

**GREEK HELSINKI MONITOR (GHM)  
MINORITY RIGHTS GROUP - GREECE (MRG-G)  
COORDINATED ORGANIZATIONS AND COMMUNITIES  
FOR ROMA HUMAN RIGHTS IN GREECE (SOKADRE)**

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**Parallel Report on Greece's compliance  
with the UN Convention on the Elimination of All Forms of Discrimination against Women  
An Update (June 2012 – January 2013)**

**31 January 2013**

This report supplements the **Parallel Report on Greece's compliance with the UN Convention on the Elimination of All Forms of Discrimination against Women** submitted on 26 June 2012<sup>1</sup> and the **Addendum** to that report submitted on 14 July 2012<sup>2</sup> by the same NGOs. It contains comments on the **Replies of Greece**<sup>3</sup> to CEDAW's **List of Issues**<sup>4</sup> submitted on 21 November 2012 as well as updates on cases and information on developments that occurred from June 2012 through January 2013. It is submitted to CEDAW for the review of Greece during its 54<sup>th</sup> Session, on 18 and 19 February 2013.<sup>5</sup>

**CEDAW List of Issues – General**

**1. Please provide updated statistical data, disaggregated by sex and geographical location, pertaining to the main areas and provisions of the Convention, such as education, employment, health and violence against women. Please indicate what steps have been taken to establish regular collection and analysis of data to capture the real situation of women belonging to disadvantaged groups.**

UN CEDAW is requested to note that the state offers education data disaggregated by sex only for repatriated and foreign pupils. The State should be asked to provide similar data for Roma pupils. Moreover, one indicator of gender bias in Greece is the fact that only one third of higher education teaching staff are women, whereas women make up nearly two thirds of the student body. Another is the gap in the remuneration with women receiving on average only 87% of the salary men receive.

**2. Please provide detailed information on the process of the preparation of the report, including to what extent consultations were held with civil society, in particular, with women non-governmental organizations (NGOs). Please also explain whether the report was adopted by the Government and submitted to Parliament.**

CEDAW is requested to consider that very little of the input by NGOs as well as by the **National Commission [and not Committee (sic)] for Human Rights** (NCHR) was included in the 7<sup>th</sup> Report; additionally, there was no similar consultation for the replies to the list of issues. The State does not provide an answer as to the report's adoption: in fact, it was not adopted by the

<sup>1</sup> Available at [http://cm.greekhelsinki.gr/uploads/2012\\_files/submission\\_to\\_cedaw\\_june\\_2012.doc](http://cm.greekhelsinki.gr/uploads/2012_files/submission_to_cedaw_june_2012.doc) and [http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/JointNGOs\\_PSWG\\_CEDAW\\_Greece.pdf](http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/JointNGOs_PSWG_CEDAW_Greece.pdf)

<sup>2</sup> Available at [http://cm.greekhelsinki.gr/uploads/2012\\_files/submission\\_to\\_cedaw\\_july\\_2012.doc](http://cm.greekhelsinki.gr/uploads/2012_files/submission_to_cedaw_july_2012.doc)

<sup>3</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/480/55/PDF/G1248055.pdf?OpenElement>

<sup>4</sup> <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G12/450/56/PDF/G1245056.pdf?OpenElement>

<sup>5</sup> <http://www2.ohchr.org/english/bodies/cedaw/cedaws54.htm>

Government nor submitted to Parliament for approval. It was a **General Secretariat for Gender Equality** (GSGE) report that was subsequently disseminated.

**3. Please provide updated data and information on the effects of the financial crisis on poverty and of budget cuts affecting the status of women. Please elaborate on the measures taken to redress or mitigate the effects of the financial crisis on women since 2010.**

From the absence of any answer to the question, it is evident that the Greek State does not have any information on the effects of the financial crisis and of budget cuts on the status of women. Likewise, there are no gender-specific redress or mitigation measures taken since 2010.

#### **CEDAW List of Issues – Constitutional, legislative and institutional framework**

**4. The report indicates (annex 1, para. 6) that in July 2010, a Specialized Legislative Commission has been established and at the moment of the submission of the report, this Commission was drafting a new law on substantial equality of the sexes (annex 1, para. 12) and redrafting the legislation related to combating violence against women (annex 1, para.6). Please provide detailed information on the mandate of this Commission and its composition, as well as updated information on whether the above-mentioned legislation has been drafted and amended.**

**5. The report indicates (annex 1, para. 25) that the Specialized Legislative Commission was examining, at the moment of the submission of the report, the current family law provisions in order to “modernize and improve them” with regard to the contradictions in the application of national law and sharia law in the State party. Please provide information on whether these revisions have been undertaken, and if so, what was their outcome.**

The work of the three legislative Commissions is commendable: all their texts are available on the **GSGE** website (<http://www.isotita.gr/index.php/docs/c155/>). Regrettably, all of them have been abandoned rather than tabled to Parliament for adoption, which would have vastly modernize related legislation and would have brought Greece closer to its obligation to implement ICEDAW. In its replies to the LOI, though, the State expressly mentions two major discriminatory aspects of Greek legislation that the **Specialized Legislative Commission on modernization of family law** recommended to abolish, the sharia law still applicable for the Muslims of Thrace (but not other Muslims living in Greece) and the restriction of civil partnerships to different-sex couples only.

