racial characteristics.**
- **Take immediate steps to specifically prohibit racial profiling in law and practice.**
- **Provide police officers with training on how to conduct identity checks in compliance with the principle of equality and the prohibition of discrimination, in conformity with Article 40 of the European Code of Police Ethics, which provides that "the police shall carry out their tasks in a fair manner, guided, in particular, by the principles of impartiality and non-discrimination.**

3.3. ATTACKS AGAINST MIGRANT WORKERS

KONSTANDINA KUNEVA

In July 2013, an Athens Court ordered Konstandina Kuneva's former employers to pay compensation of 250.000 Euros for having failed to protect her from a devastating attack. According to reports, the court ruled that the company carries a responsibility for the attack as it refused to change her shifts despite knowing she had received death threats because of her trade union activity. Despite this positive development, Amnesty International is seriously concerned that five years after the attack, the perpetrators have not been found.

Konstandina Kuneva was working in Athens with the cleaning company OIKOMET, when in December 2008 someone threw sulphuric acid at her as she walked home from work. As secretary of the Attica Union of Cleaners (PEKOP) she has been defending workers and fighting for better conditions and pay.

¹³ Concerns were also raised that the arrests happening during the sweep operation may put at risk of deportation individuals who are in need of international protection but are unable to apply for asylum. See "Greece must halt mass police crackdown on 'irregular migrants'", 8 August 2012, op.cit.

¹⁴ "Minister defends immigrant crackdown," press article, at http://www.ekathimerini.com/4dcgi/w_articles_wsite1_1_06/08/2012_455644.

Her work has brought to light illicit practices in the cleaning sector, including the exploitation of migrant workers. Due to the attack Konstandina Kuneva is still suffering from problems with her sight, swallowing and breathing. She is undergoing a series of operations in Paris.

Amnesty International urges the Greek authorities to do their utmost to find the perpetrators of the attacks against Konstantina Kuneva and ensure that justice is served.

SHOOTING OF STRAWBERRY PICKERS IN MANOLADA

Since 2008, the Greek media has covered the low wages, poor living conditions and mistreatment of strawberry pickers in Manolada.

On 17 April 2007, farm supervisors fired shots at around 200 Bangladeshi strawberry pickers in Manolada when they protested because they had not been paid for seven months. 35 of the workers were transferred to the hospital to treat their injuries. The shooting was the culmination of months of neglect and exploitation of thousands of migrant workers in the area around Manolada.

Amnesty International visited the area on the 20 April 2013 and spoke to several of the victims who described the attack.¹⁵ The organization observed horrendous conditions where workers – some in their early teens – live in crowded sheds without access to clean water and sanitation. According to witnesses interviewed by Amnesty International, some 2,000 Bangladeshis work in the area, with a further 3,000 or more workers from other countries, including Bulgaria and Albania. Some have residence permits or asylum applications, but others are irregular migrants without insurance or access to health care. One of the workers' representatives – who has lived in Greece for 15 years – told Amnesty International that the Bangladeshis were promised a meagre €3.15 per hour for a seven-hour workday. They had not been paid for seven months before last week's protest. The workers also said they are forced to pay €20 a month – nearly a full day's wage – to live in the sheds at the farm.

The Greek authorities promptly condemned the shooting incident. Currently there are two investigations into the incident. The first started immediately at the prosecutors on initiative and concerned 35 of the migrants who were shot and who had been transferred to the hospital. Four suspects were arrested – the farm's owner and three supervisors. They were charged with labour trafficking and attempted murder.

In relation to the second investigation, Amnesty International has been informed that 120 of the workers who had not been documented by the authorities as victims also filed a criminal complaint against the farm owner and the farm supervisors for the attack against them and this separate complaint is currently at the early stages of a criminal investigation.

However, serious concerns arise over the protection of many of the victims of the shooting with irregular status. According to the Greek Council of Refugees that currently provides legal aid to the victims, the Greek authorities recognised as victims of labour trafficking and granted residence permits only to the 35 migrants that were transferred to the hospital. No attempts were reportedly made to document the other 120 workers that have been victims of the attack.

¹⁵ "Despair pervades camps after 33 migrant workers are shot at Manolada", 22 April 2013, <http://www.amnesty.org/en/news/greece-despair-pervades-camps-after-33-migrant-workers-shot-manolada-2013-04-22>

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According to the Greek Council of Refugees, in November 2013, four of the 120 migrants who filed the second complaint and had irregular status were arrested by the Greek police for the purposes of deportation.¹⁶ One of them was released following objections against his detention by the Greek Council of Refugees but a return order is still pending against him.

Amnesty International calls the Greek authorities to ensure that all the victims of the attack are granted special protection and protected from detention and deportation during the investigation and possible prosecution of the alleged perpetrators.

¹⁶ See <http://www.gcr.gr/index.php/en/news/press-releases-announcements/item/330-deltio-typou-dipli-thymatopoiisi-ton-ergaton-gis-tis-manoladas>.

4. ROMA

4.1. FORCED EVICTIONS

In the past decade, local authorities in Greece have forcibly evicted a large number of Romani families and continue to ignore the country's obligations under international law to provide adequate housing for all residents.¹⁷

Among those evicted were many Romani families who lived in appalling conditions in Votanikos, an area near the centre of Athens.

In June 2007, more than 100 Romani families were forcibly evicted from the land where they had been living for 10 years, in Aghiou Polykarpou Street in Votanikos, Athens. With no alternative accommodation offered by the authorities, several families moved into a nearby abandoned factory. The police forcibly evicted them a few days later. Again, the authorities made no attempt to provide them with adequate alternative accommodation. A few months later, they were forcibly evicted for the third time after they moved to land owned by a private company in Aegaleo, Athens. In January 2008, they were moved again.

On 14 August 2012, a fire broke out and destroyed a large part of the Roma settlement situated on Salaminias Street in Votanikos. On 17 August 2012, the police cleared the debris and forcibly evicted those who remained in the settlement. According to the NGO Greek Helsinki Monitor, no Roma who had lost their home, either because of the fire or the eviction, was offered suitable alternative accommodation by the authorities.

