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Date: 30/10/2020

DH-DD(2020)935

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Meeting: 1390th meeting (1-3 December 2020) (DH)

Communication from an NGO (Hellenic League for Human Rights) (16/10/2020) in the NISIOTIS group of cases v. Greece (Application No. 34704/08) and reply from the authorities (27/10/2020).

Information made available under Rules 9.2 and 9.6 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 : 1390^e réunion (1-3 décembre 2020) (DH)

Communication d'une ONG (Hellenic League for Human Rights) (16/10/2020) relative au groupe d'affaires NISIOTIS c. Grèce (requête n° 34704/08) et réponse des autorités (27/10/2020) **[anglais uniquement]**

Informations mises à disposition en vertu des Règles 9.2 et 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



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DGI

16 OCT. 2020

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

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Communication

**In accordance with Rule 9.2 of the Rules of the Committee of Ministers
Concerning Nisiotis group of cases (34704/08)**

16 October 2020

Hellenic League for Human Rights
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I. Introduction

The present submission concerns the report submitted on the 3rd September 2018 on the *Nisiotis group of cases* regarding the conditions of detention in prisons in Greece. It aims to provide further information on the current state of the art in relation to detention conditions in Greece and the observance of Art. 3. According to the Committee of Ministers of the Council of Europe, the implementation of this group of cases is under review until the Greek government effectively addresses the causes that led to the repeatable violation of the Convention.¹

II. Description of the Organisation

The Hellenic League for Human Rights is the oldest human rights organisation in Greece (established originally in 1936 and re-established in 1953), member of the International Federation for Human Rights. It aims at human rights advocacy, public awareness, and elaboration of legal proposals. For the past years, detention conditions has been one of topics of high concern.

III. Executive Summary

Detention conditions in Greece suffer from chronic and structural problems. Overcrowding is a persistent and acute problem. Health care also faces structural deficiencies. These major issues caused a series of judgments by the ECtHR (*Nisiotis group of cases*) that found violation of Art. 3. The CPT and other international organs criticized the Greek prisons for not been able to provide guarantees for human dignity of detainees. The Greek government need to implement the Strategic Plan which so far remains null and void in view to make living conditions in prisons complying with Art. The Report recommends, among others, that the government ensure “free space to move” of at least 3 sq.m. for each inmate, make health care accessible and adequate for all inmates, hire and train staff, and reconsider and enforce the “Strategic plan” (adopted in 2018) through a specific timetable and consultation with all involved parties, including with civil society.

¹ Recommendation Rec(2006)2 (952nd meeting, 11/1/2006) on the detention conditions, 1172nd meeting, 4-6/6/2013, decision on the execution of ECtHR judgments, at: <<http://hudoc.exec.coe.int/eng?i=004-15760>>

IV. General Measures

1. The “Strategic plan for the prison system 2018-2020” that the previous government had elaborated amounts to an action plan or guidelines. It has entered into force in January 2018, but still it has not been implemented by the government elected in July 2019. In their Communication, the Greek government, assert that they have taken into consideration the report drafted in 2019 by the Directorate General of Human Rights and Rule of Law, entitled “Reducing Prison Overcrowding in Greece.”² However, it seems that the reference to the report by the government is ostensible as it does not correspond to the various recommendations formulated by the special committee of the Council of Europe. The government lists numerous actions that indeed took place. However, in most of the cases these measures do not have a structural character. Instead, they address local problems, as an asymmetric response to the central challenges raised by the *Nisiotis group of cases*. Allocation of funds is a requirement which remains unfulfilled. Overcrowding, understaffing, lack of staff control over prisoners and activation of influential prisoners’ groups instead, as well as deficient health care, are enduring structural problems, affecting a large number of detainees throughout the Greek prison facilities.

2. Previous recommendations addressed to the Greek government were not implemented and no structural measures have been adopted in order to address the causes which lead to the violation of Art. 3. During the past 25 months (2018-2020) no relevant national and international organisation or independent body - the CPT and the NPM (Ombudsman)³ included - have found any structural improvement of the prison system in Greece, which continue to face major deficiencies, such as overcrowding, understaffing, safety, security, and health care issues.