Greece is the only European country that has recognized partnerships outside marriage but excluded same-sex couples from them. On 16 January 2013, the **European Court of Human Rights Grand Chamber** held a hearing in the case of *Vallianatos and Mylonas v. Greece* [submitted by **Greek Helsinki Monitor**] and *C.S. and Others v. Greece*. The case concerns the legislation on civil partnerships that entered into force in Greece in November 2008. The applicants allege that these unions, comprising a “contract between two individuals of full age and of different sexes”, are discriminatory.<sup>6</sup>

**CEDAW is urged to recommend to Greece that all the draft bills prepared by the three legislative commissions be tabled to Parliament for adoption as a priority. Moreover, CEDAW is requested to make express references to the need for the immediate abolition of both the sharia and the discrimination against same-sex couples in the civil partnership law.**

<sup>6</sup> <http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=003-4223061-5017091>

## CEDAW List of Issues – Access to justice

**6. The report indicates (para. 23) that in order to facilitate access to justice for women, the General Secretariat for Gender Equality was planning to conduct a systematic study in 2011 on the current legislation on gender equality in public and private sectors in order to improve and to simplify regulations for their effective implementation in administration, courts and monitoring mechanisms. Please provide updated and detailed information on the status of this study, as well as on the concrete steps taken to improve women's access to justice in the State party.**

The abolition of the fee (currently 100 euros) for complaints (article 46 Code of Criminal Procedure - CCP) when they are filed by victims of crimes against sexual freedom, economic abuse of sexual life as well as crimes of domestic violence is a positive development. However, if these victims would like to participate as civil claimants in these proceedings which will give them a right to access case files, be parties in the litigation and have the support of a lawyer, they still have to pay the fee (currently 50 euros) for civil claim (article 63 Code of Criminal procedure). **CEDAW is requested to recommend that this fee too is abolished and that both fees are abolished also for victims of racist crimes (see below).**

In a recent positive development, a bill was tabled to Parliament that reaffirms the extension of the special residence permit granted inter alia to foreign human trafficking victims who have filed related complaints to a considerable number of additional categories: human trafficking victims recognized by the prosecutors even if they do not cooperate with authorities; victims of racist crimes (articles 1 and 2 Law 927/79 and article 16 para 1 Law 3304/2005) if related charges are pressed; and adult victims of domestic violence. Similar provisions already exist with Ministerial Decision 21679/2011 (see related info provided by the State to the rep. Surprisingly so, minors victims of domestic violence are excluded from the provision in its current wording, as well as victims of crimes against sexual freedom (especially rape) and economic abuse of sexual life who are not victims of human trafficking.<sup>7</sup> **CEDAW is requested to recommend that these provisions are adopted and that they are extended to minors victims of domestic violence as well as to victims of all crimes against sexual freedom (for example rape) and economic abuse of sexual life, rather than only to victims of human trafficking.**

## CEDAW List of Issues – Violence against women

**7. The report indicates (annex 1, para. 3) that the General Secretariat for Gender Equality established Advisory Centres to be operational from 2011 in all regions of the country to provide specialized legal information and combat gender-based violence across the country and free legal representation of women victims of violence. The report further indicates (annex 1, para.5) that some SOS hotlines for victims of domestic violence have been established and were supposed to be fully operational in 2011. Please provide updated information on whether these centres and hotlines are operational. Please indicate if any evaluation mechanism has been established to assess the impact of the National Action Plan to Prevent and Combat Violence against Women 2009-2013 (annex 1, para.5) and provide information on the progress achieved so far through its implementation.**

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<http://www.hellenicparliament.gr/UserFiles/c8827c35-4399-4fbb-8ea6-aebdc768f4f7/%CE%88%CE%B3%CE%B3%CF%81%CE%B1%CF%86%CE%BF%20%287937340%29.pdf>

There are two shortcomings in the information provided by the State. First, there is no independent evaluation of all these procedures, but only internal assessments. Secondly and most importantly, there is no effective legal representation offered. Victims are referred to bar associations: in four cities the State claims that there is a special cooperation agreement and related funding but does not provide any data. In the other cities, the bar associations lack such programs and refer victims to judges who would appoint lawyers only for very poor persons; these lawyers moreover, as they are very poorly paid and with several months if not years of delay, come usually from lists of young inexperienced lawyers, whereas the alleged perpetrators of such crimes often afford expensive and experienced lawyers. Below evidence in one recent case will be provided where the State refused a request for a lawyer by a Swiss victim of rape.

Finally, CEDAW is requested to urge Greece to make accessible to women with disabilities all services and especially shelters for victims of domestic violence and empower them with specially trained staff to overcome the fact that women with disabilities are not accepted in such shelters.

**8. Please provide information on steps taken to ratify the Council of Europe Convention on Preventing and Combating Violence and Domestic Violence against Women, which the State party has signed.**

Through the time of the submission of this report there is no tabling before the Parliament of a ratification bill.

#### **CEDAW List of Issues – Trafficking and exploitation of prostitution**

**9. The report provides some data on trafficking in human beings (para. 79), however, this data is not disaggregated by sex and geographical location. Please provide updated and detailed statistical data, disaggregated by sex and location, on trafficking in women and exploitation of prostitution, in particular, on the number of victims, including minors, the number of complaints received, investigations, prosecutions, convictions and penalties imposed on the perpetrators of such crimes. Please provide information on measures to address the root causes of prostitution.**

The State failed to provide data disaggregated by sex and geographical location on trafficking in human beings and any data on the related number of complaints received, investigations, prosecutions, convictions and penalties imposed on the perpetrators of such crimes. The reason is simple: the only statistical data kept are the police data provided by the State that concern only the dismantling of trafficking operations. Although we have repeatedly urged the State to ask the prosecutors and the courts to send back information to the police authorities on each case file the latter have referred to the prosecutor so that such a data basis is established, the authorities are unwilling to do that. We refer CEDAW to the information provided in our previous June 2012 report under CEDAW's previous recommendation 22. There were examples of harsh sentences overturned on appeal; a report on an April 2012 trial where the exploitation of prostitution was not treated as a criminal offense by the domestic court which ignored the Protocol of Palermo; and a statistical analysis that shows that the State could not account to the US Department of State for the court fate of the vast majority of the alleged perpetrators of trafficking cases.