In 2013, Amnesty International has continued to receive reports of forced evictions of Roma families from their settlements including that of several Roma families in the town of Atalandi in August 2013. According to the NGO Greek Helsinki Monitor, the Roma families were transferred to an alternative site that is four km away from the town of Atalandi, building work on it has not been completed by the local authorities and there are safety issues (for example the position of the site would not allow the Roma to escape in case of fire).

The Greek authorities must

- **put an end to all forced evictions**
- **ensure that evictions are only carried out as a last resort after all other feasible alternatives to eviction have been explored. They must also ensure that a genuine consultation has been carried with the individuals affected, adequate and reasonable notice has been provided to those affected prior to the eviction and that they are provided with information on the proposed eviction and, where applicable, on the alternative purpose for which the land or housing is to be used.**
- **ensure that all those who were forcibly evicted have access to effective remedies and the right to reparation, rehabilitation, compensation, satisfaction and guarantee of non-repetition**
- **guarantee that any alternative housing which is offered to people should comply with international standards**

¹⁷ End forced evictions of Roma in Europe, April 2013, AI Index: EUR 001/004/2013.

4.2. SEGREGATION IN EDUCATION

In a unanimous ruling on 30 May 2013, in *Lavida and Others v. Greece*, the European Court of Human Rights found that “the continuing nature of this situation and the State’s refusal to take anti-segregation measures implied discrimination and a breach of the right to education”. The case was brought by a national NGO, the Greek Helsinki Monitor (GHM) on behalf of 23 Romani schoolchildren from the town of Sofades, in the central Greek region of Thessaly.¹⁸

It was the third judgment concerning segregation of Roma children in Greek schools. Twice before – in rulings in the cases of *Sampanis and others v. Greece* in June 2008 and *Sampani and others v. Greece* in December 2012 – the European Court of Human Rights has censured the Greek authorities for allowing discrimination against Roma pupils in a school in Aspropirgos, a western suburb of Athens.

According to Panayote Dimitras, the spokesperson of GHM *“This being the third judgment for discriminatory access to education of Romani children it indicates that the government has no intention to desegregate such schools as long as local authorities are opposed to such moves”* .

Amnesty International notes that Roma children face segregation or exclusion from schools in many other parts of Greece such as Thrace, Psahna Evias and Spata.

The UN Committee on the Rights of the Child has also expressed concerns about the limited access to education and school segregation experienced by Roma pupils in Greece, and Greek civil society organisations have documented several cases of persistent segregation and exclusion of Roma pupils in different parts of the country.

Amnesty International calls the Greek authorities to reverse segregation in education for Romani pupils and comply with the relevant judgments of the European Court of Human Rights.

4.3. RAIDS AT ROMA SETTLEMENTS

Roma have been at the receiving end of discriminatory treatment for years in Greece. Over the past year, the police have conducted frequent raids on Roma settlements around Greece, justifying this as part of the fight against crime or its prevention and tackling unlawful conduct.

The legal framework under which such raids take place cannot be found in a single legal instrument but in various provisions of the Greek Criminal Procedure Code regarding the investigation of alleged offences and in the Article 74 of Presidential Decree 141/1991 regarding transfers of individuals for checks to police stations (see section on operation codenamed “Xenios Zeus” above).

Under the Greek Criminal Procedure Code, a prosecutor who receives a report, criminal complaint or any other information that punishable act has been committed is required to

¹⁸ European Court again chides Greece over discrimination against Roma children, 30 May 2013, <http://www.amnesty.org/en/news/european-court-again-chides-greece-over-discrimination-against-roma-schoolchildren-2013-05-30>.

institute criminal proceedings by referring the case for investigation. If the complaint or report concerns a felony or serious types of misdemeanours, a prosecutor is obliged to order first a preliminary inquiry in order to establish whether there has been sufficient evidence for the prosecution to be effected. Police officers are amongst the investigative authorities that can conduct such inquiries.

If the prosecutor finds sufficient evidence for the prosecution to be effected, he/she can effect prosecution by ordering a “summary investigation” conducted under his supervision by a magistrate or a police officer. A “summary investigation” can also be conducted by police personnel on their own initiative if delays in the conduct of the investigation of an offence cause immediate danger of the loss of evidence or if the offender has been caught in the act. Alternatively the prosecutor can order an “ordinary investigation”. An “ordinary investigation” is ordered by the prosecutor and conducted only by an investigative judge.

Greek Helsinki Monitor has repeatedly expressed serious concerns about the raids, saying:

...Officers have taken thousands of Romani people to police stations only to then arrest 10% of them – often for offences related to their marginalization (traffic code violations, court convictions in absentia, etc). Hellenic Police then publish (press) releases that mention the ethnic identity – a practice of ethnic profiling that has been condemned by the Council of Europe Commissioner for Human Rights, Nils Muižnieks.¹⁹

The statistics provided by the Greek authorities raise concerns that such mass transfers of Romani people to police stations are discriminatory and can lead to arbitrary deprivation of liberty.

More specifically, according to statistics issued by the Greek police, during the first nine months of 2013, there were 1,131 police operations in Roma settlements across the country. During those operations, 52,431 people were checked, 19,067 people were transferred to police stations. Out of those, 1,305 were arrested, and 4,651 violations of Greek criminal and traffic laws were identified.²⁰

Following its visit to Greece the UN Working Group on Arbitrary Detention also expressed its concerns over the transfers of members of the Roma community to police stations and their release soon after without charges. The Working Group stated “...that any detention on discriminatory grounds constitutes arbitrary detention and furthermore, that detention without any legal basis also renders the detention arbitrary”.²¹

¹⁹ See cm.greekhelsinki.gr/uploads/2013_files/ghm1437_roma_rights_english.doc; See Report of the Council of Europe Commissioner for Human Rights following his visit in Greece, op.cit. In their reply to a question posed by MP Marian Yannakaki over the publication of the identity of Roma individuals charged for various offences during police operations, the Greek authorities denied that the publication of ethnicity of the person arrested constituted ethnic profiling if it was not followed by the person's personal details legislation. They also stated that such data would be used amongst others for risk assessments and mapping the situation the concerns the expression of criminal behaviours (see Reply of the Ministry of Public Order and Citizens' Protection to MP Maria Yannakaki, 23 August 2013). In recent months, the Greek authorities appear not to refer to the ethnic identity of the Roma people arrested in their press releases on police raids.

