

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
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Meeting: 1288th meeting (June 2017) (DH)

Communication from the authorities (03/03/2017) in response to the decision of the CM at its 1230th meeting (June 2015) concerning the NISLOTIS group of cases v. Greece (Application No. 34704/08)

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1288^e réunion (juin 2017) (DH)

Communication des autorités (03/03/2017) dans le groupe d'affaires NISLOTIS c. Grèce (Requête n° 34704/08) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

DGI

03 MARS 2017

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

Additional information on the execution of judgments of the ECHR in cases regarding the detention conditions in various correctional facilities of Greece (Group Nisiotis).

I. Introduction

The basic objectives of the General Secretariat of Anti-Crime Policy of the Ministry of Justice, Transparency and Human Rights are summarized in the triptych security, humanism and reintegration and more specifically they are moving on the following axes: creation of structures for the support of reintegration and the decrease of recidivism, respect of human rights, reinforcement of the staff by upgrading the role thereof and the improvement of work conditions, justice and transparency in prisons, opening to society, promotion of non-confinement measures.

Within the framework of the effort to address the problems reported in the country's Detention Facilities and to safeguard the detainees' rights, the Ministry of Justice, Transparency and Human Rights is working hard and cooperating closely both with domestic bodies (Ministry of Health, Ministry of Education, Ministry of Citizen Protection, National Public Administration Centre, the Greek Ombudsman) and with the Council of Europe and especially the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT).

II. Individual Measures

Regarding the current situation of the applicants in the cases of Tsokas and Athanasiou, we kindly provide the following information:

i) case of Tsokas

Mr. Nikolaos Tsokas was transferred to the Agricultural Detention Facility of Tiryntha on 17-10-2013. Mr. Andreas Biliadis was transferred to the Detention Facility of Grevena on 18-12-2014. Mr. Fotios Sgardelis was released on 29-1-2014 and Mr. Ioannis Zafiropoulos was released on 4-7-2013.

ii) case of Athanasiou

Mr. Nikolaos Athanasiou was transferred to the Detention Facility of Larisa on 18-1-2010. Mr. Stylianos Loukaggikas was transferred to the Agricultural Detention Facility of Tiryntha on 31-5-2012. Mr. Dimitrios Zervos was transferred to the Agricultural Detention Facility of Agia on 21-5-2010. Mr. Ilias Kapetanios was transferred to the Agricultural Detention Facility of Agia on 28-8-2013. Mr. Nikolaos

Nisiotis was released on 18-1-2010. Mr. Christos Koumouras was transferred to the Agricultural Detention Facility of Agia on 23-11-2010. Mr. Fotios Theodoratos was released on 14-6-2012. Mr. Tryfon Karahalios violated his regular leave on 31-10-2012 and since that date he has not been arrested neither has he returned to the Detention Facility of Alikarnassos. Mr. Georgios Kavalakis was transferred to the Agricultural Detention Facility of Agia on 17-2-2012. Mr. Apostolos Georgitsaros was transferred to the Agricultural Detention Facility of Trikala on 24-5-2010. Mr. Dimitru Gergulov was transferred to the Agricultural Detention Facility of Malandrino on 25-10-2010. Mr. Andreas Lelos was released on 7-11-2011. Mr. Vasilios Abdalla was transferred to the Detention Facility of Larisa on 4-4-2011. Mr. Jvara Makow was transferred to the Agricultural Detention Facility of Patras on 5-4-2013. Mr. Theofilos Derviniotis was transferred to the Agricultural Detention Facility for minors of Kassaveteia on 26-7-2010. Mr. Anastasios Mourkoutas was transferred to the Agricultural Detention Facility of Kassandra on 28-3-2011. Mr. Dimitrios Attalidis was transferred to the Detention Facility of Larisa on 5-7-2012. Mr. Abdula Peshwa was released on 19-5-2010. Mr. Alexandros Tserpelis was released on 21-12-2010. Mr. Ali Assaad was released on 17-7-2012. Mr. Ali Adnan was released on 16-3-2011. Mr. Mehmet Sirin Bayram was released on 17-7-2012. Mr. Chawaf Abdulrahman violated his regular leave on 22-3-2010 and since that date he has not been arrested neither has he returned to the Detention Facility of Alikarnassos. Mr. Artan Dragoti was transferred to the Detention Facility of Chania on 25-1-2013. Mr. Amjad Bahri was released on 20-8-2013. Mr. Charalambos Tsantekidis was released on 2-2-2010.

