



Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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Committee against Torture

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Consideration of reports submitted by States parties under article 19 of the Convention

Concluding observations of the Committee against Torture

Greece

1. The Committee against Torture considered the combined fifth and sixth periodic report of Greece (CAT/C/GRC/5-6) at its 1062nd and 1065th meetings (CAT/C/SR.1062 and SR.1065), held on 9 and 10 May 2012. At its 1084th and 1085th meetings (CAT/C/SR.1084 and SR.1085), held on 25 May 2012, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the submission by Greece of its combined fifth and sixth periodic reports in response to the list of issues prior to the submission of reports (CAT/C/GRC/Q/5-6). The Committee expresses its appreciation to the State party for accepting the optional reporting procedure and to have submitted its periodic report under it, as it improves the cooperation between the State party and the Committee and focuses the examination of the report as well as the dialogue with the delegation.

3. The Committee also appreciates the open and constructive dialogue it had with the high-level delegation of the State party and the supplementary information supplied during its consideration of the report although it regrets that some of its questions to the State party were not answered. The Committee is assured that the dialogue and ensuing recommendations will contribute to the necessary steps by the State party to comply with the Convention in practice.

B. Positive aspects

4. The Committee notes with satisfaction that the State party has ratified or acceded to the following international instruments since the consideration of its fourth periodic report:

(a) The United Nations Convention against Transnational Organized Crime as well as the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the Convention (Palermo Protocol), in January 2011;

(b) The Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, in February 2008.

5. The Committee welcomes the State party's adoption, in 2010, of a "National Action Plan for Migration Management" to improve the asylum procedure and conditions for the treatment of third-country nationals irregularly entering the country, including asylum-seekers; the adoption, in November 2010, of a Presidential Decree (P.D. 114/2010) amending the previous legislation on the asylum procedure, and setting, for a transitional period, appropriate standards and safeguards for the fair and efficient examination of asylum-seekers; as well as the issuance, in January 2011, of a comprehensive law (L.3907/2011) providing for the establishment of a new Asylum Service independent from the police, to gradually take over full responsibility of asylum issues, and the establishment of an initial Reception Service to set up Centres of Initial Reception at border locations.

6. The Committee notes with satisfaction that a number of other legislative initiatives have been taken by the State party with a view to complying with the Committee's recommendations and improving implementation of the Convention, including in the areas of pretrial detention, fair trial, conditions of detention, trafficking, domestic violence, etc.

7. The Committee appreciates the efforts made by the State party to modify its policies and procedures so as to enhance human rights protection and implement the Convention, including:

(a) The establishment, as of June 2011, of a Record of Injuries to Detainees in every prison as well as a Record of Body Searches in every women's prison;

(b) The creation of a special hotline, allowing prisoners to contact and be heard by the central administration of prisons.

8. The Committee also notes with satisfaction that the State party has extended a standing invitation to visit the country to all Human Rights Council special procedure mandate holders. Since the consideration of its last periodic report, the State party has hosted visits from three of the Council's rapporteurs, including the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment.

C. Principal subjects of concern and recommendations

Definition of torture

9. The Committee notes that the State party's criminal law punishes acts of torture (arts. 137A and 137B) but is concerned that the current definition does not comply with the one provided in article 1 of the Convention as it does not contain all the required elements (art. 1).

The State party should incorporate in its criminal law a definition of torture that is in strict conformity with and covers all the elements contained in article 1 of the Convention. Such a definition would meet the need for clarity and predictability in criminal law, as well as the need under the Convention to draw a distinction between acts of torture committed by or at the instigation of or with the consent or acquiescence of a public official and any other person acting in an official capacity, and acts of violence committed by non-State actors.

Allegations of torture and ill-treatment, impunity

10. The Committee expresses its serious concern at persistent allegations of torture and ill-treatment by law enforcement officials during arrest or detention, including in the premises of the Criminal Investigation Departments (CID). The Committee is also concerned at the limited number of such cases that have been prosecuted, the very limited number of final convictions, and the lack of sanctions due to mitigating circumstances etc,

in cases where there have been convictions. The Committee notes that this does not correspond to recent decisions and rulings from international bodies, including the Human Rights Committee and the European Court of Human Rights, as well as persistent allegations and extensive documentation received from other sources. The Committee also reiterates its concern at the continued reluctance of prosecutors to institute criminal proceedings under article 137A of the Criminal Code and that only one case has resulted in a conviction under this article. In addition, the Committee shares the concern of the Special Rapporteur on the question of torture regarding the limited forensic evidence available to corroborate allegations of ill-treatment amounting to torture (arts. 1, 2, 4, 12 and 16).