²⁰ See Reply of the Ministry of Public Order and Citizens' Protection to the question of MP Maria Yannakaki, 23 November 2013; See “At least 20.000 transfers from Roma settlements”, article by Elli Zotou, 22 October 2013, <http://www.avgi.gr/article/1178463/sxedon-20-000-prosagoges-apo-kataulismous-roma>

²¹ UN Working Group on Arbitrary Detention statement upon the conclusion of its mission to Greece (21-31 January 2013), at www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12962&LangID=E.

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The statistics provided by the Greek police also show that many of the Roma people arrested during these operations are for offences linked to their marginalization.²² More specifically, during the first nine months of 2013, 230 Roma people were arrested for electricity theft. Many Roma settlements are left without electricity as a result of the refusal of the Public Electricity Service to provide to connect them with electricity citing that their settlements and houses are illegal.²³ Furthermore, in 2013, there has been a landmark case where Greek courts have acquitted 16 Roma individuals who had been charged with electricity theft following a police operation in the settlements.²⁴

Moreover, a large number of the violations identified during these operations are linked to traffic code violations (3,373 out of the total of 4,671 identified violations of the Greek criminal and traffic laws).

Furthermore, in its opinion on combating racism and racial discrimination in policing, the European Commission against Racism and Intolerance has recommended that member states introduce a reasonable suspicion standard, whereby powers relating to control, surveillance or investigation activities can only be exercised on the basis of a suspicion that is founded on objective criteria.

However, official police statements indicate that raids on Roma settlements are undertaken not on the basis of a reasonable suspicion standard but rather on the assumption that Roma are perpetrators of criminal offences. However, public statistics on criminality are not disaggregated by the ethnicity of the perpetrators. It is therefore not clear on which basis the police associate Roma communities with specific criminal offences.

On the other hand, existing research undertaken by the European Union Agency for Fundamental Rights, show that Roma in Greece are often victims of crimes. Fifty-four per cent of the Romani individuals surveyed was in fact victim of crime in the year ahead of the survey.²⁵

Moreover, following a raid on a Roma settlement in the town of Farsala in October 2013, where a young girl called Maria was discovered to be living with a Roma family who were proved not to be her biological parents, there was an intensification of raids on Roma settlements. The Greek Roma couple were charged with abduction and taken into pre-trial custody, but they challenged the charges by stating that they had unofficially adopted Maria. Subsequent DNA testing showed that Maria was the biological daughter of a Roma couple who lived in Bulgaria who stated that they had abandoned their child in Greece as a result of poverty. This case raised concerns about the further stigmatization of this already marginalized community in Greece, and of Roma communities all over Europe.

²² Correspondence with Panayote Dimitras, Spokesperson of the Greek Helsinki Monitor.

²³ For example, on 19 November 2013, the police conducted a police operation at a Roma settlement in Aspropyrgos. Out of the 120 individuals checked, 65 were transferred to police stations. Out of those, nine were arrested. Out of those arrested, eight were charged for theft of electricity. See www.skai.gr/news/greece/article/246260/ennea-sullipseis-se-epiheirisi-se-kataulismo-roma-ston-aspropurgo/#ixzz2leisyVQ6.

²⁴ In 10 October 2013, the First Misdemeanors Court in Athens acquitted 16 Roma charged with electricity theft. The court reportedly accepted the argument of the Roma that the lack of electricity posed a danger to their health, education of their children, life and property and the theft of the electricity was a result of an situation of emergency (Interview with Electra Koutra, President of the Hellenic Action for Human Rights and lawyer representing the 16 Roma at court)

²⁵ This is the highest victimization prevalence rate in Europe. European Union Minorities and Discrimination Survey, EU-MIDIS, 2008, p. 59.

5. LGBTI

5.1. RESTRICTIONS OF THE RIGHT TO MARRY IN GREEK LEGISLATION FOR SAME SEX COUPLES

Restricting the right to marry and found a family, which is a well established right in international human rights law, for instance by the International Covenant on Civil and Political Rights (Article 23) and the ECHR (Article 12), to different sex couples is at odds with the well established prohibition of any form of discrimination based on sexual orientation.

Law 3719/2008 entitled “Reforms concerning the family, children and the society” makes provisions for an official form of partnership other than marriage known as civil unions. However, under the 2008 law only two adults of the different sex can enter a civil union.

On 7 November 2013, the Grand Chamber of the European Court of Human Rights has found in the case of *Vallianatos and others v. Greece*, that the Greek authorities did not offer convincing and weighty reasons justifying the exclusion of same sex couples from the scope of the “civil union” legislation.²⁶

For those reasons, the Court found a violation of Article 14 (non-discrimination) together with Article 8 (right to private and family life) ECHR.

Despite the judgment and calls from political parties including coalition partners, the Greek Minister of Justice has resisted the introduction of a draft provision expanding the scope of civil union to same sex couples to draft legislation on hate speech currently discussed before a parliamentary committee (see below section on hate crime).

5.2. HARASSMENT OF TRANSGENDER WOMEN

Transgender sex workers in Greece are often harassed by the police and in some instance are victims of violence and ill-treatment. According to the Greek Transgender Support Association, spoken to by Amnesty International in March 2013, transgender sex workers are often arrested and charged for insulting public morality. In some cases, they experience police violence while being held in custody.

In late May 2013, police escalated arbitrary ID checks of transgender women. The authorities attempted to justify these actions as a bid to “improve the image” of parts of Thessaloniki, saying they were aimed at tackling prostitution and improving safety and “the [city’s] image”.

Representatives of the Greek Transgender Support Association told Amnesty International that 25 transgender women in Thessaloniki were stopped for ID checks and then transferred to police stations, where they were arbitrarily detained for several hours and then released. They said that the checks were still being carried out in July 2013.²⁷

²⁶ *Vallianatos and others v. Greece*, Judgment of 7 November 2013 (Application nos. 29381/2009 and 32684/2009).

²⁷ ‘Greece must withdraw the provision on forced HIV testing and end the harassment of transgender women’, Public Statement, 18 July 2013. AI Index EUR 25/012/2013.

6. HATE CRIMES

6.1. DRAMATIC RISE IN RACIALLY MOTIVATED CRIMES

In the past three years, there has been a dramatic escalation in racially motivated crimes against refugees, migrants and in some cases against EU nationals.