III. Legislative measures

At the legislative level, the most important developments aiming to improve the correctional system are summarized in the enactment of Laws no. 4322/2015 (Government Gazette issue no. 42/Fascicule A) and no. 4356/2015 (Government Gazette issue no. 181/Fascicule A).

In particular, in order to address immediately and drastically the problem of overcrowding in prisons, urgent measures of decongestion of the Detention Facilities were included in Law no. 4322/2015 (Article 12) which have resulted in a considerable decompression of the correctional system as a whole.

More specifically, the average crowd of the Detention Facilities during the

period May 2014 – April 2015 amounted to 12,047. Following the enactment of Law no. 4322/2015 (April 2015) and during the period May 2015 – April 2016, the respective average amounted to 9,840, taking into account that the aggregate capacity of the Detention Facilities was 9,886 posts. This means that there has been a crowd decrease of 18.32% due essentially to the releases under the provisions of Law no. 4322/2015. Undoubtedly, the Ministry's strategic target is the preservation on the long-term of the pre-mentioned crowd rates in such levels as to not exceed the capacity in question.

It should be noted that Article 15 of Law no. 4411/2016 provides for an extension until August 2017 of the validity of the decongestion provisions of Law no. 4322/2015, and it is thereby expected a further improvement of the detention conditions due to the overcrowding's elimination.

Under Article 1 of Law no. 4322/2015, the Type C Detention Facilities were rescinded and more particularly the Domokos Maximum Security Detention Facility endowed with a new security level which had been recently introduced. This was a political initiative based on the appraisal that such detention facilities were problematic as regards the issue of human rights as well as the one of security.

Under Article 2, a maximum duration of confinement in special juvenile detention facilities is determined, thus aiming to rationalize privative measures against minors. The regulation is seeking to minimize the confinement of juvenile offenders, pursuing a harmonization with the provisions of the International Convention on the Rights of the Child, a text of supra-legislative authority which has been ratified in Greece by Law no. 2101/1992 and where it is expressly provided that arrest, detention and imprisonment of minors should constitute a measure of last resort and last the minimum time required. Furthermore, it is noted that under article 7 the age of a juvenile capable of being charged has passed to the 15th (from the 13th) year of age and confinement in detention facilities is imposed to a minor older than 15 years old only in the case of perpetration of felony offences punishable by life sentence or of perpetration of rape of a minor under 15 years old. Also, it is noted that there has been a separation of juvenile detainees aged 15-18 by transferring them from the special Juvenile Detention Facility of Avlonas to the special Juvenile Detention Facility of Korinthos following CPT's relevant recommendation.

The institution of the sentence's service at home is a modern correctional institution introduced in our country in order to offer the opportunity of an alternative

service of the sentence to prisoners for whom the confinement in detention facility would be excessively disproportionate due to the age or the health condition thereof. The institution was always present in the criminal legislation for people who are older than 75 years old. Article 3 of Law no. 4322/2015 offers the opportunity to extend such institution and apply the same to longer sentences as also the limit for the sentence's conversion into a pecuniary sentence has been increased to five years.

Moreover, under article 4 of such Law an immediate solution has been given to the issue of prolonged stay of "hosted" aliens in detention facilities. The regulation's aim was to immediately improve the system of imposition and enforcement of the security measure of administrative deportation, as till recently the application of such measure had led to long-term detentions up to 18 months, in accordance with Law no. 4055/2012 (Government Gazette issue no. 51/Fascicule A), for aliens the deportation of whom was impossible. Now, the period of one month is introduced as the highest limit of detention's duration as from the time of conditional release or of sentence's service and, respectively, a period of three months is the highest limit in the event the alien refuses to cooperate and disclose his true identity particulars required for the issuance of the necessary travel documents.

