



PERMANENT MISSION OF GREECE
TO THE UNITED NATIONS OFFICE
AT GENEVA

URGENT

OHCHR REGISTRY

09 OCT 2008

No 6171.4/23/AS 2586

Recipients : *CAI*

NOTE VERBALE

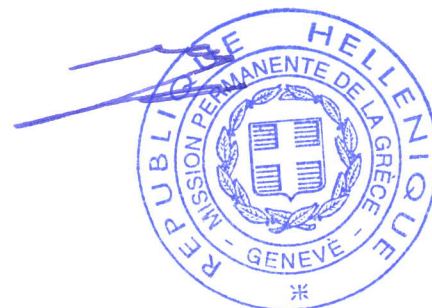
The Permanent Mission of Greece to the United Nations Office and other International Organizations in Geneva presents its compliments to the *Office of the High Commissioner for Human Rights* and, with reference to a letter, dated May 15th 2008, addressed by Mrs. *Felice Gaer, Rapporteur for Follow-up on Conclusions and Recommendations of the Committee Against Torture* to H.E. *Mr. Francisco Verros, Ambassador and Permanent Representative of Greece to the United Nations and other International Organizations in Geneva*, has the honour to provide, attached herewith, additional information provided by the Hellenic Government, pertaining to the *complaints mechanisms in place* for individuals who have been victims of racially motivated violence or discrimination, as well as the *efforts of the Hellenic Authorities towards the integration of foreigners into the fabric of Greek society*.

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

Geneva, October 8th, 2008

To:

Office of the High
Commissioner for Human Rights
Palais Wilson
Rue des Paquis 52
1201 Geneva



SUBJECT: «*United Nations Committee against Torture-Response by the Greek Government*»

A. INTRODUCTION

The protection of human rights is an issue of vital importance to our country. Towards the implementation of this vision, the Greek Government conducts its policy, in full compliance with the principles of promoting and protecting Human Rights, by attaching particular importance to the dignity of Human Beings as well as to the free development of their personality.

1) *Procedure of revising certain provisions of Disciplinary Law.*

The procedure of revision has substantially advanced and specifically the compiled draft “Presidential Decree” was submitted to the Minister of Interior for the final decision and its further promotion, and there it stands.

2) *Modifications of regulations concerning the proceedings of police interrogations, as well as activities concerning the recording or videoshooting of the interrogations.*

The Presidential Decree (Pr.D. 254/2004, Government Gazette 238-A) “*Code of Conduct of the Police Officer*” (the relevant manual was sent to all Departments) includes rules concerning the respect of human rights and the protection of vulnerable persons and social groups. It has been drafted on the basis of the *European Code of Police Conduct of the Council of Europe (Directive 10/2001)*, international declarations concerning rules of behaviour for police officers, observations and suggestions submitted by the National Committee for Human Rights, the Ombudsman, the Representation Office of United Nations High Commissioner on Refugees (UNHCR) in Greece and the Federations representing police personnel.

As far as the proceeding of interrogations is concerned, the police officers who act as interrogation officers, in practice, contribute to the work of the judicial officers, since the whole of interrogation acts, performed by the Hellenic Police personnel and other authorities as part of the performance of their duties, are conducted under the orders and guidelines of the prosecution officers, pursuant to the provisions of Criminal Procedure Code and specific laws.

Furthermore, procedural criminal law provisions are integrated accordingly and when need be, are being modified and improved so that they may reflect, in a proper way, the challenges the contemporary society has to face.

3) Procedure of the lodging of complaints by victims of alleged xenophobic and/or racist behaviour of police officers: a) Cases of misconduct of police officers, b) Statistical data concerning the above.

a. Misconduct of disciplinary nature, committed by police officers, due to the nature of the service assigned to them and within the context of the fulfillment of their mission, are ascertained as expeditiously as possible (article 21, paragraph 2 of Pr. Decree 22/1996 “Disciplinary Law of Police Personnel”). Specifically, the investigation concerning the abovementioned disciplinary breaches, is conducted as a matter of priority (article 24, paragraph 1 Pr. Decree 22/1996).

b. Notwithstanding the perception in person by a competent officer that a *disciplinary misconduct has taken place, this behaviour* may be also ascertained following the submission of report by police officers or Judicial Authorities or by **natural** or legal **persons** or in any other legal way, as for example by articles in the press or journalists’ reports (article 21, paragraph 1 Pr. Decree 22/1996).