Between October 2011 and September 2013, the Racist Violence Recording Network recorded 300 incidents of racist violence. The Network was set up at the initiative of the National Commission for Human Rights and the United Nations High Commissioner for Refugees with the participation of 34 NGOs and agencies for the purpose of registering racially motivated crimes and making a series of proposals for their prevention, in view of the absence of an official and credible mechanism for recording such attacks.²⁸

Victims in their vast majority are refugees and migrants.²⁹ Often the perpetrators are believed to belong to extremist groups and to act in an organized manner and in groups moving either by motorcycle or foot. They are dressed in black clothes and/or military trousers and have their faces covered or wear helmets. For example, in 91 out of the 154 incidents recorded between January and December 2012, the perpetrators are believed to belong to extremist groups.³⁰ Furthermore, the Greek Ombudswoman recorded 281 incidents of reported racially motivated attacks between January 2012 and April 2013. In 71 of the recorded incidents, the perpetrators are reported to be linked or are linked with Golden Dawn.³¹

On the other hand, there are no publicly available official statistics on hate crime and the Greek authorities provide them only upon request. According to statistics provided to the Greek Ombudsperson by the Directorate of State Security of the Greek Police, the police recorded three incidents with an alleged hate motive during 2010, 22 in 2011 and 84 during 2012. Furthermore, between January 2013 and September 2013, the Greek police had received a total of 440 phone calls reporting hate crime.³²

²⁸ Its members include Amnesty International, the Hellenic League for Human Rights, the Greek Council of Refugees and other national refugee and human rights NGOs and refugee communities.

²⁹ "The State must send a clear message against racist violence", press release, 25 October 2013, at www.unhcr.gr/lagainstracism.

³⁰ Network for Recording Incidents of Racist Violence, Annual Report 2012, at www.unhcr.gr/lagainstracism/%CE%B4%CE%AF%CE%BA%CF%84%CF%85%CE%BF-%CE%BA%CE%B1%CF%84%CE%B1%CE%B3%CF%81%CE%B1%CF%86%CE%AE%CF%82-%CF%80%CE%B5%CF%81%CE%B9%CF%83%CF%84%CE%B1%CF%84%CE%B9%CE%BA%CF%8E%CE%BD-%CF%81%CE%B1%CF%84%CF%83-3/.

³¹ See Greek Ombudswoman, Special report on racist violence – "The phenomenon of racist violence in Greece and how is being dealt with", Athens, September 2013, www.synigoros.gr/resources/docs/eidikiekthesiratsistikivia.pdf, pp.11-12.

³² 215 of the phone calls were received in the special phone line set to record incidents of racist violence. The line started operating in January 2013. 225 more phone calls reporting racist violence were received by the Departments and Offices dealing with racist violence. See Greek Ombudswoman, Special report on racist violence – "The phenomenon of racist violence in Greece and how is being dealt with", op.cit., pp. 17-18.

Also between January and April 2013, the Special police departments and offices set up to tackle racist crime had investigated 16 incidents of alleging racially motivated crime and had sent the case files to the competent prosecutor.³³

Numerous victims have suffered serious bodily injuries while four migrants have died. In particular, in August 2012, an Iraqi national was fatally stabbed in central Athens in what the police said to be a racially motivated attack. The perpetrators have not been found. Also in 2012, an Egyptian national who was the victim of a racist savage beating died after 17 days in coma. In a third attack in the early hours of 17 January 2013, two Greek nationals stabbed the 27-year old Pakistani S. Luqman, as he was heading to work on his bicycle in Petralona, Athens. S. Luqman died later that day of his wounds.³⁴

In the past few years, hate motivated attacks have also been reported against Muslim prayer halls, Jewish cemeteries and monuments, migrant community centres, Roma settlements and members of the LGBTI community.³⁵

In 2013, the Network for Recording Racist Violence started to collect data on hate crimes motivated by sexual orientation and gender identity. To date, two cases have been reported. No official data on homophobic and transphobic hate crime are collected.

STEFANOS AGELASTOS

On 28 August 2012 in the early morning, Stefanos was walking near Omonia Square, Athens, with a friend. Two men approached them and asked if they were gay. After their positive reply, the men said “Now see what happens” and went away. After a few minutes they caught up with Stefanos and his friend, threw them on the ground and repeatedly kicked and punched while shouting homophobic insults. Stefanos managed to call the police while he was still lying on the pavement. They arrived after a few minutes. Stefanos reported that he was victim of a homophobic attack. The police officers asked him what a homophobic attack was. There were some witnesses around including the owner of a nearby news stand. However, the police did not talk to them to collect further details of what had happened. “They didn’t even get out of the car.” Then, the police suggested he go to the nearest police station to report the attack, but refused to escort Stefanos there. He went to the police station by himself. The police officers at the station again asked what a homophobic attack was.

Stefanos’ awareness of homophobic violence and the fact that he was open about his sexual orientation were pivotal in making sure that the alleged homophobic motive was recorded, although it should be the duty of the police to collect and register all the

³³ See Greek Ombudswoman, Special report on racist violence – “The phenomenon of racist violence in Greece and how is being dealt with”, op.cit., pp. 17.18.

³⁴ A search by the police at the house of one the men arrested for the murder of S Luqman found leaflets of the Golden Dawn party and pictures of its leader. Concerns have been expressed by the victim’s lawyers that the investigation conducted by police and the judicial authorities did not take into account the alleged hate motive, but considered as the basis for the killing the argument given by the two men, that they stabbed S Luqman because he did not remove his bicycle which was in their way. Their trial is scheduled for 18 December 2013. See ‘Foreigner’s murder shows Greek failure on racist violence’, AI press release, 17 January 2013, at www.amnesty.org/en/for-media/press-releases/foreigner-s-murder-shows-greek-failure-racist-violence-2013-01-17.

³⁵ For attacks against members of the LGBTI community in Greece see report *Because of Who I am : Homophobia, Transphobia and Hate Crimes in Europe*, AI Index: EUR 01/014/2013, September 2013.

elements of a crime, including the alleged motives as perceived by the victims. The alleged homophobic motive was indicated in the police report. “I wanted this attack to be registered as a homophobic one, I know it’s important these attacks are registered as such”, said Stefanos.