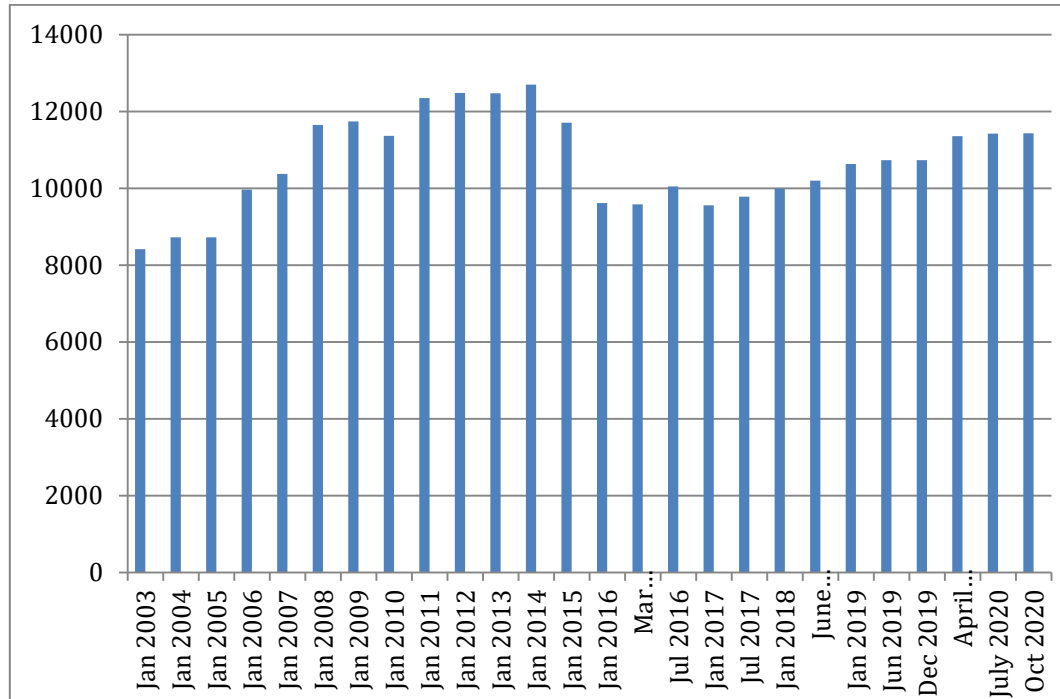
3. On 16th of August 2018 there were 10,298 prisoners in Greece. 26 months later, on the 1st October of 2020, the number of prisoners in Greece was 11,430. The

² <<https://bit.ly/3dmCUig>>

³ On the CPT see hereinafter. On the 2019 Annual Report of the Greek Ombudsman, see <https://www.synigoros.gr/resources/ee2019-p00-plires-keimeno.pdf>, Chapter 6.3.

total capacity of all Greek prisons amounted to 10,175 places. As shown in the following chart, prisoners' population is steadily increasing.

Chart: Number of prisoners in Greece (2003-2020)⁴



4. According to data provided by the Ministry of Citizen's Protection, occupancy in many prisons exceeds their capacity by 150% or even 200%.⁵ In practice, it means that in several prison facilities the number of detainees in one cell is still exceeds maximum capacity of a cell. Consequently, there is a continuing violation of Article 3 of the Convention. In some prisons (Trikala, Patras, Diavata prisons, among others) overcrowding of cells where Roma inmates are held is far more severe in comparison to the average of the prison. This discriminatory practice constitutes a violation of Art. 14 in conjunction with Art. 3.

5. The Secretary General on Crime Policy. Ms. Nikolaou, has admitted that living conditions in all Greek prisons constitute an acute problem and that gangs are

⁴ Sources: Ministry of Citizens' Protection < <https://bit.ly/2GXnV2i> >, CPT Reports of 2006, 2008, 2010, 2012, 2014, 2016.