Article 6 of the said Law introduces amendments to the criminal legislation to the benefit of vulnerable prisoner groups (patients, disabled persons, elders) who bear also, further to the burden of their sentence, the burden of their health problem. The favourable measures extend also to detainees participating in drug rehabilitation programs. More particularly, by the amendment of article 105 paragraph 7 of the Penal Code, the beneficial calculation of the days of sentence extends also to the category of prisoners hospitalized during at least four months in a hospital or therapeutic facility, as well as to prisoners with a disability rate of 50% or more provided that it is assessed under the procedure described by paragraph 3 of article 110A of the Penal Code that the same cannot take care of themselves due to their health state. Such extension is considered as necessary from the law policy angle as there exist also for this category of detainees the same reasons of incapacity to work and enjoy the provisions on beneficial calculation of the sentence time. For reasons of equal treatment with such cases the same institution extends also to those of the prisoners who are prohibited following the opinion of the centre's doctor from undertaking a work or an occupation which may reasonably cause serious and permanent harm to their health and those who are hospitalized in therapeutic facilities

or hospitals provided that such hospitalization has lasted at least four months.

Finally, the beneficial calculation is extended: (a) to prisoners participating in a rehabilitation program, as, due to their participation therein, they cannot work, but also in order to support their therapeutic effort; and (b) to detainees of police departments or police directorates for as long as their detention lasts in such premises, having regard to the unfavourable detention conditions applying in the same. The last sub-paragraph of paragraph 7 specifies the question of the sentence's beneficial calculation which is now universal, to wit it applies also to the sentence's completion or conversion and to the cumulative service of sentences.

Additionally, article 110A of the Penal Code has been amended so that to comprise all the categories of suffering persons who are treated uniformly by the regulations in question, namely: (a) detainees having a disability rate of 67% or more, and (b) detainees having a disability rate of 50% or more if due to their inability to take care of themselves for health reasons their confinement in a detention facility is rendered particularly onerous. Despite all that, it has been considered that, in the cases where the length of the sentence imposed is particularly long, treatment should be in principle differentiated. More particularly, when a sentence of temporary incarceration is served, if one fifth of such sentence has been served howsoever, and when a life sentence is served, if the prisoner has a disability rate exceeding 80% and has howsoever served ten years, then such prisoner may be released. In the case of life sentence, the prisoner so released shall serve the remaining of his sentence at his home, by application *mutatis mutandis* of article 56 of the Penal Code, where, besides, the gap is now covered as regards the detainee's possibility to obtain from the public prosecutor of the court of first instance a permission to leave his residence for reasons of education, work or hospitalization. Furthermore, such new institutional framework comprises a regulation whereby the procedure of detainees disability identification is simplified so that to avoid any unnecessary inconvenience for them.

Furthermore, article 10 of Law no. 4322/2015 introduces a series of regulations facilitating the choice of rehabilitation and the right to therapy through amendments made to the applicable legislation on drugs (Law no. 4139/2013).

Moreover, in accordance with Law no. 4356/2015 (Government Gazette issue no. 181/Fascicule A):

It is provided that the detained mothers of minor children up to 8 years old will be granted the possibility to serve their sentence or a part thereof by home

confinement instead of a confinement in a detention facility, enabling them to be with their minor children during the critical first years of their life (article 20).

Also, sub-paragraph i) of paragraph 3 of article 100 of the Penal Code referring to the “offer of an amount of up to ten thousand (10,000) Euro to a public utility organization” as a restrictive measure – condition for granting by the courts of the beneficial measure of the sentence’s suspension under surveillance is rescinded (article 22).

Articles 38 – 45 of the above Law are introducing the following regulations relating to the correctional system and the detention facilities: (a) the detention facilities have the opportunity to offer confiscated items to be marketed to needy inmates, (b) the legislative drafting committee for the revision of the Correctional Code is formed, (c) the conditions required for the transfer of prisoners to rural detention facilities are amended aiming to enhance the operation thereof, (d) the detainees are given the opportunity to access distance education at Universities and Technological Educational Institutes with electronic surveillance, (e) provisions for the strengthening of correctional administration are instituted, (f) issues of the detention facilities external guarding service are regulated.