On 4 September 2012, Stefanos filed a private criminal complaint against the unknown perpetrators of the attack. The complaint referred to traffic cameras that had recorded the events. Stefanos’ lawyer obtained an order for the police to preserve the camera recordings that would have otherwise been deleted after seven days. Despite repeated requests, neither Stefanos nor his lawyer has received any information on the progress made by the investigation, including whether the tape recordings had been examined. In December 2013, Amnesty International was informed that the case was archived by the prosecutor assigned to the case following a preliminary inquiry into the complaint.

The police conduct with regard to hate crime is problematic in two respects; law enforcement agents were the perpetrators of hate motivated violence or other forms of racially motivated offences against refugees, migrants and asylum seekers; and frequently, the Greek police failed to either prevent racially motivated attack or adequately investigate them.

In 25 out of the 154 recorded cases by the Racist Violence Recording Network for 2012, police and racist violence are interlinked. In particular, seven of the recorded incidents took place in areas of immigration detention. Other incidents involved police officers on duty who resorted to unlawful acts or violent practices while carrying routine identity checks on migrants.³⁶ In addition, according to the Greek Ombudswoman, out of 281 racially motivated crimes recorded between 1 January 2012 and 30 April 2013, one in six (47 incidents) were reported to have been perpetrated by law enforcement officials.³⁷ Out of the 47 incidents, 17 were lodged in the form of a complaint to the Greek Ombudswoman during 2012.

Amnesty International has expressed its concern on several occasions about frequent reports of law enforcement officials failing to protect migrants and asylum seekers who have been attacked by members of extreme right-wing groups. These reports included: not intervening at the scene, despite being present; intervening after the perpetrators had left the scene; arresting the migrants and/or discouraging the victims from filing complaints against the perpetrators.³⁸ This worrying trend has also been highlighted on a number of occasions by other non-governmental organizations, the Network Recording Racist Incidents and the Greek Ombudsperson, in a special Report on Racist Violence in Greece.³⁹

The failure of police to intervene and protect victims of racially motivated crimes is one factor that allows perpetrators of such crimes to go unpunished. The example below illustrates Amnesty International’s concerns.

³⁶ Network for Recording Incidents of Racist Violence, Annual Report 2012, op.cit.

³⁷ Greek Ombudswoman, Special report on racist violence – “The phenomenon of racist violence in Greece and how is being dealt with”, Athens, September 2013, at www.synigoros.gr/resources/docs/eidikiekthesiratsistikivia.pdf.

³⁸ *Police Violence in Greece: Not just ‘Isolated Incidents’*, July 2012, AI Index EUR 25/005/2012, pp. 20-23.

³⁹ Network for Recording Incidents of Racist Violence, Annual Report 2012, op.cit.

ATTACK AGAINST THE OFFICES OF THE TANZANIAN COMMUNITY

In the early hours of 26 September 2012, a group of people who were reported to be supporters of Golden Dawn vandalized the Tanzanian community offices in the neighbourhood of Kypseli in Athens, along with two shops owned by third country nationals.⁴⁰ The migrants recognized two of the perpetrators, and went to the police station.

Ioanna Kurtovik, a lawyer representing the community and one of the shop owners, told Amnesty International that, when the victims went to the police station of Aghios Panteleimon in the afternoon of the same day to file a criminal complaint, the investigating police put pressure on them to say that they did not recognize the individuals they had identified as the attackers. Furthermore one of the shop owners, who testified was placed in detention after a complaint was filed by the man alleged to have been one of the attackers for false defamation, while the alleged perpetrator was not held in custody. According to Ioanna Kurtovik, the shop owner was pressurized for several hours by the police to withdraw his complaint. Afraid that he would himself be charged for making false accusations, the victim decided to withdraw his complaint, and the other victims followed suit.

Ioanna Kurtovik also told Amnesty International that, while she was at the police station a police officer did nothing when a woman attempted to remove the DVD on which the attack against the Tanzanian community had been recorded. The woman who attempted to take the DVD was reportedly among the group of local residents and Golden Dawn supporters who had gathered in support of the individuals arrested for the attack. Furthermore, the lawyer was verbally assaulted and had eggs thrown at her by the crowd outside the police station.⁴¹

Amnesty International is also concerned about the fact that, despite serious reports of police intimidating victims at the station, the investigation of these racist attacks is still assigned to the same police station.

⁴⁰ For a video of the attack see <http://omniatv.com/blog/2374-%CE%BD%CE%B1%CE%B6%CE%B9%CF%83%CF%84%CE%B9%CE%BA%CE%AE-%CE%B5%CF%80%CE%B9%CE%B4%CF%81%CE%BF%CE%BC%CE%AE-%CE%B5%CE%BD%CE%B1%CE%BD%CF%84%CE%AF%CE%BF%CE%BD-%CE%BA%CE%B1%CF%84%CE%BF%CE%AF%CE%BA%CF%89%CE%BD-%CF%84%CE%B7%CF%82-%CF%80%CE%BB-%CE%B1%CE%BC%CE%B5%CF%81%CE%B9%CE%BA%CE%AE%CF%82>

⁴¹ See also interview at www.athensvoice.gr/article/city-news-voices/%CE%B8%CE%B5%CE%BC%CE%B1-%CF%80%CE%BF%CE%BB%CE%B9%CF%84%CE%B9%CE%BA%CE%B7/h-%CE%B3%CE%B9%CE%AC%CE%BD%CE%BD%CE%B1-%CE%BA%CE%BF%CF%8D%CF%81%CF%84%CE%BF%CE%B2%CE%B9%CE%BA-%CE%B3%CE%B9%CE%B1-%CF%84%CE%BF-%CE%B1%CF%84-%CE%B1%CE%B3-%CF%80%CE%B1%CE%BD%CF%84%CE%B5%CE%BB%CE%B5%CE%AE%CE%BC%CE%BF%CE%BD%CE%B1

6.2. FLAWS INTO THE INVESTIGATION OF HATE CRIMES AND LEGISLATIVE GAPS

Research undertaken by Amnesty International, as well as by other organizations, shows that institutionalized prejudice and lack of expertise in identifying the hate motive behind a crime constitute major obstacles in addressing hate crimes in Greece.

