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Nisiotis group of cases v. Greece

Information provided by the Greek in response to Nisiotis group of cases and information from other sources.

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The opinions expressed in this document are binding on neither the Committee of Ministers nor the European Court

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I. Introduction

1. On 3 January 2012, the Greek authorities provided their action plan setting out the measures aimed at preventing similar violations. This action plan was subsequently updated on 4 April 2013.
2. At its 1172nd meeting in June 2013 (DH) the Committee noted that prison overcrowding was a structural problem in Greece and invited the Greek authorities to provide precise information on the practical impact of the measures taken in respect of the number of detainees in the Ioannina prison as compared to its official capacity, the living space available per prisoner and the amount of time that the detainees spend outside their cells. The Committee furthermore invited the authorities to draw up a comprehensive strategy against overcrowding in all prisons and inform the Committee thereof.
3. In reply to the above-mentioned decision of the Committee of Ministers, on 8 January 2014 and 6 March 2015, the Greek authorities provided detailed information on the measures aimed at decreasing overcrowding in the Ioannina prison as well as in other prisons in Greece and improving the conditions of detention of prisoners. This information is summarised below.

II. As regards overcrowding in the Ioannina prison

1) Information provided by the Greek authorities

4. The Greek authorities indicated that in the period from 2009 to 2014 the prison population in the Ioannina prison was decreased by 13.29%. Nevertheless, as of March 2015, 151 prisoners were detained in the Ioannina prison, while its official capacity stood for 80 persons. Its occupancy rate was therefore nearly its double capacity. The Ioannina prison was however largely refurbished (cells, dormitories, kitchen, dining hall, dentistry surgery) and new areas were created for the detainees (such as, a gym, a green house, a vegetable garden and a supermarket). Lastly, the authorities indicated that various events have been taking place (music, theatre and dance performances, cultural events, projection of movies, visits by charity organisations etc.).

2) Information from the CPT's report published in 2014

5. In its report published on 16 October 2014 the CPT stated that in 2013 the CPT delegation visited the following prisons: 1) the Korydallos men's prison, 2) the Korydallos female remand prison, 3) the Avlona special detention facility for juveniles, 4) the Diavata judicial prison, 5) the Ioannina prison, 6) the Komotini judicial prison and 7) the Larissa prison.
6. Concerning the Ioannina prison, the CPT noted that the conditions of detention have remained very much the same as described by the European Court in the *Samaras* judgment, and called upon the Greek authorities: "ii) as a matter of the utmost urgency, to reduce the occupancy levels at [...] and Ioannina [...] so that: each prisoner has his own bed; no prisoner should be obliged to share a bed with another inmate or to sleep on the floor; all prisoners can be accommodated in cells and dormitories as distinct from a corridor [...]. iii) to make concerted efforts to reduce the occupancy levels in all establishments visited with the objective of offering a minimum of 4m² of living space per prisoner. Official occupancy rates should be revised accordingly."

III. As regards overcrowding in other prisons in Greece

1) Information provided by the Greek authorities

7. The Greek authorities indicated that they have taken a number of steps aimed at combatting prison overcrowding in the country. These steps focused in particular on introducing or reinforcing non-custodial measures as well as on transferring prisoners to establishments operating below their official capacity and developing new and refurbishing the existing prisons.

A. Non-custodial measures

8. The Greek authorities indicated that a number of legislative measures have been taken to ensure early release schemes and other alternatives to custody measures are put in place.

9. In December 2012, the Law 4043/2012 was adopted to secure that individuals responsible for petty offences and misdemeanours are not detained in prisons. Pursuant to this law, the statute of limitation was introduced for all petty offences and misdemeanours punishable up to one year term, which were committed until 31 December 2012. Similarly, in October 2013, the Law 4198/2013 was adopted to introduce a statute of limitations for similar petty offences and misdemeanours committed until 31 August 2013. Pursuant to the provisions of both laws, it is not possible to prosecute these offences nor to execute prison sentence imposed for such offences. These measures were aimed at promoting policies to limit and modulate the number of persons being sent to prisons.

10. Special Laws 4043/2012, 4198/2013 and 4274/2014 were adopted to introduce early release schemes. Pursuant to their provisions, convicted persons who have served minimum thresholds of their prison terms were eligible to apply for early release.

11. The Greek authorities also ensured the adoption of the Law 4139/2013 introducing the possibility of stay of execution of a prison term and early release in respect of certain categories of convicted individuals. In particular, this law applies to: a) persons helping in dismantling criminal drug trafficking gangs, and b) persons addicted to narcotics and in need of professional support. The law provides that the individuals falling within one of these two categories shall be eligible for stay of execution of their prison term or for an early release.