⁵ Statistical data by the MCP, < <https://bit.ly/2GXnV2i> >

operating within the prison (with reference to the prison of Korydallos).⁶ Moreover, according to the most detailed and informed report appeared in the media in May 2020, “Overcrowding of the Greek prisons is not a new phenomenon. Requests for decongestion are also not new. According to the head of the Staff Union of Greek Prisons, ‘decongestion of the Greek prisons is indispensable. Overcrowding creates a series of side effects and in the end becomes a collateral form of punishment to the inmates’”.⁷ The recently published intention of the government to introduce more demanding legal presuppositions and reduce the number of prisoners eligible for transfer (flow) from closed to open (farm) prisons, is expected to further increase the population of the former and aggravate the problem of overcrowding.⁸

6. As regards the prison of Ioannina: the prison has a capacity of 66, and today’s occupancy is 114. Prisoners are accommodated in cells with less than 2,2 sq.m. of living space per person. No decongestion measures have been observed.

7. The government reports that the total capacity of prisons has increased. In fact, it has been increased by 60 places only in Nigrita prison (which has capacity of 600 places, and occupancy of 716 detainees, as of 1/10/2020). The new prison in Drama⁹ is still not operational. The plans for new prisons are of uncertain future.

8. In the past two years, the Greek government concluded a series of friendly agreements with hundreds of applicants before the ECtHR claiming violation of Art. 3 as regards prison conditions in Greece. By concluding these agreements the government acknowledged inhuman or degrading living conditions in the relevant prisons.¹⁰

⁶ 3/6/2020, <<https://bit.ly/2GW2sqt>>

⁷ Eliza Triandafyllou, Athens, Inside Story, 13/5/2020, <<https://bit.ly/33Vstz7>>

⁸ Draft Act amending the Penitentiary Code (2020, not in force).

⁹ <http://www.bloko.gr/2020/06/blog-post_427.html>; <<https://www.efsyn.gr/node/248494>>

¹⁰ Among many others, see ECtHR, decisions (all late 2018-present): *Yfantidis and Others*, 25407/18; *Perakis* 25920/18; *Arif and Others*, 41163/17; *Antypas and Others*, 41108/17; *Arabatzis and Others*, 57499/17; *Dritsas and Others*, 77772/17; *Ali and others*, 74536/17; *Mladenov* 73888/16; *Muca and Others* 80215/17; *Aggelopoulos and Others*, 9323/18; *Spiliotopoulos and Others*, 16128/18; *Karapanos and Others*, 61204/15; *Stergiakas and Others*, 42316/16. See also ECtHR, *Lautaru and Seed*, 29760/15, judgment of 23/7/2020.

9. Health care services in prisons is one of the most problematic areas of inmate treatment. Both the hospital and the psychiatric division of Korydallos, were not subjected for a long time to the national health system (NHS), consequently lacking adequate supervision and support by the Ministry of Health. Act 3772/2009 which provides for the subjection of both medical institutions to the NHS has been implemented by Presidential Decree 100/2018 placing the hospital under the umbrella of NHS. A two month interim period was provided in order to accomplish the transition. However, up to date none of the health care units have been incorporated into the NHS. The government does not comment on that failure.

10. Understaffing is a central issue. Hiring 9 permanent staff and another 240 on a contractual basis cannot solve the aggravating problem as more than 2,000 staff are urgently needed. Lack of custodial staff, training and special education for them, have all direct impact on the security of inmates. Cases of violence cannot be adequately dealt with, as inmates –especially during the night- have no access to the guards. Protection of prisoners is interrelated to guards and violence prevention measures. Overcrowding does not allow the separation of any inmate into single person cells. In practice, prison staff try to obtain prisoners' homogeneity with the aim of preventing negative and disorderly situations stemming from cultural and personal differences, to isolate and segregate provocative inmates with mobility within the same prison or through transfers to other prisons, even by locking them inside cells and dormitories or allowing them access to various areas of the establishment in different groups and shifts.¹¹