Cases of alleged hate crimes very rarely reach the courts. This is because of flaws in investigation practices, which often result in the hate motive being ignored, and because of prejudice within or inaction by the police themselves. Fear of further victimization by refugees and migrants who have endured such attacks if they come forward and file a complaint is another major obstacle.

In addition, migrants in an irregular situation, the group most targeted by hate motivated violence, do not report these attacks for fear of being detained and/or deported. Currently, Greek legislation does not include a provision that protects victims and witnesses of hate crimes who have irregular status from detention and deportation during the criminal investigation of such crimes.⁴²

Amnesty International has documented several cases where third country nationals who reported racially motivated attacks against them chose not to file a complaint due to their fear of being arrested and deported because of their irregular status.⁴³

A positive development in relation to the protection of victims with irregular status appears in a recent draft law, which opened for public consultation in October 2013. Under Article 19 (1) (b) of the Draft Immigration Code, the Minister of Interior grants a residence permit on humanitarian grounds to victims and substantive witnesses of criminal or racist acts that are proscribed in Law 927/1979 (law proscribing hate speech) and the Law 3304/2005 (prohibition of discrimination on grounds of race, religion and sexual orientation in employment and other fields). The Minister will also grant such permit to victims and substantive witnesses of criminal acts envisaged in Articles 187 (offences committed by a criminal organization), 309 (serious bodily harm) and 310 of the Greek Criminal Code or crimes that are punished as felonies and are committed against the life, health and physical integrity of the person (e.g. murder).

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Under the proposed legislation, victims will be granted a residence permit initially for a year if a preliminary investigation has started or charges have been brought against the accused. The permit will last until a final decision is reached and the decision as to whether the requirements for the granting of such permit have been fulfilled will be decided by a prosecutor. See www.tovima.gr/files/1/2013/10/16/kod-metan-1.pdf

⁴³ See "Horrible knife attack targets migrants in Greece", 14 August 2013, at www.amnesty.org/en/for-media/press-releases/greece-horrific-knife-attack-targets-migrants-crete-2013-08-14.

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Furthermore, existing legislation establishes that a hate motive (including based on race or sexual orientation) associated with a crime is an aggravating circumstance (Article 79 para 3 of the Greek Criminal Code). In March 2013, this Article was amended to also include gender identity. However, this provision is ineffective in tackling hate crimes, partly because it is relevant for courts only in the determination of the penalty. In practice, this provision appears to be applied neither by the police nor by prosecutors in the investigation and prosecution phases.

The then special prosecutor dealing with hate crimes in the region of Athens, N Ornerakis, explained to Amnesty International's delegates that Article 79 para 3 can only be applied by judges in determination of the sentence after the trial, and cannot be used by prosecutors to unearth any alleged racist motive associated with a crime during the criminal investigation.⁴⁴

Amnesty International knows of only one case currently where the Greek courts have convicted the perpetrators of a racially motivated attack and applied Article 79 para 3 of the Greek Criminal Code. More specifically, in November 2013, two Greek nationals reported to have links with Golden Dawn were found guilty for the arson of a Cameroonian national's shop in May 2013. The men received prison sentences of three years and five months each.⁴⁵

Despite the dramatic rise in racially motivated violence in Greece, the Greek authorities have failed to act in a timely and decisive manner to stem the phenomenon and address flaws in the investigation of hate crimes.

It was not until the end of 2012 that the Greek authorities established a special prosecutor to deal with hate crimes in the region of Athens. Special police departments (one in Attika and one in Thessaloniki) and offices (68 around Greece) tasked to tackle hate crimes were also established on the basis of a Presidential Decree adopted in December 2012.⁴⁶ The mandate of the special departments and offices is to prevent and investigate offences committed against individuals on the grounds of their race, ethnicity and religion. They can receive anonymous or informal complaints, and may start criminal investigations into allegations of racially motivated crimes ex officio. There are, however, concerns that these new services do not include in their mandate the investigation of hate crimes on such grounds as disability, sexual orientation and gender identity, or crimes against defenders and legal representatives of victims. Although the steps described above are considered to be positive, their effectiveness remains to be evaluated.

⁴⁴ Meeting with N Ornerakis, 2 April 2013,

⁴⁵ Amnesty International understands that the victim was the same who was reportedly intimidated by police in the incident concerning the attack against the offices of the Tanzanian community in September 2013 (see section 2.5. above). See also "Conviction of two men for the arson of foreigner's shop", www.ethnos.gr/article.asp?catid=22768&subid=2&pubid=63921931.

⁴⁶ The Presidential Decree was signed on 12 December 2012.

Amnesty International calls the Greek authorities to:

- **Ensure that all crimes perpetrated with a hate motive, including racially motivated crimes, are fully and effectively investigated, including by taking all steps to unmask the discriminatory motive. Those against whom sufficient admissible evidence exists should be prosecuted under laws providing for sanctions that reflect the gravity of the human rights abuses**
- **Adopt binding protocols to ensure that investigative authorities exercise due diligence to unmask any alleged hate motive on the basis of which a crime may be perpetrated. Ensure that any alleged hate motive is duly taken into account in the prosecution phase**
- **Extend the mandate of the Police Directorates and Offices tasked to investigating racially motivated hate crime to other discriminatory grounds on the basis of which a crime can be perpetrated under article 79.3 of the Greek Criminal Code.**
- **Adopt legislation that ensures that victims of hate crime or other serious human rights violations committed by law enforcement officials or non-state actors that have an irregular status are protected from detention and deportation during the criminal investigation and possible prosecution of the alleged perpetrators.**

6.3. LEGAL FRAMEWORK ON HATE SPEECH

Currently, there is only one statute in national criminal legislation that deals with discriminatory speech or incitement. Law 927/1979 which was enacted in an effort to comply with the International Convention on the Elimination of All Forms of Racial Discrimination (“CERD”). It proscribes in Article 1 (1) the intentional public incitement of acts or activities which may result in discrimination, hatred or violence against other persons or groups of persons on the sole ground of the latter’s racial or ethnic origin or religion.

The maximum penalty for the proscribed act is two years imprisonment and/or a pecuniary penalty. Article 1 (2) proscribes the creation of or participation in an organization that pursues organized propaganda aiming towards discrimination. Until 2001, the criminal prosecution of such acts was dependent upon the victim filing an indictment. Such, a requirement was repealed by Law 2910/2001.