When a **complaint** against a police officer is orally **lodged**, the police officer, charged with the examination of the admissibility of the complaint, has to call the complainant to express his argumentation, in writing, and then a relevant Report will be drafted. *In case the complainant does not accept to submit his complaint, in writing, a Report is drawn without his consent, but in the presence of a witness.* Anonymous complaints may not be considered admissible, they constitute however a matter for administrative investigation (article 24, paragraphs 2 and 3 of Pr. Decree 22/1996).

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*Following relevant recommendations of Amnesty International, Police Authorities publicize Information Bulletin, where it is stipulated that **the detained persons should be given the opportunity and exercise the right to lodge complaint about potential violation of certain rights, such as inappropriate** conditions of their detention as well as ill-treatment by police officer*

c. Statistical data for cases of investigation of complaints against police officers for ill-treatment

A total of 238 cases against police officers for ill-treatment (whether detained or not) have been investigated in the period 2003-2007 (by Sworn Administrative Inquiries, oral Administrative Inquiries and Preliminary Investigations).

The statistical data for that period are as follows:

Disciplinary aspect:

Disciplinary sanctions were imposed in 18 cases.

More particularly, 26 police officers were punished with the following disciplinary penalties:

a. Stricter disciplinary penalties:

Dismissal: 1

Suspension from duties: 3

Temporary Suspension from Service: 7

b. Lower disciplinary penalties:

Fine: 14

Reprimand: 1

⇒ In 155 cases, the file was closed.

⇒ 55 cases are pending examination.

⇒ 7 cases are pending decision before the competent Disciplinary Board.

⇒ In 2 cases, the relevant disciplinary proceedings were suspended, until the judgment of the competent criminal court in the respective criminal case has been rendered.

⇒ In 1 case, the disciplinary investigation that had already been launched ceased definitively, due to the death of the police officer involved.

Criminal aspect:

⇒ 111 cases had no criminal aspect

⇒ In 5 cases (3 of which following rejection of the complaint), the file was closed by the competent Public Prosecutor's Office

⇒ In 20 cases, a complaint was submitted, pending before the competent Public Prosecutor's Office

⇒ In 42 cases, a criminal file was created. 10 of the above cases were closed by the competent Public Prosecutor's Office. Developments on 23 cases have not been notified by the competent Public Prosecutor's Office (as to whether criminal charges were pressed or not); in 2 cases, the relevant complaints were

withdrawn; in 7 cases, the relevant complaints were rejected by the competent Public Prosecutor's Office.

⇒ Criminal charges were pressed in 55 cases. In 7 of the above cases, an acquittal decision was issued; in 6 cases, an acquittal decision of the competent judicial council was issued; in 1 case, the defendant was found guilty by the first instance Court (the relevant decision fell under the statute of limitations); in 2 cases, the first instance judgment was appealed by the defendant found guilty and the relevant appeals are still pending; in 6 cases, criminal charges were dropped following withdrawal of the complaint; developments in 1 case are not being followed, due to the fact that the officers responsible are no longer members of the police personnel; in 4 cases prosecution was definitively stopped (Law 3346/2005); 28 cases are still pending before the competent judicial authorities.

It is to be noted that the seemingly large number of complaints about ill-treatment by members of the police personnel constitute isolated cases, thoroughly investigated by the competent services, which attach primary importance to the protection of human rights. In all cases where the complaints were substantiated, the appropriate disciplinary measures, provided for in the relevant legislation, were taken. The absence of criminal aspect in a number of cases (111) is explained by the fact that either the alleged victims did not file a criminal complaint against the police officers concerned or that, following the administrative investigation of the cases, which found that no criminal offense, prosecuted *ex officio*, had been committed, copies of the relevant files were not transmitted to the competent Prosecutor's Office.

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Use of firearms

Following the adoption of Law 3169/2003 on "*Bearing and use of firearms by police officers, training of police officers in the use of firearms and other provisions*" (Government Gazette A' 189/24-7-2003), the legal framework regulating the use of firearms by police officers has been updated and streamlined with the relevant international standards and applicable international treaties, as well as with the recommendations of International Organizations and NGOs.