12. The Greek authorities took steps to ensure that certain prison terms can be converted into fines or community service. To this end, Laws 3904/2010, 4093/2012 and 4139/2013 were adopted. Pursuant to the most recent legislative provisions introduced in 2012, the scope of prison terms eligible for conversion to fines or community services was expanded to include prison terms up to five years. The authorities highlighted in particular that there are currently 232 services, bodies and institutions where the eligible individuals could carry out their community service instead of serving their prison term.

13. Lastly, the Greek authorities pursued their efforts to reinforce alternatives to detention, notably by introducing house arrest under electronic surveillance. In this respect, in November 2013, the Law 4205/2013 was adopted. It introduced a possibility for prisoners who have served two-fifths of their prison terms or 14 years in case of a life sentence to apply for house arrest under electronic surveillance. This alternative is also available within the framework of pre-trial detention. The Greek authorities however highlighted that this measure will be tested in pilot areas for 18 months before its full scale implementation.

14. The above measures have already yielded positive results. The Greek authorities highlighted in this respect that about 4 300 detainees had been released until August 2013 on the basis of conversion of prison terms to fines or community service; additional 500 detainees were released on this ground until 5 November 2013. The authorities furthermore indicated that as of 12 August 2014, further 800 prisoners benefited from early release scheme introduced under the Law 4274/2014.

15. It is noted however that according to the information provided by the Minister of Justice to the Greek Parliament, as of 1 November 2014, there were 11 988 prisoners in Greece, while the overall capacity of all prisons stood at 9 886 places.

B. Transfers of prisoners to less populated establishments

16. The Greek authorities furthermore sought to ensure transfer of prisoners from overcrowded establishments to establishments operating below their official capacity, such as open agricultural prisons. To this end, two ministerial decisions were issued in 2013 and 2014 granting more favourable conditions for transfer of prisoners to open agricultural prisons. This measure was aimed at modulating prison population throughout the country and ensuring their even distribution across the various prison facilities.

C. Other measures aimed at improving prison conditions

17. The Greek authorities continued their efforts to develop new prison facilities and refurbish the existing ones in order to improve overall conditions of detention in Greek prisons.
18. In this respect, the authorities ensured that three wings out of five in the Nigrita Prison with a capacity of 347 prisoners are now operational. The authorities also ensured that two wings out of five in the Chania prison with a capacity of 317 prisoners are fully operational. The authorities furthermore ensured that a new wing with a capacity of 60 inmates has become fully operational in the independent Women Detention Facility in Korydallos and that, in the same facility, a special detention area designed to accommodate 90 HIV+ prisoners was built in order to reduce the occupancy rate in the Korydallos prison hospital. The authorities therefore increased the overall capacity of prison facilities in Greece for 814 places in the past period.
19. The authorities furthermore envisaged developing five new detention facilities, notably in Peloponnese, Western Greece, Attica, Epirus and Chios.

D. Review of the current legal framework concerning prison terms

20. The Greek authorities are also taking steps aimed at reviewing the current legislation governing the execution of prison terms, notably the Penitentiary Code. The Ministry of Justice has appointed a task force to this end including law professors, human rights lawyers and the Greek Ombudsman. Their task is to assess the current provisions of the Penitentiary Code and to review it in light of the European Court's findings in the Nisiotis group of cases and the Convention standards as well as the CPT recommendations. The task group prepared a report on the draft law set to replace the applicable Penitentiary Code. The Ministry of Justice is currently examining the findings and recommendations made by the task force.

2) Information from the CPT's report published in 2014

21. In its above-mentioned report published in 2014 (§93), the CPT noted concerning the prison establishments visited that "...the Greek prison system continued to be affected by the same fundamental deficiencies observed in the past, notably severe overcrowding and an acute shortage of staff. These two problems are, in many respects, the source of additional serious shortcomings in the prisons visited, including poor material conditions and lack of hygiene [...]". While noting that the Greek authorities had made efforts to introduce several measures in recent years to reduce the prison population, it noted that these measures did not have a lasting effect on the overall prison population. Consequently, the CPT reiterated once again its recommendation that the Greek authorities vigorously pursue their efforts to combat prison overcrowding, by placing further emphasis on non-custodial measures in the period before the imposition of a sentence, increasing the use of alternatives to imprisonment and adopting measures facilitating the reintegration into society of

persons deprived of their liberty. The CPT further emphasised that in this context, the authorities should be guided by various relevant Recommendations of the Committee of Ministers¹.

1 - Recommendation Rec(99)22 concerning prison overcrowding and prison population inflation;
- Recommendation Rec(2000)22 on improving the implementation of the European rules on community sanctions and measures;
- Recommendation Rec(2003)22 on conditional release (parole);
- Recommendation Rec(2006)13 on the use of remand in custody, the conditions in which it takes place and the provision of safeguards against abuse;
- Recommendation Rec(2010)1 on the Council of Europe Probation Rules;