Since 2011, there have been two attempts to amend the legislation in order to transpose the EU Framework Decision on Combating Racism and Xenophobia but were not successful. Following the arrests of the leader, five MPs and several members of Golden Dawn, the Greek authorities tabled another draft law on hate speech amending Law 927/1979. The Draft Law is currently discussed by the Committee of Justice of the Greek Parliament.

Article 1 (1) of the Draft Law punishes public incitement to violence or hate with intent. The law includes a finite list of hate motives that includes race, color, religion, genealogical origin, national or ethnic lineage or their disability but excludes certain grounds, including gender identity and sexual orientation. The offence is punished with three months to three years imprisonment and with a penalty from five thousand to twenty thousand euros.

Article 2 (1) punishes the intentional public denial of genocide, war crimes and crimes against humanity in a way that can incite violence or hatred or involves a threat against such a group of persons or its members on the prohibited grounds set out in Article 1 (1). The penalties are the same as those envisaged in Article 1 (1).

Under international law, Greece must ensure that any amendments introduced in Law 927/1979 properly balance the protection against discrimination with protection of the right to freedom of expression.

Amnesty International therefore believes that the amendments should be changed to reflect the growing international legal consensus that criminal punishment of expression should only be used – if at all – for the most serious cases of intentional advocacy of hatred that constitutes incitement to discrimination, hostility or violence and that there should be a presumption against prohibitions of expressions of opinion on historical events.

6.4. INVESTIGATION OF GOLDEN DAWN MEMBERS AND LINKS BETWEEN POLICE AND GOLDEN DAWN

It took the fatal stabbing of Pavlos Fyssas and numerous victims of racially motivated attacks for the Minister of Public Order and Citizens' Protection to hand the Supreme Court Prosecutor a folder containing 32 cases linking the leadership and members of Golden Dawn with a series of racially motivated attacks and other criminal activities. At the same time, an investigation was initiated into links between the police and the crimes that prosecutors attribute to members and leaders of Golden Dawn. However, the delays of the authorities to start this investigation is of serious concern since it appears that they did not lack knowledge of a number of reported racially motivated offences that have been attributed to MPs or supporters of Golden Dawn and frequent reports police officers being involved or turning a blind eye to them.

By the end of November 2013, thirty-nine individuals, including the leader of Golden Dawn, Nikos Mihaloliakos, five Members of Parliament (MPs) and two police officers were arrested and charged with forming a criminal organization. At the same time, the Internal Affairs Directorate of the Greek Police launched a nationwide investigation, following an order by the Minister of Public Order and Citizens' Protection, in relation to reports of police officers supporting, tolerating or covering up offences committed by Golden Dawn members or participating in such offences. The Directorate was also ordered by the Prosecutors' Office of Appeal Courts in Athens to conduct a preliminary criminal investigation into allegations of police officers tolerating or covering up hate crimes.

Meanwhile, in the aftermath of the stabbing of Pavlos Fyssas, two high ranking police officials resigned, citing personal reasons, while seven other high- and medium-ranking police officials were replaced and transferred to other posts. In their statements, the Greek authorities underlined that the police officials had been replaced in order to ensure the objectivity of the investigation conducted by the Internal Affairs Directorate, but they emphasized that there was no evidence that the officials concerned had any links with Golden Dawn.⁴⁷

In November 2013, two Greek men reported to be Golden Dawn supporters died and a third was seriously injured after being shot outside the offices of Golden Dawn in Neo Irakleio, Athens by unknown perpetrators. A few weeks later, a previously unknown armed group called the Militant People's Revolutionary Forces took responsibility for the shooting.

⁴⁷ See 'Clearance in the Greek Police – Resignations of Generals for Golden Dawn, press article, 24 September 2013, at www.tovima.gr/PrintArticle/?aid=531482 Greek; Police Generals Resign After Neo-Nazi Killing, BBC news, 23 September 2013 at www.bbc.co.uk/news/world-europe-24210061. Also "A Chronicle of Covering Up the Unlawful Activities of Aghios Panteleimon Police Station", press article, 3 October 2013, at www.avgi.gr/article/1064776/to-xroniko-tis-sugkalupsis-tis-eknomis-drastiriotitas-tou-a-t-ag-panteleimona.

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In its findings, which were made public on 30 October 2013, the Internal Affairs Directorate stated that ten police officers were found to have a direct or indirect link with the criminal activities attributed by prosecutors to members or MPs of Golden Dawn.⁴⁸

Among the police officers arrested as a result of the nationwide investigation, was the former Police Director of the security branch of Aghios Panteleimon police station in Athens, an area where a large number of racist attacks have been reported in recent years. The officer was charged with abuse of power, violations of the legislation on weapons and narcotics, and money laundering, amongst other offences.⁴⁹ Three more individuals were also arrested and charged, including a female Golden Dawn parliamentary candidate, who had previously been referred to trial for an attack against three Afghan refugees in September 2011, including stabbing one of them. According to news reports, the former Director who was arrested, did not register the complaints of victims reporting racist attacks, and directed Greek nationals filing complaints of crimes committed against them to Golden Dawn.⁵⁰

Concerns about abuses perpetrated by officers at Aghios Panteleimon were raised as early as December 2004. Police officers reportedly ill-treated a group of Afghan nationals at a guesthouse in Aghios Panteleimon, while two Afghan refugees were reportedly subjected to torture when they were taken to the police the station.⁵¹ Lawyers representing refugees and migrants have also reported being attacked by members of far right groups when leaving the police station, where they had gone to assist victims.⁵²

Questions arise, though, about the difference between the findings of the Directorate that the investigation did not discover organized cells of police officers linked with Golden Dawn, and an earlier statement by the Minister of Public Order and Citizens' Protection, who was quoted in a newspaper saying, "[S]ome police officers in districts with sizeable immigrant populations have gone beyond colluding with local neo-Nazis to set up political cells within their units".⁵³

⁴⁸ Publication of the Findings of the Greek Police Internal Affairs Directorate by the Head of the Directorate and the Press Officer for the investigation of the involvement of police officers in unlawful activities of members of the Golden Dawn Party as well as incidents of racist conduct and corruption, 30 October 2013, at

www.astynomia.gr/index.php?option=ozo_content&lang='..'&perform=view&id=33752&Itemid=1179&lang=

⁴⁹ See Greek police press release, 2 October 2013, at

www.astynomia.gr/index.php?option=ozo_content&lang='..'&perform=view&id=32596&Itemid=1179&lang=

⁵⁰ See 'A Chronicle of Covering Up the Unlawful Activities of Aghios Panteleimon Police Station', press article, 3 October 2013, at www.avgi.gr/article/1064776/to-xroniko-tis-sugkalupsis-tis-eknomis-drastiriotitas-tou-a-t-ag-panteleimona.