11. According to the *Justicia network* regarding prison conditions during the Covid-19 pandemic, "[...] Sadly, not all countries have taken these steps, including those with serious overcrowding problems. Hungary, Romania, Bulgaria and Sweden have taken no steps towards reducing the use of imprisonment and others, like Greece, appear to be waiting for Covid-19 to spread through prisons before acting."¹²

¹¹ W. Aloskofis & N. Koulouris, "Prison Conditions in Greece", report 2014, at: <<https://bit.ly/34RTwKZ>>, p. 31.

¹² Jago Russel, Euobserver, London, 18 May 2020, <<https://euobserver.com/opinion/148385>>, <<https://bit.ly/2ST8P0C>>, and <<https://bit.ly/3dvgqff>>.

12. All the above remarks are confirmed and summarized by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) which paid a visit to Greece in early 2019. The report was published in April 2020. The report criticises overcrowding in a series of prisons that have been visited, and the overall lack of guarantees for the safety of inmates, lack of staff and adequate health services¹³. According to CPT, “The widespread deficiencies regarding the state of health care services in prisons persist. Problematic issues such as access to health care, medical screening upon arrival or medical confidentiality are all compounded by the severe shortage of health care staff and the continued lack of integrated management of health care services” (CPT, Rep. 2020, p. 5). Moreover, “The dire staffing situation in all the prisons visited must be addressed without delay in order to guarantee an effective control and a safe environment for prisoners and staff alike. The announced recruitment and increase of custodial officers represents a start but it remains wholly insufficient. The staffing levels in all Greek prisons must be reviewed and the working conditions of prison staff improved” (CPT, p. 6). CPT also made it clear that “Currently, the Greek authorities are unable to fulfil their minimum obligation to keep both prisoners and staff safe. Prisoners, not staff, control the wings and increasingly high levels of inter-prisoner violence and intimidation are evident in the prisons visited. Once again, cases of hospitalisation of inmates due to severe (and sometimes fatal) injuries inflicted by other inmates are a feature in every establishment visited” (CPT, p.4).

V. Concluding remark and recommendations

Since September 2018, no structural measures have been taken by the Greek government in order to tackle efficiently the serious deficiencies highlighted by the *Nisiotis group of cases* adjudicated by the ECtHR. Therefore, we reformulate a series of recommendations and we kindly ask the Committee of Ministers to request the Greek government to:

- Guarantee allocation of funds for prisons in order to upgrade prison premises and staff.

¹³ CPT/Inf (2020)15 at: <<https://rm.coe.int/16809e2058>>

- Ensure “free space to move” of at least 3 sq.m. for each inmate. Re-calculate and allocate the real capacity of prison facilities. Operationalize those sections in prisons which remain closed.
- Reconsider and enforce the “Strategic plan” through a specific timetable and consultation with all involved parties, including with civil society.
- Ensure incorporation of the Korydallos hospitals to the NHS and take measures to guarantee adequate medical care to all prisoners.
- Conduct regular training on security, crisis management, health issues etc, in relation to prison for all existing staff and hire additional (trained) staff of all categories (custodial, administrative, scientific).
- End discriminatory practices of detention based on ethnicity (as regards Roma inmates).
- We kindly request the Committee of Ministers to maintain the *Nisiotis group of cases* on the agenda for its upcoming meetings in 2021

Hellenic League for Human Rights

Konstantinos Tsitselikis



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**HELLENIC REPUBLIC
LEGAL COUNCIL OF THE STATE
PRESIDENT
AGENT OF THE GOVERNMENT
BEFORE THE ECHR**

Ms Clare Ovey
Head of the Department
for the Execution of Judgments
of the European Court
of Human Rights
DGI, Council of Europe



Athens, 27 October 2020

Ref. no: 142520/572724

Subject: *The Communication under Rule 9.2 submitted on 16.10.2020 by Hellenic League for Human Rights concerning the execution of the Nisiotis v. Greece (34704/08) group of cases judgments*

Dear Ms Ovey

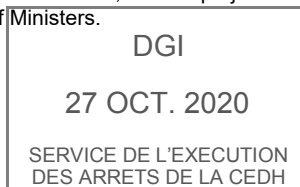
Further to your letter transmitting a Rule 9.2 Communication submitted on 16.10.2020 by the Hellenic League for Human Rights in respect to the above group of cases I am transmitting the response of the Greek authorities thereto.