The State party should:

(a) As a matter of urgency, take immediate and effective measures to prevent acts of torture or ill-treatment, including through public sensitization as well as the announcement and adoption of a policy that would produce measurable results in the eradication of torture or ill-treatment by State officials;

(b) Promptly amend its interrogation rules and procedures, such as introducing audio or videotaping, with a view to preventing torture and ill-treatment;

(c) Duly bring to trial alleged perpetrators of acts of torture or ill-treatment and, if they are found guilty, punish them with appropriate penalties which take into account the grave nature of their acts.

Excessive use of force by the police

11. The Committee reiterates its concern at continuing allegations of excessive use of force by law enforcement officials, often related to policing of demonstrations and crowd control (arts. 12 and 16).

The State party should take immediate and effective measures to ensure that law enforcement officials only use force when strictly necessary and to the extent required for the performance of their duty.

Ill-treatment of undocumented migrants, asylum seekers, minorities and Roma

12. The Committee expresses its concern at repeated and consistent reports of ill-treatment of undocumented migrants, asylum seekers and Roma by law enforcement officials, including in detention facilities and in the context of regular police checks in the streets of urban settings, in violation of the Convention. The Committee is also concerned at information of widespread reluctance by victims to file complaints due to an absence of a safe complaints mechanism, insufficient number of interpreters, and a lack of trust in authorities. The Committee further regrets the increase in manifestations of xenophobic and racist attacks against foreign nationals, irrespective of their status, including by citizens' groups and far-right groups, according to findings of the quasi-official Racist Violence Recording Network. Furthermore, the Committee notes with concern that the Muslim minority in Thrace is the only recognized minority group in the country (arts. 2, 12 and 16).

The State party should strongly combat the increasing manifestations of racial discrimination, xenophobia and related violence, including by publicly condemning all such intolerance and motivated violence and sending a clear and unambiguous message that racist or discriminatory acts, including by police and other public officials, are unacceptable, and by prosecuting and punishing the perpetrators of such acts. The State party should also take effective measures to prevent discrimination against and ensure protection of all minorities, recognized or not, in accordance with the Committee's general comment No. 2 (2007) on implementation of article 2 by States parties. Such measures include an increase in the recruitment from the minorities to the public administration, including law enforcement agencies.

Prompt, impartial and effective investigations

13. While noting the establishment of an Office, within the Ministry of Citizen's Protection, responsible for addressing allegations of arbitrariness against law enforcement personnel, the Committee expresses its concern at information that the Office is not yet operational, that its mandate is reportedly limited to ruling on the admissibility of complaints and that cases will be transferred to the relevant disciplinary bodies of the security forces for further investigation. The Committee thus remains concerned at the lack of an effective independent system to investigate complaints of torture, ill-treatment or excessive use of force and it is concerned at the deficiencies in according protection from ill-treatment or intimidation to victims as a consequence of filing a complaint or giving evidence (arts. 12 and 13).

The State party should:

(a) **Strengthen existing mechanisms for monitoring and oversight of the police and other public officials, including by establishing a reliable, independent and accessible complaints system to undertake prompt, impartial and effective investigations into all allegations of torture, ill-treatment or excessive use of force;**

(b) **Certify that all such allegations are recorded in writing, that a forensic medical examination is immediately ordered, and that the necessary steps are taken to ensure that the allegations are properly investigated. Such an approach should be followed whether or not the person concerned bears visible external injuries;**

(c) **Ensure that, in cases of alleged torture, suspects are suspended from duty immediately for the duration of the investigation, particularly if there is a risk that they might otherwise be in a position to repeat the alleged act or to obstruct the investigation;**

(d) **Take effective measures to ensure that all persons reporting acts of torture or ill-treatment are accorded adequate protection.**

Conditions of detention

14. The Committee reiterates its serious concern at the failure of the State party's authorities to improve the conditions of detention in its police stations and prisons. The Committee is particularly concerned that the level of prison overcrowding, despite some improvements in certain facilities, remains alarming. The Committee also expresses its serious concern at the deplorable material and sanitary conditions in many police stations and prisons, insufficient staff levels, including medical professionals, and lack of basic supplies (arts. 2, 11 and 16).