⁵¹ On this case, see Police Violence in Greece – Not just 'isolated incidents', pp28-29.

⁵² See above case of attack against the Tanzanian community centre, in section xx above.

⁵³ See 'Greek Police infiltrated by Golden Dawn', 11 October 2013, at www.ft.com/cms/s/0/e5046b8c-3261-11e3-b3a7-00144feab7de.html#axzz2jgJbycwO. In various interviews in late 2012, the same Minister said that there was no systemic connection between the Greek Police and Golden Dawn but could not exclude some few specific incidents where police officers breached their duty and that they were under investigation. See www.koutipandoras.gr/43809/%CF%8C%CF%84%CE%B1%CE%BD-%CE%BF-%CE%BD%CE%AF%CE%BA%CE%BF%CF%82-%CE%B4%CE%AD%CE%BD%CE%B4%CE%B9%CE%B1%CF%82-%CE%B4%CE%B9%CE%AD%CF%88%CE%B5%CF%85%CE%B4%CE%B5-%CF%84%CE%B9%CF%82-%CF%83%CF%87%CE%AD%CF%83.html

Lawyers representing the anti-fascist movement also question the findings by pointing that the statements of the Greek police about officers arrested or suspended from their posts during the nationwide investigation allow a careful observer to estimate that there are at least 29 police officers who have been checked or must be checked for their involvement or tolerance of hate crimes attributed to members or MPs of Golden Dawn.⁵⁴

The Internal Affairs Directorate also stated that it had made a full record of 142 cases where victims alleged that they had been subjected to human rights violations such as ill-treatment with a hate motive by the police, between 2009 and October 2013. The sources used were cases recorded by the Greek Ombudswoman, the Security Directorate of the Greek Police and the Internal Affairs Directorate itself. Of those cases, 50% have already been investigated by the Internal Affairs Directorate, and the investigation of the vast majority has been completed.⁵⁵ According to the Directorate, the files have been sent to the competent Prosecutors to decide whether they should press charges or send the file back for further investigation.⁵⁶

The Directorate identified cases where the officers called to investigate allegations of racially motivated offences committed by other police officers showed weakness or unwillingness to deal with the allegations effectively, and where the investigations were concluded without appropriate investigation or analysis. It also found that, in cases where the police were called to deal with racially motivated violence, the inaction of particular police officers, and their involvement in violence, bribery and abuse of power, exacerbated the negative experience of the victims.

Amnesty International believes that the investigation conducted into the links between the police and criminal activities including hate crimes attributed to Golden Dawn members and MPs, and into hate crimes allegedly committed by law enforcement officials, may be first step towards holding some of the perpetrators accountable.

However, the outcome of the nationwide investigation will also be judged by how promptly and thoroughly these cases are investigated by the judicial authorities, particularly in view of the serious problem of protracted criminal proceedings in the Greek criminal justice system. Furthermore, many allegations are not reported because of the fear of the victims due to their vulnerable position, either as irregular migrants or because they are in detention.

⁵⁴ "Investigation ordered by Dendias into Golden Dawn and Police is a fraud", at info-war.gr/2013/11/%CE%B1%CF%80%CE%AC%CF%84%CE%B7-%CE%B7-%CE%AD%CF%81%CE%B5%CF%85%CE%BD%CE%B1-%CE%B4%CE%AD%CE%BD%CE%B4%CE%B9%CE%B1-%CE%B3%CE%B9%CE%B1-%CE%B5%CE%BB-%CE%B1%CF%83-%CF%87-%CE%B1/.

⁵⁵ Phone Interview with Deputy Police Director, Mr Panayiotopoulos, Internal Affairs Directorate, 7 November 2013.

⁵⁶ 203 police officers and 3 private individuals were found to have participated in extreme police conduct. Out of those, 118 of the police officers were found to be those who had committed the acts and 85 were found to be complicit. The vast majority of extreme police conduct was recorded in the Attika region and the largest percentage in Athens (52%). In 115 of the incidents recorded, the police officers involved worked for police stations in central Athens and of the motorbike police Directorates (see Findings of the Greek Police Internal Affairs Directorate by the Head of the Directorate and the Press Officer for the investigation of the involvement of police officers in unlawful activities of members of the Golden Dawn Party as well as incidents of racist conduct and corruption, 30 October 2013, at www.astynomia.gr/index.php?option=ozo_content&lang='.'&perform=view&id=33752&Itemid=1179&lang=.

For that reason, the Greek authorities must take measures to establish safety mechanisms so that victims of human rights violations committed by law enforcement officials or non-state actors would not fear further victimization or reprisals. Such measures include the adoption of a legislative provision that would protect victims of hate crimes or other offences such as torture or other forms of ill-treatment, who are in an irregular situation, from arrest and deportation during the investigation and possible prosecution of the alleged perpetrators.

Amnesty International calls the Greek authorities to:

- **Ensure that all crimes perpetrated with a hate motive, including racially motivated crimes, are fully and effectively investigated, including by taking all steps to unmask the discriminatory motive. Those against whom sufficient admissible evidence exists should be prosecuted under laws providing for sanctions that reflect the gravity of the human rights abuses**
- **Adopt binding protocols to ensure that investigative authorities exercise due diligence to unmask any alleged hate motive on the basis of which a crime may be perpetrated. Ensure that any alleged hate motive is duly taken into account in the prosecution phase**
- **Extend the mandate of the Police Directorates and Offices tasked to investigating racially motivated hate crime to other discriminatory grounds on the basis of which a crime can be perpetrated under article 79.3 of the Greek Criminal Code.**
- **Adopt legislation that ensures that victims of hate crime or other serious human rights violations committed by law enforcement officials or non-state actors that have an irregular status are protected from detention and deportation during the criminal investigation and possible prosecution of the alleged perpetrators.**

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