**UN CEDAW is requested again to ask Greek authorities to provide case by case statistics on convictions –with corresponding sentences and their possible suspension- only on the specific trafficking articles 323A and 351 that in theory carry felony prison sentences (above 5 years). CEDAW is also requested to ask Greek authorities to account for the prosecution of the 2,096 persons reported in the police statistics as perpetrators of trafficking. CEDAW is also urged to ask the State as to the fate of the hundreds of victims reported in the police statistics and**

**how many of them and how were effectively integrated in Greek society and/or did show up at the respective trials for which special residence permits were granted to them and/or were proved effective legal aid that the authorities claim is available. Finally, CEDAW is requested to take up the related May 2012 recommendation by CAT to Greece that “The State party should ensure that all allegations concerning trafficking of persons are investigated promptly, impartially and effectively and that the offenders are prosecuted and punished for such crimes. The State party should also ensure that the victims are provided effective legal and social assistance as well as access to interpretation in the context of trials. The State party should continue to conduct nationwide awareness-raising campaigns and provide adequate programmes of assistance, recovery and reintegration for victims of trafficking. Furthermore, the State party should offer training to law enforcement officers, judges, prosecutors, migration officials and border police on the causes, consequences and repercussions of trafficking and other forms of exploitation, as well as on the Palermo Protocol.”**

### **CEDAW List of Issues – Political participation and decision-making**

**10. The report indicates (para. 136) that despite the several steps taken by the State party to increase women’s participation in decision-making, women continue to be underrepresented in politics, political parties, parliament, government and public administration, as well as in the foreign service and in tertiary education. Please provide information on measures taken to ensure that more women enter into decision-making bodies in all sectors and at all levels. Please also indicate whether these measures include awareness-raising campaigns about the importance of women’s participation in decision-making for society as a whole and monitoring of the impact of these measures.**

**11. The report indicates (para. 47) that article 3 of Law 3636/2008 (G.G.11/A/1-2-2008) on the elections of members of parliament stipulates that a minimum of a third of the candidates within political parties – nation-wide, not per election region – must be of each sex. The report further provides some data (para. 143) on women’s participation in the National Parliament in 2007 and 2009. Please provide information on the implementation of the above Law, as well as information on the latest elections in the State party, in June 2012, and on the composition of the new Parliament with regard to the gender-balanced representation.**

The post-June 2012 situation signifies a regression in political representation of women in the higher echelons of the central government and the main political parties even though the Greek people sent the highest number of women to Parliament ever, 63 out of 300 (21%).<sup>8</sup> Yet, the Speaker of the Parliament, five out of six Deputy Speakers and eight out of nine Deans and Secretaries are men: so only 12% of the Parliament’s leadership is female. As mentioned in our previous report, there are only one woman minister and one woman deputy minister in the 39-member cabinet (5%), made up of a coalition of the conservative New Democracy, the socialist PASOK and the leftist Democratic Left parties. The broad left opposition party SYRIZA fares no better: on 16 January 2013, a nine-member board to assist its (male) president was appointed with all its members being men;<sup>9</sup> the party’s 36-member secretariat has only 5 women (14%).<sup>10</sup>

This very poor representation of women in political decision-making is also reflected in the selection of panelists by private and state media in weekly political debates with usually more than half-a-dozen participants. Often one may find no woman in such panels. The most recent example

<sup>8</sup> [http://www.isotita.gr/var/uploads/MELETES/SIMMETOXI-GYNAIKON\\_EKLOGES\\_17-6-2012.pdf](http://www.isotita.gr/var/uploads/MELETES/SIMMETOXI-GYNAIKON_EKLOGES_17-6-2012.pdf)

<sup>9</sup> <http://www.syn.gr/gr/keimeno.php?id=30295>

<sup>10</sup> <http://www.syriza.gr/%CE%B3%CF%81%CE%B1%CE%BC%CE%BC%CE%B1%CF%84%CE%B5%CE%AF%CE%B1/>

was in the political debate program “Zoom” at the state television channel NET on 29 January 2013: there were seven speakers –three politicians, three journalists and one opinion pollster- all men.

**12. The report indicates (paras. 31 and 33) that laws 3387/2005 and 3448/2006, abolished the 10 per cent quota for women’s admission to the Fire fighting Academy Schools of the Hellenic Fire Corps and the 15 per cent quota on employment of women in the Municipal Police Force. Please clarify whether higher quotas have been established in order to achieve substantive equality of women and men. Please provide information on whether after the abolishment of these quotas women’s admission to the above-mentioned institutions has increased and provide comparative data on the period before and after this amendment.**

The State has not provided any data that would indicate the percentage of women admitted to these and other police and fire brigade academies, simply stating that its agencies had failed to provide information. CEDAW is requested to note that the entry requirements include the same physical characteristics and tests for both men and women: minimum body height 170 cm; 100 meter race in 16 seconds or better; 1000 meter race in 4 minutes and 20 seconds or better; high jump 1m 5cm; long jump 3m 60cm; shot put 4m 50cm. This is a case of discrimination in the form of treating equally unequal situations.