Severe penalties (Article 6 of Law 3169/2003, which provides for the *ex officio* prosecution of the persons responsible), as well as the obligation to report all cases of use of firearms by police officers to the competent Police Services and Judicial Authorities have been enacted, in order to allow the investigation of the legality of such use, from a criminal and a disciplinary point of view (Article 3 (10) of the same Law).

There is no delay in waiting for complaints to be filed . Such incidents are immediately reported by the regional Police Services, hierarchically, up to the competent Directorates of the Police Headquarters. The Services of the Hellenic Police, on the level of Police Directorates and above, handle every such case ex officio. This obligation of the Police Services is provided for in Regulatory Order of the Chief of the Hellenic Police no 1/2001. More specifically, the relevant reports are drafted immediately after the offence or incident have taken place, and are transmitted with top priority, so as to reach the Police Headquarters within three (3) hours -at the latest-, from the moment the Police Authority took action. *This aims at the immediate information of the most senior Officials of the Police and the taking of the necessary actions (i.e. issuing an order requesting an administrative investigation, setting in motion the procedure for the adoption of the measure of suspension etc.).*

The Chief of the Hellenic Police has issued a circular order (no. 8517/4/12 dated 29.07.2003) regarding the new legal framework, which has been communicated to all Services of the Corps. The Directors of the Services were asked to have it fully explained at their meetings and to inform the staff of the Services. Accordingly, the General Police Directors and the Directors of the Services at Police Directorate level have been rendered responsible to continuously inspect, supervise and demonstrate consistent interest in whatever concerns strict compliance with the applicable provisions and, if a violation has been committed, to proceed to the appropriate investigation of the case and to impose the sanctions provided for by the law.

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Disciplinary aspect:

⇒ In 7 cases, disciplinary sanctions were imposed.

More particularly, 9 police officers received the following disciplinary penalties:

a. Stricter disciplinary penalties

Dismissal: 1

Suspension by Dismissal: 2

b. Lower disciplinary penalties:

Fine: 6

⇒ In 71 cases, the file was closed.

⇒ 24 cases are pending for examination and 4 cases are pending for decision before the competent disciplinary board.

⇒ In 1 case, the relevant disciplinary proceedings were suspended, until the judgment of the competent criminal court in the respective criminal case has been rendered.

Criminal aspect:

⇒ 1 case had no criminal aspect (copies of the Sworn Administrative Inquiry were sent to the competent Prosecutor's Office, but the outcome has not been notified yet.)

⇒ In 72 cases criminal files were created. In 67 of the above cases, the outcome has not been notified by the competent Public Prosecutor's Office (as to whether criminal charges were pressed or not), while in 4 cases the file was closed and 1 case is at the stage of preliminary investigation before the competent judicial authorities.

⇒ In 27 cases, criminal charges were pressed. In 4 of the above cases, acquittal judgments were issued; in 6 cases an acquittal decision of the competent judicial council was issued; in 1 case a guilty verdict by an Appeals Court was issued; in 5 cases, the defendants were found guilty by the first instance court (in 3 cases an appeal was lodged; development in 1 case are not being followed due to the fact that the officer responsible is no longer a member of the police personnel), 1 case was filed by the competent Prosecutor's Office; 10 cases are pending before the competent judicial authorities;.

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On the basis of the analysis of the data stemming from the disciplinary investigation of the cases, the conclusion is to be drawn that, *in most cases, the use of firearms by police officers was in conformity with the provisions in force, and, where a violation of the legislation was found, disciplinary sanctions were imposed, on the basis of the facts ascertained.*

The number of the cases recorded is not considered large, as it corresponds to an average of 20 cases annually. As already stressed, the use of fire arms by police officers is to be reported and investigated *ex officio* from the disciplinary point of view (the Public Prosecutor's Office being also informed thereof).

The fact that, in 74 out of 79 cases - for which criminal files were created - the launching of proceedings against police officers has not been reported to the Police Headquarters, leads to the conclusion that the use of fire arms by police officers was lawful in the above cases.

Finally, it is to be noted that, following an irrevocable criminal judgment finding the defendant(s) guilty, the relevant disciplinary proceedings may be reopened, so as to impose, where appropriate, the disciplinary penalties of dismissal.

4) Information concerning possible compensations for victims of alleged torture or ill-treatment.