For the purpose of enhancing the rural detention facilities, regulations have been introduced (article 41) aiming to “loosen up” the conditions required for the transfer of prisoners to such prisons. The rural detention facilities are a successful institution preparing inmates for their integration in normal social life through productive occupation, vocational training and encouragement of the sense of responsibility, self-respect and self-discipline. Additionally, the detainees secure a small income for their personal expenses and they shorten the time of their confinement by the beneficial calculation of the sentence due to work. By such regulation it has been sought to increase the number of prisoners who have the possibility to be transferred there for work and are considered to be eligible without endangering public security.

Further, it has to be noted that Law no. 4443/2016 provides for an extension for 18 months for implementing the pilot project of the electronic surveillance. An informative guide has been already issued and sent to the prisoners while live events for the information of the prisoners of the Detention Facilities of Korydallos and Thessaloniki (Diavata) took place.

By the same law the Ombudsman has been appointed as the National

mechanism for the investigation of incidents of abuse in the security bodies and among prison officials.

Finally, with regards to the eventual establishment of an effective domestic remedy to challenge the detention conditions, the issue is being examined.

IV. As regards the other integrated interventions in the area of correctional policy for the year 2015-2016, the following points should be stressed out:

Upgrading of healthcare services in the detention facilities

In order to improve the provision of healthcare services in the detention facilities the Ministry of Justice, Transparency and Human Rights is closely cooperating with its peer Ministry of Health and is processing a plan of global interventions to the direction of rationalization of the healthcare services provision system to the detainees both at the first and at the second degree. Also the planning for the inclusion of the Korydallos Prisoners Mental Hospital in the National Health System has been completed and the draft of the relevant presidential decree has been opened to public consultation, while the upgrading of the services provided by the Prisoners Hospital is being examined. On such basis all the prisons' health facilities such as the Special Regional Clinics and Special Health Centers have been listed and redesigned, ten (10) physicians have been added by engagement in the clinics of the country's detention facilities, while improvements to infrastructure are being made. Among others, the subsidy granted by the Greek Parliament for the equipment in materials of the outpatient clinics of the Korydallos Prisoners Hospital has been optimized. Finally, there has been a cooperation developing with the Regional Administration of Attica, the National School of Public Health and specialized scientific bodies for the organization of healthcare services provision programs in the country's detention facilities.

Finally, it is stressed that, according to the provisions of Law no. 4368/2016 and joint ministerial decision under number A3(c)/GP/25132/4-4-2016, uninsured prisoners are entitled to free health care without any obligation of payment of participation.

Management of human resources / training of the detention facilities' staff and of the Juvenile Curators Services and Social Welfare (JCS & SW)

The education (initial and ongoing) of the detention facilities' staff and of the Juvenile Curators Services and Social Welfare (JCS & SW) constitutes a main priority of the Ministry of Justice, Transparency and Human Rights, aiming to strengthen the staff and to upgrade the role thereof. There has already been developed a cooperation with the Training Institute (INEP) of the National Public Administration and Local Administration Centre (EKDDA) for the programming and implementation of training programs for the staff of the detention facilities (prison guards and external guarding staff) and two (2) educational circles have been implemented for the entirety of the staff of JCS & SW.

Furthermore, two (2) educational courses of the School of Prison Guards (preliminary education) are to be implemented soon with the cooperation of the Greek Ombudsman and the Ministry of Citizen Protection. In parallel, a two-day educational program for the Directors of the detention facilities is planned to be implemented by the CPT. Lastly, in cooperation with the Ministry of Citizen Protection, the provision of lifelong operational education to the prison guards and the external guarding staff of the detention facilities is planned.

Education and educational programs for the prisoners

The consolidation of the educational institutions within the Detention Facilities, such as the Second Chance Schools and distance education is promoted, in cooperation with the Ministry of Education. Already, during the school year 2015-2016 two new Second Chance School (SCS) have started operating in the Korydallos Prisoners Hospital for seropositive inmates (Annex of the Korydallos SCS 'Giorgos Zouganellis') and in the Chania Detention Facility. Also the SCS at the Domokos Detention Facility has started to operate. During the coming school year, the SCS of the Nigrita and Malandrino Detention Facilities are scheduled to be created and the SCS of the Patras Detention Facility shall become autonomous. Furthermore, a cooperation has been developed with the Manpower Employment Organization (OAED) for the implementation of educational programs in prisons by supporting also the productive activities. Also, the Ministry of Justice, Transparency and Human Rights is to sign soon a framework agreement with the Hellenic Open University aiming to secure, inter alia, 20 scholarship posts in undergraduate programs for

detainees. Now already the twenty first prisoners attend the above University.