#### **CEDAW List of Issues – Education**

**13. The report acknowledges (para. 172) that in secondary education the number of boys is higher than the respective number of girls. Please provide information on the root causes of this difference, the dropout rates and measures taken to retain girls in schools.**

The data provided in the beginning of the State’s replies to the LOI indicate that the percentage of boys in primary school is 51.4% while in (mandatory) lower secondary school it is 52.2%. The first percentage reflects the gender breakdown of the population while the second one indicates that a higher percentage of girls drop out after primary schools when compared to boys: had the State provided a disaggregation by ethnic group, it would have shown that this gender biased drop out affects mainly among girls belonging to the “Muslim” minority and to the Roma community.

**14. The report acknowledges (para. 173) that women’s educational and professional choices remain defined by gender stereotypes. The report further indicates (annex 1, para. 16) that some measures have been taken, according to the National Action Plan for Substantive Gender Equality 2010 – 2013, to reform curricula for higher education to mainstream gender. Please provide information on measures taken to review teaching materials, curricula and textbooks, to integrate gender equality and human rights therein and eliminate sex and gender-based discrimination at all levels of education.**

The State effectively confirms that there has not been any concrete and comprehensive review of teaching materials, curricula and textbooks, to integrate gender equality and human rights therein and eliminate sex and gender-based discrimination at all levels of education.

#### **CEDAW List of Issues – Employment**

**15. The report mentions (annex 1, para. 22) that the Labour Inspectorate has been reconstituted. Please provide information on the new composition, the mandate and the measures taken by the new Labour Inspectorate and other State party’s bodies in order to address gender pay gap. The report further indicates (para. 232) that in the framework of developing new forms of employment organization, social partners have annexed to the 2008 – 2009 National General Collective Labour Contract a framework agreement on teleworking,**

the promotion of which is anticipated to contribute to the harmonization of family and professional life and the strengthening of women's employability. Please provide information on the outcomes of this initiative, as well as on other recent measures taken to promote women's equal opportunities in employment and equal sharing in family responsibilities between women and men.

16. The report of the International Labour Organization refers to Act No. 3846 of 11 May 2010 on "financial management and responsibility", which institutionalized a range of flexible forms of employment and indicates that women have been identified as the ones most often offered flexible form of employment, notably part-time or rotation employment. The report further indicates that working mothers returning from maternity leave are being offered part-time and rotation work, reducing their levels of pay. Please provide statistical data, disaggregated by sex, on the use of part time work, rotation work or flexible forms of employment and its impact on women's levels of pay. Please also provide information on measures taken to address the above issue.

The State fails to effectively answer these questions, offering instead short references to partly relevant new legislation.

### CEDAW List of Issues – Health

17. The report indicates (para. 19) that in 2007, the Hellenic Ministry of Health and Social Solidarity executed National Actions Plans for sexual and reproductive health, HIV/AIDS and Sexually Transmitted Diseases. The report further indicates (para. 255) that the Ministry designed another plan for 2008 – 2012. Please provide updated information on the outcome of the first plan and on the current status of implementation of the second one. Please indicate the main achievements so far and the major challenges encountered.

A serious problem of violation of sex workers' and/or HIV-positive women's rights emerged in 2012. The following UNAIDS release summarized it very well.<sup>11</sup>

*“UNAIDS calls on Greece to protect sex workers and their clients through comprehensive and voluntary HIV programmes*

*GENEVA, 10 May 2012—The Joint United Nations Programme on HIV/AIDS (UNAIDS) expresses its concern over recent actions by Greek authorities involving the arrest, detention, mandatory HIV testing, publication of photographs and personal details, and pressing of criminal charges against at least 12 sex workers. There is no evidence that punitive approaches to regulating sex work are effective in reducing HIV transmission among sex workers and their clients.*

*The initiation of criminal prosecution against sex workers living with HIV for intentional gross bodily harm raises concerns about the inappropriate application of criminal law, particularly in a context where clients have the social and economic power to insist upon condom use. In addition, publication of names, photographs and positive HIV status drive sex workers into hiding and reduces their trust in health care services.*

*UNAIDS is further concerned by a recent amendment to immigration legislation adopted in April 2012 that appears to provide for automatic detention of migrants and asylum-seekers who have an infectious disease, or belong to a group at high risk of infection, without*

<sup>11</sup> <http://www.unaids.org/en/resources/presscentre/pressreleaseandstatementarchive/2012/may/20120510psgreece/>

*consideration of whether they pose an actual risk. This includes sex workers, people who inject drugs and could be applied to people living with HIV.*

*To the degree the law assumes that people living with HIV, sex workers and people who use drugs pose a public health threat based only on their health and social status, it is overly broad and discriminatory, and represents an HIV-related restriction on entry, stay and residence.*

*UNAIDS urges the Greek authorities to review these laws and practices with a view to adopt evidence-based programmes and an enabling legal environment that supports all people—including sex workers and their clients, people who use drugs, migrants and asylum-seekers—to access voluntary and confidential HIV prevention, treatment, care and support services so that they can avoid HIV infection or live a healthier life if HIV-positive.”*

Related to that was the following excerpt from the UN CAT May 2012 concluding observations:<sup>12</sup>

***“Detention on public health grounds***

*21. The Committee expresses its concern at a recent legislative amendment whereby a migrant or asylum-seeker can be detained if he or she represents a danger to public health when he or she suffers from an infectious disease or belongs to groups vulnerable to infectious diseases (arts. 2 and 16).*

*The Committee urges the State party to repeal the provision permitting detention of migrants and asylum-seekers on public health grounds and replace detention on such grounds with the appropriate medical measures.”*

**CEDAW is requested to take up the recommendations of these two UN bodies.**

**18. The report is silent on the tobacco and alcohol consumption by the population of the State party. Please provide information on the extent of tobacco and alcohol consumption by women, on measures taken to address illnesses resulting from this consumption, and on the campaigns, if any, designed to reduce tobacco and alcohol consumption.**

In a country where a very strict law on smoking prohibition is totally ignored and one can find even judges smoking in their offices, there is effectively no effort to reduce tobacco consumption.