The State party should adopt urgent and effective measures to ensure that detention conditions in police stations, prisons and other detention facilities are in conformity with the United Nations Standard Minimum Rules for the Treatment of Prisoners (Beijing Rules). In particular, the State party should:

(a) **Alleviate the overcrowding in prisons, including through the wider use of non-custodial measures as an alternative to prison sentences;**

(b) **Take immediate and effective measures to improve the material and sanitary conditions in both police stations and prisons, ensure the provision of basic supplies, and appoint a sufficient number of trained staff, including medical professionals.**

Prolonged periods of pretrial detention, juveniles

15. While noting some recent legislative initiatives, the Committee is concerned at the long periods of pretrial detention, including in the case of juveniles, due to shortcomings and considerable delays in the judicial system. The Committee is also concerned at the

limited use of non-custodial measures for juvenile detainees. It is further concerned that separation between pretrial and convicted detainees as well as juveniles and adults is not always guaranteed (arts. 2 and 11).

The State party should take effective measures to considerably reduce the length of pretrial detention. Such measures include reform of the judicial system to ensure that pretrial detainees receive a fair and speedy trial, as well as application of alternative pretrial restrictions. In the case of juveniles, detention should only be used in exceptional circumstances or as a measure of last resort, on grounds specifically prescribed by law, and then only for the shortest possible time. Furthermore, the State party should ensure strict separation between pretrial and convicted detainees and between juveniles and adults in all detention facilities.

Body cavity searches

16. The Committee expresses its concern at the continued use of invasive body cavity searches, especially internal, in detention facilities (arts. 11 and 16).

The State party should exercise strict supervision of body search procedures, especially internal searches, by ensuring that these are performed in a way that is the least intrusive and most respectful of the integrity of the individual, and in all cases in compliance with the terms of the Convention. The Committee also recommends that the State party consider alternatives such as electronic detection methods.

Systematic monitoring of detention facilities, national preventive mechanism

17. While noting that a number of organizations have a mandate to visit places of detention and the policy referred to by the delegation to grant NGOs and other bodies access to prisons, the Committee is concerned that such visits currently take place on an ad hoc basis due to the absence of an independent organization in charge of systematic monitoring of all detention facilities. The Committee notes, however that the State party signed the Optional Protocol to the Convention on 3 March 2011 and that a recent draft law designates the Greek Ombudsman as the national preventative mechanism (NPM) (arts. 2 and 11).

The State party should ensure that a system of systematic monitoring of all detention facilities, including facilities for migrants and asylum seekers, be set up. In this respect, the Committee recommends that the State party ratify the Optional Protocol as soon as possible and ensure the designation of an NPM with a mandate in conformity with the provisions of the Optional Protocol. The State party should further ensure that this mechanism is provided with the necessary human, material and financial resources to carry out its mandate independently and effectively throughout the country.

Access to a fair and impartial individual asylum determination procedure

18. The Committee recognizes the challenges and burdens that the State party faces as the main entry point into Europe for many migrants and asylum seekers due to its geographic location, and it welcomes the efforts made to improve the asylum procedure in terms of quality and promptness. However, the Committee notes with concern that asylum seekers face serious obstacles in accessing the asylum procedure due to structural deficiencies and non-functioning screening mechanisms at the Greek border areas and at the Attika Aliens' Police Directorate (Petrou Ralli). Such obstacles include the absence of procedural guarantees, including free legal aid, interpretation and sufficient information, as well as the requirement of a fixed address. The Committee notes that the State party has cleared some of the backlog of pending asylum cases and appeals, including through the establishment of the second instance Appeals Committees, but it regrets that thousands of cases are still pending. It also remains concerned at the low refugee recognition rates (art. 2).

The State party should fully guarantee and facilitate access to a fair and impartial individual asylum determination procedure. To this end, the State party should ensure that the important safeguards for quality and fairness of its asylum procedure as included in the recent asylum legislation be implemented in practice and supported with appropriate infrastructure, including through the prompt operationalization of the Asylum Service and the initial Reception Service. The State party should also ensure the provision of adequate information in relevant languages, legal aid and interpretative services to facilitate such access. In addition, the State party should dedicate the necessary human and financial resources to address the considerable backlog of cases of appeal of decisions on asylum.

Non-refoulement

19. The Committee notes with serious concern that individuals have frequently not been able to enjoy full protection under the relevant articles of the Convention in relation to expulsion, return or deportation to another country. The Committee reiterates its concern at the State party's implementation of its forced return procedures, including through means of direct deportation and application of its readmission agreement with Turkey. It is also concerned that persons who are subjected to forced return do not enjoy effective procedural guarantees to access legal remedies or access to the asylum procedure and that they do not have free legal aid or effective information provided through interpretation services. Consequently, they are not able to effectively appeal against orders of deportation and/or consequent detention. The Committee is concerned that these individuals are at a heightened risk of refoulement, including chain refoulement (art. 3).