Also, cooperation is developed with the National Opera, the Administration of the National Museum of Modern Art and the National Theater.

Further, the 31st Nationwide Annual Art Exhibition of prisoners and prison's products recently took place. Also, the General Secretariat of Anti-Crime Policy took part in the International Modern Art Meeting Art-Athina 2016 (26-29 May 2016) where works of art of prisoners from various detention facilities were exposed and sold. Moreover, the Small Museum of Art, the smallest in the country and the first in a detention facility was inaugurated within the Second Chance School of Larisa prison.

Finally, cooperation is developed with the General Secretariat of Sports for the operation of sports activities ("Sports for all Programs") in ten (10) detention facilities within the coming year. Such activities already operate in six (6) detention facilities.

Particular concern for the protection of minors

The legislative drafting committee for the creation of Juvenile Care Units has completed its works and the possibilities for the implementation of modern units for juvenile offenders and for endangered young people are being examined. In that context the re-opening of the Volos Hosting Shelter is also examined, in order to meet urgent needs in the area of juvenile protection. Also, a Ministerial Decision is to be issued for the improvement of the institutional framework for the implementation of the reformation measure of public utility occupation for minors and juveniles. Finally, training programs for juvenile curators have been organized for the first time in order to support the same in their task and to upgrade the role thereof.

The Prisoner's Spelling Book

In order for our country to honour its international obligation deriving from the United Nations "Standard Minimum Rules for the Treatment of Prisoners" (the Mandela Rules) of 2015 (Article 54), the "European Prison Rules" of the Council of Europe of 2006 (Article 30) as well as of the relevant provision of our Prison Code (Article 24 paragraph 2), the General Secretariat of Anti-Crime Policy has completed the design and publishing of an information guide for detainees entitled "the Prisoner's Spelling Book". The objective of such initiative is to provide also in practice the possibility to the detainees to be informed with regard to the rules of safe

cohabitation and to their rights and obligations in prison, in a simple and comprehensible manner, in the form of a spelling book making its use easy and written in a language as simple as possible. The guide in question has been issued in Greek in February 2016 and in early 2017 a version thereof in English and Albanian was published.

Moreover, the planning of an information guide for the prevention of suicides in prisons has been completed and the publication thereof is expected.

Control and transparency in prisons

In the context of the initiatives and actions for the creation of a new correctional reality under terms of transparency, accountability and protection of human rights, the Central Agency of the Court of Audit was activated in April 2016 (by Ministerial Decision) as competent for the conduct of ordinary and special audits in the country's Detention Facilities. Also, in May 2016 a framework Cooperation Agreement was signed between the Ministry of Justice, Transparency and Human Rights and the Greek Ombudsman, aiming to the increase of transparency and control in the detention facilities. Lastly, the institution of the weekly direct communication of inmates through Skype with the General Secretary of Anti-Crime Policy has been established.

Opening of the prison to society

This includes without limitation: (a) Radio broadcasting by the students of the School of Second Chance of Korydallos from the radio station 105.5 FM 'Sto kokkino', (b) "The poets go to jail" – organization of a poetry event – intervention at the school of seropositive detainees of the Hospital of Korydallos, (c) Participation in the parallel events of ART – Athina on May 26-29 2016 with works of art made by the detainees, and (d) Support of the organization of educational and recreational programs in the detention facilities in cooperation with local communities.

Set-up of family visits spaces

In especially designed spaces in the wings of the detention facilities of Grevena, Patras and Elaionas Thivon the inmates may receive their families in free visits and in a space particularly friendly to children. Additionally in the Detention Facility of Grevena a space of electronic visit (through Skype) has been set up.