**19. The report indicates (para. 256) that one of the objectives of the National Action Plan for Sexual and Reproductive Health 2008–2012 is to update the national legislation on abortion. Please provide information on the steps taken in this regard, and on the outcomes.**

Besides the fact that there has been no progress on this matter, CEDAW is reminded that abortion remains a widespread means of birth control: thus there are annually some 100,000 births and 200,000 abortions, of which 40,000 concern women under 18; contraceptive pills are used by only 3% of women (as opposed to 22% in European countries).<sup>13</sup>

**CEDAW List of Issues – Refugee and asylum-seeking women**

<sup>12</sup> <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.GRC.CO.5-6.doc>

<sup>13</sup> <http://topontiki.gr/article/34175>

**20. Information before the Committee indicates that despite the adoption of the Presidential Decree 114/2010, which incorporates the Asylum Procedures Directive into domestic law and provides that women applicants are assisted by women interpreters during the application procedure, refugee and asylum-seeking women do not know about their rights and experience discrimination. The report provides no official statistical data on refugee and asylum-seeking women, or on asylum claims based on gender-related persecution. Please provide recent statistical data, disaggregated by sex and geographical location, on refugee and asylum-seeking persons, on the number of facilities available to them, as well as information on the quality of these facilities. Please also indicate whether training and guidelines provided to the law enforcement officials and border guards on how to deal with gender-related persecution and provide protection to refugee and asylum-seeking women.**

The **UN Working Group on Arbitrary Detention** conducted a country mission to Greece from 21 to 31 January 2013. In its preliminary findings it mentioned inter alia the following that have impact also on women asylum seekers, including in the absence of a systematic (if not any) provision of women interpreters during the application procedure, the fact that refugee and asylum-seeking women do not know about their rights and experience discrimination, and that asylum claims based on gender-related persecution are hardly ever examined:<sup>14</sup>

*“In the course of its visit, the Working Group found that the legislative developments are not always followed by effective implementation in practice.*

*Firstly, while domestic law provides for proper conditions for persons deprived of their liberty, including criminal detainees, irregular migrants and asylum seekers, the Working Group found that in practice the law is not always observed. In most detention facilities visited by the Working Group, the conditions fall far below international human rights standards, including in terms of severe overcrowding. In this respect, the Working Group notes the recent decision by the Criminal Court of First Instance of Igoumenitsa which acquitted fifteen immigrants who escaped appalling conditions of detention.*

*In addition, the Working Group often found pre-trial and convicted detainees together in one cell, or administrative detainees, including irregular migrants and asylum seekers, together with criminal detainees, in violation of national and international standards. Detainees are being held for months in police holding cells and border guard stations, although these facilities were designed for a maximum stay of 24 hours. The Working Group notes that this situation also affects the proper preparation for the trial, given that a defendant who has a lawyer cannot communicate with him or her in private. (...)*

*With regard to migrants and asylum seekers, the Working Group recognises that administrative detention as such of migrants in an irregular situation is not in contravention of international human rights instruments. However, if there has to be administrative detention, the principle of proportionality requires it to be the last resort, permissible only for the shortest period of time and that alternatives to detention should be sought whenever possible. The practice of the Working Group demonstrates that non-application of alternatives to detention, lack of effective judicial review, as well as excessive length of such detention may render the detention of an individual arbitrary.*

*In this respect, the Working Group is concerned that according to domestic law, irregular migrants can be detained for a period of up to 18 months. It also notes with particular concern that the length of the maximum period of detention for asylum seekers awaiting a decision on their application was recently also extended for up to 18 months. In this respect,*

<sup>14</sup> <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=12962&LangID=E>

*the Working Group wishes to emphasise that it encountered some instances where the obstacle for identifying or removing a particular migrant from the Greek territory was not attributable to him or her, including through non-cooperation of the consular representation of the third countries.*

*The Working Group is of view that the imprisonment of a migrant or an asylum seeker for up to 18 months, in conditions that are sometimes found to be even worse than in the regular prisons, could be considered as a punishment imposed on a person who has not committed any crime. This appears to be a serious violation of the principle of proportionality which may render the deprivation of liberty arbitrary. In addition, through interviews with detainees, the Working Group found that the prolonged period of detention was often perceived by potential asylum seekers as a deterrent in order to discourage them from submitting their applications.*

*The Working Group also found that these detainees had little or no information about why they were detained, and how long they would remain in detention. It is the position of the Working Group that all detainees, including irregular migrants and asylum seekers, must be informed as to the reasons for their detention and their rights, including the right to challenge its legality, in a language they understand and must have access to legal assistance.*

*With regard to the situation of unaccompanied minors, they are often not properly registered and are systematically detained. The Working Group notes with concern that the current national legislation does not provide for a statutory prohibition of the detention of these minors. In the course of its visit, the Working Group found that due to the limited capacity of existing reception facilities, unaccompanied minors often remain in detention for prolonged periods of time, awaiting an opening in such facilities.”*

Similar conclusions are included in “**UN Special Rapporteur on the human rights of migrants concludes the fourth and last country visit in his regional study on the human rights of migrants at the borders of the European Union: Greece**” after his visit to Greece from 25 November to 3 December 2012.<sup>15</sup>

### **Addendum: The banality of rape**

Rape is not treated in Greece as the grave offense that it is. Occasional statements even on state television that imply that rape victims may have been willing accomplices go unanswered and unpunished. Few cases of conviction of persons for rape to long prisons sentences are known when the defendant is Greek and he can afford good legal representation. Rape victims receive no state legal aid; they have to find lawyers for the trials who would charge the corresponding expensive fees of several thousands euros. When victims are foreigners who live abroad (and came to Greece as tourists) they stand no chance to get a fair trial unless again they can secure the services of expensive lawyers and are willing to travel time and again to Greece for the often drawn out litigation.

