

APPENDIX

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Greece

ECRI wishes to point out that the analysis contained in its third report on Greece, is dated 5 December 2003, and that any subsequent development is not taken into account.

In accordance with ECRI's country-by-country procedure, ECRI's draft report on Greece was subject to a confidential dialogue with the Greek authorities. A number of their comments were taken into account by ECRI, and integrated into the report.

However, following this dialogue, the Greek authorities requested that the following viewpoints on their part be reproduced as an appendix to ECRI's report.

COMMENTS BY THE GREEK GOVERNMENT ON ECRI'S REPORT CONCERNING GREECE

A) General remarks

The Greek authorities wish to express once more their full support to ECRI'S valuable endeavours to combating racism and xenophobia in Europe. We acknowledge that ECRI'S task to fight racism has become extremely difficult over the last few years, within the ever changing and multifaceted modern societies we all live in. Nevertheless, we firmly believe that ECRI will continue to carry out its entrusted mandate with a co-operative, transparent and sincere dialogue with the countries involved.

Indeed, as a general remark, we would like to observe that the report contains a series of generalizations and sometimes unfounded conclusions concerning incidents of discrimination and/or hostile behaviour of the Greek society towards either some vulnerable social groups (i.e. Roma community, immigrant's etc.) or individuals. We observe that the information provided by sources and included in the report sometimes does not reflect the real situation concerning non-discriminatory behaviour of the State authorities. There are no specific cases described in the report concerning violations of human rights and discriminatory behaviour apart from some isolated incidents which are far from depicting the policy of Greece in her fight against racism and intolerance, let alone the fact that there are many other positive examples that remain unaccounted for. For the effective protection of all social vulnerable groups residing within the Greek territory (Roma, immigrants, asylum-seekers etc.), orders, circulars or other legislative documents are issued periodically by the Government, drawing and updating the guidelines for a state anti-discriminatory policy, safeguarding the respect of human rights of the aforementioned groups.

Moreover, we would like to stress that Greece should be praised for it has welcomed and embraced, over the last 10-12 years, an unprecedented number of immigrants, totaling around 10% of the overall population of the country, whilst other European countries have undergone the some process over the last four decades or more. We think that the performance of the State authorities and the conduct of the indigenous Greek population should be at least duly appreciated.

Last but not least, we wish to reiterate that we support ECRI's main task to monitor and increase the awareness of the public opinion against phenomena of racism and xenophobia within the CoE member-states. This means, that ECRI observes and describes cases of violations of the human rights of the individual. However, we think that ECRI, in carrying out its mandate, should take into consideration issues of political nature that are under discussion, at a bilateral or other level, by the states involved, if confusion or misunderstandings are to be avoided.

Specific remarks

In this section, we list some indicative examples of misleading statements in the report, while providing some additional information on certain points and correcting some factual minor errors.

In para 13, we would like to add that the letter and the spirit of the relevant provisions of the Criminal Code are captured in Law 927/1979 "on punishing acts or activities aiming at racial discrimination". Moreover, art.39 para.4 of Law 2910/2001 enables prosecuting authorities to press charges ex officio in the case of the criminal acts described in the Law 927/1979.

Also, in the context of para. 13 of the draft Report, we wish to mention that Greece signed, on 28 January 2003, the CoE Additional Protocol to the Convention on Cybercrime

concerning the criminalisation of acts of a racist and xenophobic nature committed through computer systems. Its ratification by the Parliament is pending.

Concerning para.56, we wish to emphasize that Greece has inscribed the fight against human trafficking as one of the first priorities of the Greek Police whilst combating crime. The policy followed consists of a set of legal and administrative measures, training of personnel, cooperation with other competent foreign state authorities, international Organisations and NGOs, so that human trafficking victims be and feel safe in order to provide information and evidence to the authorities. This is a *conditio sine qua non* to tackle the problem effectively.

In this framework, minors who enter Greece illegally are treated in a very careful and delicate way. If there is proof, beyond any doubt (after the use of relevant modern special methods) that the minors are unaccompanied by any close relative, the Attorney for Minors takes all necessary measures for the protection and the care of those children in special reception centres.