V. General compliance measures

With regard to the general compliance measures adopted in various Detention Facilities all over Greece, the following are noted:

Detention Facility of Ioannina (capacity: 80 detainees): During the last two years there have been many efforts to improve the Facility's infrastructure. The number of prisoners has been reduced from 150 (on January 1, 2015) to 137 (on June 16, 2016) and to 123 (on February 16, 2017), i.e. by 18%. A fully equipped surgery and dental clinic is operating there, a permanent physician has been appointed, renovation works have been made in the building, a special space has been set up for the education of prisoners in the facility and educational programs for inmates are implemented.

Detention Facility of Larisa (capacity: 500 detainees): The number of prisoners has been reduced from 794 (on January 1, 2015) to 638 (on June 16, 2016) and to 612 (on February 16, 2017), i.e. by 22.92%. Therefore, the prisoners' living conditions have improved considerably due to the crowd reduction.

Detention Facility of Korydallos (capacity: 800 detainees): The number of prisoners has been reduced from 1,913 (on January 1, 2015) to 1,506 (on June 16, 2016), i.e. by 21.2%. The current number of prisoners is 1597. A permanent physician has been appointed and there is a cooperation with the National Public Health School and the Regional Administration of Attica for the implementation of screening tests programs and the provision of health services especially in respect of contagious diseases.

Detention Facility of Nafplio (capacity: 314 detainees): The number of prisoners has been considerably reduced from 616 (on January 1, 2015) to 389 (on June 16, 2016) and to 372 (on February 16, 2017), i.e. by 39.61% and the detention conditions have sensibly improved. The buildings' renovation works have been completed and efforts are being made in order to secure the necessary spaces for the operation of a School of Second Chance in cooperation with the Ministry of Education.

Detention Facility of Patras (capacity: 780 detainees): The number of prisoners has been reduced from 805 (on January 1, 2015) to 696 (on June 16, 2016) and to 587 (on February 16, 2017), i.e. by 27.08%. Also, a cooperation with the Ministry of Health and the Ministry of Education is promoted for the improvement of the detainees' healthcare and the upgrading of the educational facilities respectively.

Detention Facility of Alikarnassos (capacity: 105 detainees): The number of prisoners has been considerably reduced from 301 (on January 1, 2015) to 168 (on June 16, 2016) and to 164 (on February 16, 2017), i.e. by 45.51% and the detention conditions have sensibly improved. Also, the relevant credits for the upgrading and modernization of the detention premises and especially of the prisoners' health facilities have been approved, in conformity also with CPT's recommendation.

Detention Facility of Tripoli (capacity: 65 detainees): The number of prisoners has been considerably reduced from 200 (on January 1, 2015) to 112 (on February 16, 2017), i.e. by 44% and the detention conditions have sensibly improved. A permanent physician of the Ministry of Health has been appointed in cooperation with the local Hospital. At the same time, the prisoners' sanitary conditions are improving.

Detention Facility of Thessaloniki (Diavata) - (capacity: 370 detainees): The number of prisoners has been reduced from 601 (on January 1, 2015) to 534 (on June 16, 2016) and to 509 (on February 16, 2017), i.e. by 15.97%. In November 2015 the therapeutic community Therapy Centre for Dependent Individuals (KETHEA) – PROMITHEAS started to operate, the first therapeutic unit housed in a separate wing of a Detention Facility contributing to the prisoners' full access to the right to therapy.

Special Juvenile Detention Facility of Korinthos (capacity: 60 detainees): Such specific Detention Facility is a special detention unit for juvenile offenders. The number of prisoners on February 16, 2017 is 30. Under Law no. 4322/2015, the confinement of minors has been limited to very serious crimes (homicide, rape). All the levels of basic school education are operational and various activities are very often organized in order to enable juvenile offenders to make the most of their spare time.

Detention Facility of Corfu (capacity: 80 detainees): The number of prisoners

has been reduced from 310 (on January 1, 2015) to 176 (on February 16, 2017), i.e. by 43.22%, contributing thus to the considerable improvement of the detention conditions.

VI. Conclusion

In view of the above information, the Greek Government considers that the detention conditions in the Detention Facilities all over Greece have been significantly improved during the past two years and further efforts will be made including legislative initiatives and reforms in order to further improve the correctional system. Therefore, in the Government's opinion the above group of cases should no longer remain under enhanced supervision.