On 15 August 2010, the state television station **NET** broadcast a pre-recorded interview with internationally known painter **Kostas Tsoklis**. In it inter alia he said: “*I do not understand why the rapist is more evil than the woman who provokes. She is the one asking for violence... Which person is more alive? The old moron who sits at home and has no eroticism in him or the one who, risking his life and his freedom, aggresses a sexy creature?... Isn't aggression a nice thing after all?*” Following widespread reaction, the **National Radio and Television Council** imposed a

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<sup>15</sup> <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=12858&LangID=E>

15,000 euros fine on NET (Decision 545/16.11.2010).<sup>16</sup> However, a complaint filed with the **Athens First Instance Prosecutor** by **GHM, Athens Pride, Lesbians for Equality, and Minority Rights Group-Greece** (case file number ABM ΙΔ2010/17443), for inciting to commit, and praising the commission of, a felony, as well as for sexual harassment, was archived on 4 June 2012: in the related decree it was argued that *“the painter, during a discussion of his work, was merely expressing his views raising some questions”*. On 21 May 2011, while still under investigation, the painter’s personal **Kostas Tsoklis Museum** in Tinos was inaugurated in the presence of government and political parties’ officials.<sup>17</sup>

On 21 November 2012, in a talk show on state television station **NET**, past state literary award winner **Menis Koumantareas** said inter alia that *“if you rape a woman, she may even want it”*. There has been no reaction and certainly no sanctions for this statement.

In September 2005, a man was arrested and charged with the rape of four women between March and September 2005. Two of his victims, Canadian journalist **Natalie Karneef** and Australian **Dana Saint**, have decided to go public with their names in their almost eight-year long struggle to have the Greek courts punish the person who raped them, as well as another Australian and a North European women. He was introducing himself as an Air France pilot and offered to show them around Acropolis. During the tour he offered them a cheese pie, in which he had added without having been seen a “Stillnox” sleeping pill that is included in the list of narcotic drugs; he was then taking them to a liquor store where they had a few drinks and after that to a hotel where, taking advantage of their situation of drowsiness and effective incapacitation, due to the combination of the effects of the slipping pills and the alcoholic drinks, he engaged in sexual intercourse with them. It is noteworthy that the defendant did not challenge the facts. On 16 February 2006, he was indicted to trial for serial rapes. Yet, almost eight years after the crimes, there has been no final and irrevocable judgment for the rape of the North European victim and not even a first instance judgment for the rape of the other three victims. For the rape of the North European victim, for which the trial was separated as her country’s embassy followed very diligently the case, there is an appeals conviction to a mild (if one also considers that the victim was a virgin) five-year prison sentence, of which he served in prison two years (and he is now free) and a motion for cassation will be heard by the **Supreme Court** on 8 February 2013, with a judgment expected several months later. As for the trial on the rape of the other three victims, for which there was no initial and/or adequate embassy interest and no provision of lawyers to the victims, it has dragged on with several postponements either because the victims were not properly summoned or because the defendant and his lawyer used various means to get it postponed or because of lawyers’ or court clerks’ strikes. GHM has been providing free legal aid to the victims since 2008, without which the victims would have abandoned the case.

CEDAW is requested to take into account the detailed time log of all trial hearings related to these two cases appended here and prepared by GHM. For the first instance trial for the three victims, there have to date been ten court dates with the last scheduled for 3 June 2013. On the other hand, the first instance trial for the North European victim was completed at the second court date in February 2007. However, as the –mild- sentence imposed was suspended pending the hearing of his appeal and as he had been set free after an 18-month remand in custody, the defendant and his lawyer used various possible means to secure three postponements that delayed the appeals trial by 30 months. Then, the trial itself lasted for ten months during which 30 hearings were held, 28 of which were related to postponements or procedural issues raised often abusively by the defendant’s lawyer. After the 26 March 2012 verdict, the defendant served another six months and was released

<sup>16</sup> <http://www.esr.gr/arxeion-xml/pages/esr/esrSite/file-get?arx-files-disposition=attachment&arx-files-entry-id=21693455c8c51e7b83571826e98263e5>

<sup>17</sup> [http://www.vipnews.gr/index.php?option=com\\_k2&view=item&id=6058:poi-i-etan-sta-egkainia-tes-ektheses-tou-kosta-tsokle-ste-spinalogka&Itemid=116](http://www.vipnews.gr/index.php?option=com_k2&view=item&id=6058:poi-i-etan-sta-egkainia-tes-ektheses-tou-kosta-tsokle-ste-spinalogka&Itemid=116)

for good behaviour after having served in total two (out of five) years. The defendant's lawyer was at the time a leading radical left (SYRIZA) party official (candidate in the 2009 European elections); after SYRIZA became the official opposition party in June 2012, she has become the "shadow" justice minister...

CEDAW is requested to take into consideration the difference in treatment between the person involved in the aforementioned four rapes and another Greek citizen who was arrested on 30 January 2013 also charged for three rapes of Greek victims between December 2009 and January 2013 to which he reportedly confessed. In the latter's case, and probably because the rapes of Greeks were reported in the media at the time, police immediately published his personal data, name and picture seeking information for any alleged involvement in other rapes.<sup>18</sup> Whereas in the case of the person who was accused of raping four tourists in 2005, no similar action was taken, with the possibility that additional rapes of tourists not reported to police but for example known to embassies not having been included in that case file.