I kindly request that the attached document is published with the above Communication

**Yours sincerely
On behalf of the Agent
of the Greek Government
before the ECHR**

**Dimitrios Kalogiros
Senior Legal Adviser
to the Legal Council of the State**

Enc : Document
C.c. : Permanent Representation of Greece
to the Council of Europe



The Greek authorities' observations on the rule 9.2 Communication submitted on 16.102020 by Hellenic League for Human Rights (HLHR) concerning the execution of the judgments of the Nisiotis v. Greece (34704/08) group of cases

1. In accordance with Rule 9 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements, the Greek Government submit the following in response to the Communication received from the Hellenic League for Human Rights (HLHR), relating to the Nisiotis group of cases.
2. Prison overpopulation is a problem of high priority for the Greek Government. The information provided in our Consolidated Action Plan of 12/10/2020 advocate the Government's intention to provide long-term solutions and prove that not only the Strategic Plan is indeed being implemented but that its follow up (Strategic Plan 2021-2023) is already being elaborated. This shows the Government's will and commitment to address the problem of prison overpopulation.
3. This being said, it is important to take into consideration that steps taken need time to produce results. In particular, the two new pivotal legal texts, namely the amended Code of Criminal Procedure and Criminal Code are expected to have a long-term but substantial impact. The same holds true for capacities increase: on one hand the Drama prison will soon start operating, on the other hand the rest of the planned constructions will be concluded within the estimated time frames.
4. In the meantime focus is made on measures that improve the general conditions of detained people, especially outside the cell, such as more hours for outdoor facilities, educational/vocational programmes and communication with outside world. As far as the issue of distribution of inmates among prisons is concerned, there are two parameters that have to be taken into account: issues of security, as well as the practical issue of filing a request, since transfer to a rural prison depends on the detainees' will to provide work.
5. As regards friendly settlements, the Government recall that a friendly settlement shall not be confused with a unilateral declaration: only the second includes acknowledgment of a violation of the Convention (in an applicant's case). Friendly settlements are intended to facilitate the Court's prompt and effective handling of cases that the parties are open to settle¹. In this vein the Greek Government proceed to this alternative procedure to litigation.

¹ Copenhagen Declaration p. 54, <https://rm.coe.int/copenhagen-declaration/16807b915c>

6. The Government would further like to recall that the cases in the Nisiotis group concern the poor conditions of detention in overcrowded prisons in Greece. The Government is aware of CPT's recommendations included in its 2019 Report, however one should be mindful that the Court never found violations in respect of many issues raised in the Communication from the HLHR, such as "lack of staff control over prisoners", "activation of influential prisoners' group" "overcrowding of cells where Roma inmates are held". On these issues no relevant violation has been found by the Court.

7. The Government further highlight that in its abovementioned Report, although critical about various issues raised therein, CPT acknowledged the measures taken by the Greek authorities aimed at tackling prison overpopulation and noted the Ministry's efforts to address the issues raised in the above Report².

8. Lastly, it is recalled that issues concerning provision of health-care services is examined in the context of Serifis group of cases (No 27695/03).

9. The Greek Government express their strong commitment to fulfill their obligations arising from Article 46 of the Convention and shall continue exploring avenues and taking steps in the direction of fully implementing the Court's judgments in the Nisiotis group of cases.

² See par. 7 p. 9, as also mentioned in our Consolidated AR of 12/10/2020, p. 1.