The current legislation does not include provisions on compensations for victims of human trafficking, or victims of torture or ill-treatment. However, there has been established, under the auspices of the Ministry of Justice, a *Special Law-drafting Committee*, charged with the task to integrate into the national legal framework, the provisions of Directive 2004/80/EC of the Council dated 29 April 2004 «concerning indemnity for victims of criminal actions». Furthermore:

(i) By its judgement in the *Bekos and Koutropoulos v. Greece* case (dated 13.12.2005), the *European Court of Human Rights* concluded that there had been violation of article 3 (prohibition of torture) and article 14 (prohibition of discrimination) of the *European Convention on Human Rights (ESDA –ND 53/74 {Government Gazette A' 256})* on behalf of the Greek Government and consequently adjudged the amount of (10.000) euros (EUR) as compensation.

(ii) By its judgement in the *Zelilof v. Greece (dated 24.05.2007) case*, the *European Court of Human Rights* concluded that there had been a violation of *article 3 (prohibition of torture) of the European Convention on Human Rights* on behalf of the Greek Government and consequently adjudged the amount of (1.400) euros (EUR) for monetary damage, as well as the amount of (15.000) euros (EUR) for non-pecuniary damages and (3.500) euros (EUR) for court expenses.

(iii) By its judgement in the *Alsayed Allaham v. Greece (dated 18.1.2007) case*, the *European Court of Human Rights* concluded that there had been a violation of article 3 (prohibition of torture) of the *European Convention on Human Rights* on behalf of the Greek Government, and the Court awarded the applicant the amount of (4.000) euros (EUR) for material damage, as well as the amount of (20.000) euros (EUR) for non-pecuniary damages and (3.000) euros (EUR) for court expenses.

(iv) By its judgement in the *Petropoulou-Tsakiri v. Greece case, (dated 6.12.2007)*, the *European Court of Human Rights* concluded that there had been a violation of article 3 (prohibition of torture) of the *European Convention on Human Rights* and the Court, subsequently, awarded the applicant the amount of 20.000 euros (EUR) for non-pecuniary damages and the amount of (3.000) euros (EUR) for court expenses.

Procedures implemented by police officers in cases of “street children”

Police officers, implement the following procedures, pertaining to the treatment of «street children»: the competent police service inform the prosecuting authorities (Prosecutor's Office for Underaged) and the minor falls under protective custody, as defined by the provisions of the Code of Criminal

Procedure. Furthermore, in cooperation with the *National Centre of Social Welfare of the Ministry of Health and Welfare*, the minor is subject to medical examination. Additionally, the Ministry of Health and Welfare implement concrete measures concerning his/her further housing.

Procedures implemented with a view to protect and integrate aliens into the Greek society.

As far as the protection and integration of aliens are concerned, into the Greek society, either for those who have not applied for a staying permit during the period provided for by Law 2910/01 or those who entered Greek territory after April 2002, there have been observed the procedures, provided for by the Law 3386/05, under the title «*entry, residence and social integration of nationals of third countries into Greek territory*», as amended by provisions of Law 3536/07 «*Special regulations for issues of migration policy and other issues under the jurisdiction of the Ministry of Interior*».

HELLENIC POLICE

DEPARTMENT OF PERSONNEL

*SAMPLE FORM FOR COMPLAINTS TO BE FILLED IN BY A PERSON
DETAINED BY POLICE AUTHORITIES, WHO THEREFORE INVOKE
REASONS OF IMPROPER DETAINMENT CONDITIONS, ILL-TREATMENT
OR OTHER VIOLATIONS OF HIS/HER RIGHTS*

COMPLAINT

1. FAMILY NAME

NAME.....

FATHER'S NAME.....

DATE OF BIRTH.....

PLACE OF BIRTH.....

NATIONALITY (for foreigners).....

(par.1: personal particulars of the complainant-foreigner)

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2. AUTHORITY TO WHICH THE COMPLAINT IS ADDRESSED

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.....
.....

(par.2: the authority to which the complaint is addressed, for example: Hellenic Police- Police Department..., Prosecutor's Office..., Independent Authority "OMBUDSMAN")

3. DESCRIPTION OF INCIDENT

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.....
.....

(par.3: the conditions of detainment or the incident which according to the complainant constitute ill-treatment by police authorities or violation of his/her rights)

4. SIGNATURE