Finally, in July 2008, Swiss citizen CV was raped in Northern Greece after she had been given excess alcohol and possibly some drug. Upon returning home, the victim filed a complaint with the Swiss courts and the latter after completing a thorough judicial investigation referred the case to the Greek courts. Greek authorities translated the Swiss case file into Greek. In August 2011, the three persons she accused were referred to trial for rape before a **Mixed Jury Court of Drama** and a trial date was set for 1 June 2012. On 23 April 2012, CV wrote to the Greek court that she could not attend the trial for health reasons and provided a doctor's certificate. Moreover, she stated that as she is a doctoral student she does not have the means to pay for her trip to Greece nor for the services of a lawyer and asked for a lawyer to be appointed by the courts. The court postponed the trial for 14 December 2012 and ruled that the presence of the victim was essential. However, there was no decision or any other form of answer to her other two requests but she was simply summoned to the new trial. In desperation the victim turned to a specialized Swiss NGO which contacted GHM that decided to offer free legal aid to CV, filed a civil claim on behalf of the victim and got access to the case file. As though there was another trial involving GHM lawyers on 14 December 2012 in Athens, GHM asked for a postponement; the court though rejected the request and gave a continuance for 21 December 2012 and then 4 January 2013, even though it was common knowledge that it is not possible to organize a trip from Switzerland in such a short time during the end of year holidays, nor could lawyers be made available at short notice during the period of scheduled judicial holidays (22 December – 6 January). Additionally, GHM invoked the victim's right to a fair trial that include the right to equality of arms and asked for a translation into French of the key court documents including the description of the facts and the charges so the victim can be properly informed. On 4 January 2013, the **Mixed Jury Court of Drama** ignored all these requests as well as its previous decision that the presence of the victim was essential, heard the case without the victim or her lawyers and expectedly acquitted all three defendants of the rape charges. The court found only one of them guilty of sexual abuse of a victim unable to resist (Article 338 Criminal Code) and imposed a suspended sentence of three years. No reasoning for the judgment is available yet. However, the crime retained by the court implies that the victim was responsible for her state that had rendered her resistance impossible. On the contrary, in rape charges, as in the case of the serial rapist of 2005 mentioned above, causing a state of anaesthesia or inability to resist with sleeping pills or drugs or any other similar means is considered physical violence and hence the ensuing intercourse is considered to be forced through the use of physical violence, which is the legal definition of rape.

**CEDAW is requested to urge the State to overhaul the way it treats rape cases. Trivialization and apology of rape should be punished. Rape victims should be provided with free and competent legal aid and effective means to be present and testify at the trials, which should be**

<sup>18</sup> [http://www.astynomia.gr/index.php?option=ozo\\_content&perform=view&id=24306&Itemid=1028&lang=](http://www.astynomia.gr/index.php?option=ozo_content&perform=view&id=24306&Itemid=1028&lang=)

**held within a reasonable time but also with securing the rights of the victims to a fair trial. Sentences should be proportional to the gravity of the crime and attenuating circumstances should be used with extreme care. Moreover, just as the state now envisages making prison sentences for racist crimes non-suspendable and non-commutable to fines, a similar provision should be introduced for the crimes of rape and other forms of sexual violence. Finally, CEDAW should take up the following May 2012 concluding recommendation of UN CAT:**<sup>19</sup>

*“23-24. (...) While noting that the State party has established a Standing Committee to elaborate a draft law on combating gender-based violence against women, the Committee is concerned that the State party’s criminal code currently does not explicitly include rape and other forms of sexual violence as a form of torture (arts. 2, 12 and 16). The State party should take urgent and effective protective measures to prevent and combat all forms of violence against women and girls, particularly domestic and sexual violence, including by investigating and punishing these offences. Such measures should include the amendment of article 137A of the State party’s criminal code so as to explicitly include rape and other forms of sexual violence as a form of torture rather than ‘a serious breach of sexual dignity’. (...)”*

#### **ADDENDUM:**

#### **A TRIAL FOR RAPE IN THE MIXED-JURY COURT OF APPEALS LASTED FOR 10 MONTHS!**

**The victim was North European – Zoe Konstantopoulou was the Defense Counsel (DC)**

- 1. May 16, 2011:** Formal opening of proceedings – trial continued because DC had to be present at the trial of “Conspiracy Nuclei of Fire” terrorist group
- 2. May 17, 2011:** Beginning of trial - continuance at 3pm (end of clerk working schedule)
- 3. May 20, 2011:** Trial continued until guilty verdict (unanimous) without attenuating circumstances (4-3 split decision) – DC submitted a motion for exemption for three regular judges, one member of the jury and one prosecutor due to bias and on grounds they rejected the attenuating circumstances, plus they did not provide a copy of their reasoning because DC had a quarrel with some other judge (member of the Court of Appeals) earlier this year - continuance at 3pm
- 4. May 26, 2011:** Hearing of the **Three-Member Court of Appeals for Felony Crimes** in order to examine the exception motion – continuance of the trial due to DC presence at trial of “Conspiracy Nuclei of Fire” group
- 5. May 27, 2011:** DC submitted an application for corrections in the minutes - continuance at 3pm
- 6. May 31, 2011:** DC submitted objections challenging the jurisdiction of the court (rejected), asking for precedence in hearing request on corrections in the minutes (rejected), motion for falsification of minutes - continuance at 3pm
- 7. June 16, 2011:** Hearing on falsification of minutes with depositions by two witnesses - continuance of the trial because DC had to be present in another trial
- 8. June 21, 2011:** Hearing on falsification of minutes with depositions by two witnesses - continuance of the trial because DC had to be present at trial of “Conspiracy Nuclei of Fire” group
- 9. June 30, 2011:** Hearing on falsification of minutes with depositions by four witnesses - continuance at 3pm
- 10. July 20, 2011:** Rejection of motion for falsification of minutes - hearing of exemption motion - continuance at 3pm