Reacting to some comments in the report (para. 59, 60, 61, 62, 63) concerning the distinction between non-citizens of Greek origin (*homogeneis*) and other non-citizens, we would like to underline the following:

There is a significant number of non-citizens of Greek origin (*homogeneis*), who have been living abroad over the last decades and have always kept very close ties with Greece, which they consider to be their native country. There is no doubt that these people are often recipients of a favourable treatment by the Greek authorities according to art. 108 of the Greek Constitution. There is no intention to create a climate of discrimination and unequal treatment within the Greek society. Needless to say, that other CoE States, with solid human rights record, follow the same principles in granting citizenship (e.g. see all British Citizenship Laws from 1948 onwards).

Concerning ECRI's recommendation urging the Greek authorities to provide "all the requisite financial resources to the Roma community" (para 72) it must be pointed out that the competent Ministry of the Interior has already put into action the process of granting public loans to the Greek Roma living in sites around the country, in tents or other constructions which do not meet the standards of a permanent residence. The overall number of these loans covers 3,074 applications.

Furthermore, concerning the statement in the ECRI's report "that forcible collective evictions of Roma families have been taken place without any resettlement being proposed" we would like to draw your attention to the fact that such incidents, if occurred occasionally, concerned cases of land-grabbing of private or public spaces by the Roma who have been pushed back by virtue of relevant judicial decisions.

On para 73, there should be no question of "promoting a climate of tolerance", since the Constitution (art.13) guarantees full religious freedom, which evidently falls far beyond mere tolerance.

It is inaccurate that cremation of dead bodies is not permitted in Greece (para 75). There is no such legislation. It should also be noted that no application to the effect that a site, within existing cemeteries, be allocated to Moslems, has ever been filed to the municipal authorities and turned down.

The reference in the Report to a "Macedonian" minority does not correspond to existing realities in Greece and is misleading.

Indeed, 2.500.000 Greeks who live in Greek Macedonia identify themselves as Macedonians (*Makedones*). The use of the term "Macedonian minority" by a small number of Greeks in Northern Greece speaking a Slav idiom, usurps the name and the identity of the above vast majority of Greek Macedonians. This creates serious problems to the Greek authorities as

any official identification of such a group might give rise to confusion, susceptible to disrupt social peace in the area of Northern Greece.

Furthermore, there is no rule of international law that puts an obligation on States to officially recognise the existence of a minority solely on the basis that a small number of its citizens speak a second idiom. States are in a better position to evaluate whether a certain group meets the criteria for its official recognition as a minority. However, even in the absence of such recognition, States are under the obligation to fully respect the human rights and freedoms of these individuals, including their freedom of expression as well as the principles of equality and non-discrimination.

Moreover, concerning the Sidiropoulos case v. Greece (para. 80 of the report), I would like to draw your attention to the fact that the Committee of Ministers of the CoE has adopted the Final Resolution DH (2000) 99 (annexed) concerning the aforementioned case, where it is clearly mentioned that this case is of exceptional nature and that the Greek government has taken all necessary measures to comply with its obligations under art.53 of the Convention.

In para 79 the word "Turks" needs clarification, since as "Turks" are considered persons of Turkish citizenship, including Kurds from Turkey who reside in Greece as economic and political refugees.

Thus, for the sake of accuracy of the report, the said phrase should read as follows: ..."that all groups in Greece, members of the Muslim minority included. The same applies for para 80 (1st and 2nd line) which could also read as follows: " ECRI notes that the Greek authorities recognize the existence of minority groups in Greece, such as the Pomaks and the Roma who belong to the Muslim minority including the fact that" "

In para 86 (third line), the report should also maintain the definition of the word "Turks" as to describe those who belong to the Muslim minority and identify themselves as people of Turkish origin. So the phrase could read: "the majority of whom identify themselves as people of Turkish origin.

"Ban upon proselytism": In the draft report, there is a reference to the constitutional provision that prohibits proselytism. ECRI urges the Greek authorities to take the necessary measures for the abolition of that provision.