The State party should ensure full protection from refoulement by establishing the necessary safeguards in forced return procedures and thereby guarantee at all times that no person in need of international protection is returned to a country where he or she fears persecution or is in danger of being subjected to acts of torture or cruel, inhuman or degrading treatment or punishment, as well as chain refoulement. To this end, the State party should review the content of its readmission agreement with Turkey to ensure that it complies with the State party's international law obligations. It should also ensure that appeals against return or expulsion orders have an automatic and immediate suspensive effect.

Administrative detention of asylum seekers and migrants

20. The Committee expresses its concern at the current detention policy applied to asylum seekers and migrants in an irregular situation, including reports that asylum seekers at border locations are routinely subjected to long periods of administrative detention. The length of detention, in combination with the deplorable conditions of detention, amounts to inhuman or degrading treatment and constitutes a serious hindrance for asylum seekers to apply for asylum. Furthermore, the Committee is seriously concerned at the appalling conditions in the detention facilities, including regular police and border guard stations throughout the country, and particularly in the Evros region, in terms of severe overcrowding, insufficient staff levels, lack of basic supplies, as well as inadequate medical, psychological, social and legal support (arts. 2, 11 and 16).

The State party should ensure that administrative detention on the grounds of irregular entry is not applied to asylum seekers. In particular, detention of asylum seekers should be used only in exceptional circumstances or as a measure of last resort, on grounds specifically prescribed by law, and then only for the shortest possible time. To this end, alternatives to detention should be duly examined and exhausted, especially with regard to vulnerable groups.

The State party should also take urgent and effective measures to improve conditions of administrative detention through alleviation of overcrowding, appointment of a

sufficient number of trained staff, and provision of basic supplies, such as medical care and treatment, adequate food, water and personal hygiene items in any facility used for the detention of foreign nationals.

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.

Unaccompanied asylum seeking minors

22. The Committee is particularly concerned that unaccompanied or separated asylum seeking minors are often not properly registered and are systematically detained, often in mixed immigration facilities with adults. The Committee is also concerned that the transitional Presidential Decree 114/2010 did not introduce a statutory prohibition regarding the detention of these minors and that the limited number of special reception centres for unaccompanied minors contributes to their prolonged detention. It is further concerned that many unaccompanied minors end up homeless and living in the streets where they are often exposed to heightened risks of exploitation and violence (arts. 2, 11 and 16).

The State party should strengthen its efforts to provide adequate protection and proper care in respect of unaccompanied or separated minors entering the country, including by promptly amending its legislation to prohibit their detention. The Committee concurs with the recommendation of the Special Rapporteur on the question of torture that the Ministry of Health and the Ministry of Interior should cooperate closely to ensure that they are placed in suitable and separate reception centres. Furthermore, specific measures should be put in place to prevent homelessness and to provide social support and education to this group.

Violence against women

23. The Committee takes note of the legislative and other measures adopted by the State party to combat violence against women, including the enactment of Law 3500/2006 for combating domestic violence and the adoption of a National Action Plan on Violence against Women (2009-2013). However, the Committee remains concerned at the persistence of violence against women and children, including domestic and sexual violence, and at the limited number of prosecutions and convictions of the perpetrators. 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". The State party should also undertake broad awareness-raising campaigns and provide training courses on the prevention of violence against women and girls for officials who are in direct contact

with victims (law enforcement officers, judges, lawyers, social workers, etc.) and for the general public.

Trafficking in persons

24. The Committee recognizes the efforts made by the State party to address trafficking in persons. However, it expresses its concern at persistent reports of trafficking in women and children for sexual and other exploitative purposes and is concerned at the very few prosecutions and convictions of the offenders of such crimes. The Committee is also concerned that obstacles to the access to justice of the victims of such crimes include the insufficient knowledge by judges and prosecutors of the Palermo Protocol and that no interpretation services are reportedly available to the victims in trafficking trials. The Committee regrets that the support services provided to victims of trafficking with respect to health as part of their possible rehabilitation are inadequate (arts. 2, 10, 12 and 16).

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.