<sup>19</sup> <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.GRC.CO.5-6.doc>

11. **28 July 2011:** Rejection of exemption motion – DC files second motion for exemption of three regular judges, one member of the jury and one prosecutor of the Mixed-Jury Court of Appeals on grounds of bias
12. **September 9, 2011:** Hearing of original composition of Mixed-Jury Court of Appeals - continuance at 3pm
13. **September 23, 2011:** Hearing of Mixed-Jury Court of Appeals under a different composition – continuance due to participation of one prosecutor to another trial about a Panteion University scandal
14. **October 10, 2011:** DC submitted motion for audio recording of the minutes (rejected) and then private recording - continuance at 3pm. DC submitted a third motion for the exemption of three regular judges, one member of the jury and one prosecutor on grounds of bias
15. **October 25, 2011:** DC submitted motion to be informed on why trial continues despite work stoppages (rejected). Motion for private recording rejected. DC submitted a request to bring before the Court the main trial file (the file was at the Mixed-Jury Court of First Instance for the needs of a relevant trial and in order to write up the related decision) – continuance in order to bring the file.
16. **November 11, 2011:** DC submitted a motion alleging irregular composition of the tribunal (rejected). The motion for a juror exemption filed on 07/28/2011 was rejected. Hearing on exemption motion with depositions of three witnesses - continuance at 3pm
17. **November 18, 2011:** Hearing on exemption motion with depositions of two witnesses - continuance at 3pm
18. **November 22, 2011:** Motion for exemption of three judges and one prosecutor rejected – referral of motion for exemption of one member of the jury to the Mixed-Jury Court of Appeals under the original composition
19. **December 2, 2011:** Hearing of the **Three-Member Court of Appeals for Felony Crimes** for the examination of the motion for exemption of three regular judges, one member of the jury and one prosecutor - continuance due to the presence of DC in another trial
20. **December 5, 2011:** Continuance because DC had to be present in another trial
21. **December 8, 2011:** Procedural objections filed by DC were rejected
22. **December 15, 2011:** Rejection of procedural objections filed by DC and rejection of third motion for exemption.
23. **December 20, 2011:** Hearing of Mixed-Jury Court of Appeals under original composition. Motion for continuance on the grounds that DC had to take medical tests rejected. Discussion of the DC motion for an audio recording of the trial – continuance because one of the judges had to be on in another trial.
24. **January 17, 2012:** Continuance of the trial due to lawyers' strike
25. **January 23, 2012:** Submission of a fourth motion for exemption of three regular judges, one member of the jury and one prosecutor. Continuance at 3pm
26. **February 1, 2012:** The trial continued due to DC illness
27. **February 21, 2012:** The trial continued due to lawyers' strike
28. **March 9, 2012:** Rejection of six motions filed by DC on grounds that she was denied right to plead or because motion for trial continuance was rejected. Motion for audio recording rejected. Continuance at 3pm
29. **March 19, 2012:** Successive continuances because DC had to be present before investigative judge as an advocate of the “Conspiracy Nuclei of Fire” group, and because of need to copy the relevant case file. DC submitted motion for annulment of the procedure. Hearing on motions. Continuance at 3pm

**30. March 26, 2012:** Motions on annulment of procedure, on failure to observe procedure, on audio recording, on three exemptions of a member of the jury, on fourth exemption of three regular judges, one member of the jury and one prosecutor rejected. Court imposes a sentence of 5 years imprisonment and 2 years deprivation of the accused civil rights.

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## **HEARINGS OF TRIALS ON 4 RAPES COMMITTED FROM MARCH TILL SEPTEMBER 2005**

### **A. Mixed-Jury Court - first instance trial for four rapes and (after the trial of 2/16/07) for three rapes**

- 1. November 13, 2006:** Postponement due to presence of DC in another trial – North European victim present
- 2. February 16 & 21 & 27, 2007:** Separation of proceedings for the trial North European victim - condemnation of Emmanuel Aristovoulos without attenuating circumstances to 5 years in prison; sentence suspended awaiting appeal. Postponement of trial for three other victims, one Canadian and two Australians
- 3. July 2, 2007:** Postponement due to absence of two victims (Dana Saint was present) and of 4 witnesses
- 4. October 1, 2008:** Postponement due to clerks' strike
- 5. October 26, 2009:** Postponement due to illness of defendant – Dana Saint was present.
- 6. March 22, 2010:** Postponement due to the presence of DC to Grigoropoulos [youngster killed by police] trial – Australian Dana Saint & Canadian Natalie Karneef were present
- 7. January 26 & 31, 2011:** Postponement due to lawyers' strike
- 8. October 19, 2011:** Postponement due strike of lawyers and clerks
- 9. June 15, 2012:** Postponement due to national elections
- 10. June 3, 2013**

### **B. Mixed-Jury Court of Appeals (trial on appeal for the rape of the North European victim)**

- 11. December 12, 2008:** Postponement due to illness of defendant and impossibility to decide on continuance due to DC's absence abroad in coming days. Victim was present.
- 12. October 16, 2009:** Postponement due to presence of DC at the trial of (lawyer) Mantouvalos etc.
- 13. June 21, 2010:** Postponement due to presence of DC at the trial of Grigoropoulos
- 14. May 16, 2011 – March 26, 2012 (a total of 30 hearings):** Appeals proceedings – see above

### **C. Supreme Court (hearing on cassation for the rape conviction in case of North European victim)**

- 15. February 8, 2013**
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