We wish to clarify that banning proselytism does not violate religious freedom, since it applies only to "proselytism of perfidious nature", according to the judgements of the Supreme Court and the Supreme Administrative Court. The same stance has been adopted by the European Court of Human Rights in Strasbourg (i.e. case of Kokkinaki v. Greece, case of Larissi v. Greece).

Concerning para 113 it is not accurate to say that "immigrants living in Greece are in an uncertain situation". In fact, all foreigners living and working in Greece enjoy the same civil rights and have the same obligations compared to the Greek citizens. In the report it is mentioned that the bureaucracy the immigrants have to face, while applying for work or for residence permits, presents a significant obstacle to the stabilization of the situation of immigrants in Greece. The above mentioned conclusion is not accurate and does not depict the overall situation. The Greek authorities, over the last few years, have been making efforts to speed up the difficult process of legalization although overwhelmed by an ever growing number of applications. In fact, the competent authorities responsible for the issuing of work or residence permits (Municipal authorities) are bound by the relevant legislation. Law 2910/2001 clearly stipulates all necessary steps which must be followed by the interested persons in order to obtain the requested permit. In this regard, it should be stressed, as it was mentioned during the talks with ECRI in Athens, that Law 2910/2001 has been completed or even amended by the following : (a) Law 3013/2002 (b) Law 3074/2002 (c) Law 3103/2003 (d) Law 3146/2003 and (e) Law 3169/2003. The specific

provisions of the aforementioned Laws are attached herewith (annex 1). As far as points 113 and 116 are concerned, in relation to delays on procedures of issuing residence permits, we point out that they have been simplified since a **data base** already functions in the Ministry of Interior, which registers all necessary information regarding immigrants in order for their residence permits to be issued.

As far as further attempts at reinforcing information and services procedures, the Ministry of Interior has already proceeded and distributed the information kit "**Immigration Guide**", translated in several languages.

As for point 117, we should underline that the Ministry of Interior has organized, on several occasions, forums with the active participation of immigrants' communities, with the aim to inform and clarify the details of the implementation of Law 2910/2001, as well as the relevant modifications that followed.

As for point 120, we should inform you that **the Department of Social Integration** (Ministry of Interior- Directorate of Aliens and Immigration) is responsible for putting forward a package of action plans for the integration of immigrants to the Greek society, financed by national or E.U funds.

In relevance to point 124 and the recommendations of ECRI regarding the simplifications procedures for family reunification, please note that article 28 of Law 2910/2001 regulates the issue in a way that family reunification is a totally facilitated procedure since, as provided in paragraph 5, the consular authorities are committed to issue relevant visas to immigrants who apply for family reunification, **as long as the preconditions the migration law sets are fulfilled.**

ANNEX 1

Law 3013/2002 which stipulates the following:

- Prolongation of the duration of the residence permits until the end of 2002.
- It is upon the competent authority to decide which are the cases where an interview in front of a Migration Committee will be given by the citizens of third countries who have already applied for a residence permit.
- Increase of the number of the Migration Committees (three instead of one).
- Three (3) days of provisional imprisonment until the issuing of the decision of expulsion.
- After six consecutive years of work and residence, all the work permits are renewed for another two (2) years. After 10 years of work and residence, it is possible to obtain a work permit of indefinite duration.
- Citizens of third countries, spouses of native or other European citizens can obtain a five-year long residence permit which is also valid for their children under 18 years old.
- Provisions for the simplification of the legitimization process.
- Creation of an Institute of Migration Policy.

Law 3074/2002 which regulates specific issues concerning migration (i.e. integral residence permits for the family members of citizens of third countries valid for one year period).

Law 3103/2003: By virtue of this Law residence permits are prolonged until 30/6/2003.

Law 3146/2003:

Residents of third countries disposing of the necessary means to secure their survival can obtain a one year residence permit, provided that they are holders of a relevant visa.

The health certificate to renew the residence permits is abolished.

Integral provisions for issuing residence permits to members of foreign Archaeological Schools.

Law 3169/2003: This Law provides for some more favourable prerequisites concerning the social insurance of foreigners who are willing to renew their residence permits (prolonged until 30/6/03) and have not already fulfilled their insurance obligations.