Training

25. The Committee takes note of the information provided in the State party's report and by the delegation on training schemes for law enforcement officials but it regrets that very little information is available on the evaluation of such schemes and their effectiveness in reducing the incidence of torture and ill-treatment. The Committee also regrets the lack of information on the training provided to border guards, and on the "Manual on Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" (Istanbul Protocol) to personnel involved in the investigation and identification of torture and ill-treatment (art. 10).

The State party should continue to provide training programmes to all public officials, in particular police and other law enforcement officers, to ensure that they are fully aware of the provisions of the Convention. The State party should also ensure that specialized training on obligations under international refugee and human rights law is provided to authorities involved with border surveillance processes, as well as exercise of subsequent regular internal control.

In addition, the State party should establish a training plan for all personnel involved in the investigation and identification of torture, including public defenders, doctors and psychologists, so that the contents of the Istanbul Protocol are known and applied in practice. It should further undertake an assessment of the effectiveness and impact of training schemes and education in reducing incidences of torture and ill-treatment.

Redress, including compensation and rehabilitation

26. The Committee reiterates its concern at the insufficient information provided relating to redress, including fair and adequate compensation as well as rehabilitation, available to victims of torture or their dependants, in accordance with article 14 of the Convention. The Committee is also concerned at the significant delays in offering redress to victims of violence which has been determined by international supervisory organs and courts (art. 14).

The State party should strengthen its efforts in respect of redress, including compensation and the means for as full rehabilitation as possible, and develop a specific programme of assistance in respect of victims of torture and ill-treatment. The State party should also establish more efficient and accessible procedures to ensure that victims can exercise their right to compensation in accordance with Law 3811/2009, especially by reducing the time used by domestic courts to award damages in such cases. The Committee also recommends that the State party should without exception and as a matter of urgency offer prompt redress to victims of violence which has been determined by international supervisory organs and courts, such as this Committee and the Human Rights Committee, and the European Court of Human Rights.

Aghia Varvara case

27. The Committee reiterates its previous concern that 502 out of 661 Albanian Roma street children reportedly went missing following their placement during 1998-2002 in the Greek Aghia Varvara children's institution and it is particularly concerned that these cases have not been investigated by the relevant State party authorities (arts. 2 and 12).

The Committee urges the State party to engage with the Albanian authorities with a view to promptly creating an effective mechanism to investigate these cases in order to establish the whereabouts of the missing children, in cooperation with the Ombudsmen of both countries and relevant civil society organizations, and identify disciplinary and criminal responsibilities of those involved, before the passage of time creates difficulties in ascertaining the facts. The Committee also recommends that the State party adopt a comprehensive policy to combat violations of the rights of street children in order to prevent recurrences in the future.

Data collection

28. While noting with interest that a special working group has recently been set up to submit a thorough proposal for the reorganization and modernization of the State party's Justice Statistics, the Committee regrets the absence of comprehensive and disaggregated data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment by law enforcement officials, including police and prison officials and border guards, as well as on trafficking and domestic and sexual violence (arts. 11 and 12).

The State party should establish an effective system to compile statistical data relevant to the monitoring of the implementation of the Convention at the national level, including data on complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, trafficking and domestic and sexual violence, as well as on means of redress, including compensation and rehabilitation, provided to the victims.

29. The Committee invites the State party to ratify the core United Nations human rights treaties to which it is not yet a party, namely the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families, the Convention on the Rights of Persons with Disabilities, and the International Convention for the Protection of All Persons from Enforced Disappearance.

30. The State party is requested to disseminate widely the report submitted to the Committee and the Committee's concluding observations, in appropriate languages, through official websites, the media and non-governmental organizations.

31. The State party is invited to submit its common core document, in accordance with the requirements of the common core document contained in the harmonized guidelines on reporting under the international human rights treaties (HRI/GEN/2/Rev.6).

32. The Committee requests the State party to provide, by 1 June 2013, follow-up information in response to the Committee's recommendations related to: (a) conducting prompt, impartial and effective investigations; and (b) prosecuting suspects and sanctioning perpetrators of torture or ill-treatment, as set forth in paragraphs 10 and 13 of the present document. In addition, the Committee requests follow-up information on the conditions of detention and administrative detention of asylum-seekers and migrants, as contained in paragraphs 14 and 20 of the present document.

33. The State party is invited to submit its next report, which will be the seventh periodic report, by 1 June 2016. To that purpose, the Committee will, in due course, submit to the State party a list of issues prior to reporting, considering that the State party has accepted to report to the Committee under the optional reporting procedure.
