APPENDIX: GOVERNMENT'S VIEWPOINT

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

ECRI, in accordance with its country-by-country procedure, engaged in confidential dialogue with the authorities of Greece on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which, unless otherwise indicated, only takes into account developments up until 18 June 2014, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

Comments of the Greek authorities on the ECRI Report on GREECE prepared in the framework of the Fifth Monitoring Cycle and following the Commission's visit to Greece, 10-14 March 2014.

SUMMARY

Page 7, par. 11

The phrase "Although the Greek authorities acknowledge the need to fight racism, there is no comprehensive and multi-sectoral strategy in place to address its root causes and to involve civil society partners in the fight against racism" is vague and unsubstantiated.

Page 7, par. 12 in fine

It is not correct that there is "insufficient official condemnation'' of acts of hate speech. On many occasions, Greek officials have openly and unequivocally condemned such acts. See comments on par. 41-45.

Page 8, par. 4

The sentence 'There is also considerable discrimination towards LGBT and in particular against transgender persons' does not accurately depict the situation prevailing in Greece, where LGBT rights and activities, such as the holding of the 10th Gay Pride Parade on June 14th in Athens are widely accepted practices, and transgender associations are legally recognized and operate freely.

Moreover, the new anti-racism law, which was voted on September 9th 2014, clearly includes sexual orientation and gender identity into the list of grounds by reference to which are defined individuals or groups of individuals targeted by the acts criminalized under the Law.

FINDINGS AND RECOMMENDATIONS

Par. 7 – 8

Concerning "Racial discrimination in the exercise of one's public office or occupation" it is noted that the ground of public office ***is*** included in article 1 of Law 4285/2014, which replaced the article 1 par. 5 of Law 927/1979 and provides that "If the offence referred to in the previous paragraphs was committed by a public official or civil servant during the performance of official duties assigned thereto, a) a sentence of imprisonment for a period of six (6) months to three (3) years and a fine of ten to twenty five thousand euro (€10.000-25.000) shall be imposed in the instances of paragraphs 1 and 2, and b) a sentence of imprisonment for a period no less than one (1) year and a fine of twenty five to fifty thousand euro (€25.000-50.000) shall be imposed in the instance of paragraph 3".

Par. 31

Regarding the recommendation, we would like to note that under the Greek legal order it is not possible to assign these tasks to the Ombudsman.

Pursuant to the Ombudsman's founding law (Law 2477/1997), the mission of the Ombudsman is not to take any of the litigants' side but to settle a case which has arisen, acting as mediator. The independence of this body (it is an independent administrative authority) guarantees its correct function, while at the same time it cannot substitute any person's right to handle his/her case. If a person who has suffered legal damages does not have the financial means to defend his/her rights before a court of justice, he/she is entitled to ask for legal aid.

Par. 34

There is no evidence substantiating allegations of ''borderline incidents'' against citizens of countries considered to be responsible for the economic crisis.

Para 39

The part of the footnote number 18 which refers to the stance of the Greek Orthodox Church towards the new antiracist law should be included in the text of the paragraph 39 with the additional clarification that the Holy Synod of the Orthodox Church of Greece praised it unanimously.

Par. 41-45

Concerning paragraphs 41-45 of the Report, we would like to stress that, in order to avoid misinterpretations creating false impressions, statements of politicians and other public figures should not be taken out of their context. In this framework, the Report should have included a mention to the repeated, unequivocal condemnation of any manifestation of racism, by the entirety of the political leadership of Greece, as well by almost all the political parties. In this spirit, selective reference to alleged comments by individual politicians does not contribute to an objective assessment.

Concerning the Church of Greece, it is noted, first of all, that it is not a state organization. Nevertheless, it is underlined that the same stance of condemnation of any manifestation of racism has also been adopted by the Church of Greece. During the meeting of its Standing Holy Synod of the Orthodox Church of Greece recently (26 August 2014) it praised the newly adopted anti-racism Law as an effort to promote the social peace and the respect for the rights of all. At the same time it recalled its charitable mission, benefitting, among others, the migrants who live in Greece, and stressed that tolerance as an attitude towards the others is not enough, but practical interest and love should be also displayed.

With regard to the recommendation that 'all political parties take a firm stand against racist discourse and instruct their representatives to refrain from making derogatory comments targeting a group of persons on grounds of their "race", religion, nationality, language or ethnic origin', we would like to note that all political parties and their members in Greece have the obligation, without any exception, to respect the human rights as protected in the Greek Constitution and the International Conventions ratified by our country.

Par. 57

The recommendation on making a public declaration condemning homo-trans-phobic hate speech is vague and irrelevant. It is noted that Greece has taken considerable steps towards creating an effective framework to fight racism, both in terms of legislation (see point on Law 4285/2014) and institutions.

Par. 60

We would like to note the following in relation to the first phrase "The Greek authorities do not compile full statistics about the extent of racist violence". Although the statistics in this field remain a challenging task for Greece, data are in fact compiled as per request and for purposes of International Organizations' evaluation reports or questionnaires.

Within the next two years, with the planning of our new system of gathering statistical data and more specifically with the Integrated Court Case Management System- ICCMS, which is part of the Action Plan on the e-justice initiative of the Hellenic Ministry of Justice, Transparency and Human Rights, we expect to create- in the penal law- a consistent and reliable system of categorization of all criminal acts, including those of racist violence at least in the big Greek cities, which account for almost 60% of total cases.

A Working Group has been set up in the Hellenic Ministry of Justice, Transparency and Human Rights on the coordination of national actions in the framework of the works of the European Union (E.U.) Council Working Group on e-justice (e-law/e-justice). This Working Group is monitoring the progress of the ICCMS, among other things.

Par. 68-69

By circular order of the Chief of the Hellenic Police (No. 6004/1/128 dated 24.10.2012) instructions were given to the Directorate of Internal Affairs/Hellenic Police Headquarters, to handle, as a matter of absolute priority, complaints about alleged ill-treatment of aliens, by police officers during the exercise of their duties and taking place in any case, especially complaints by aliens about incidents of racist violence. Specifically, the abovementioned Service is called to investigate, immediately, by virtue of art. 1, par. 2, chapter a' of L. 2713/1999, the crimes committed by or in which police officers of all ranks, border guards and special guards participate. These crimes are also defined in the provisions of articles 137A-137D of the Criminal Code.

Furthermore, based on the circular No. 1/2010 (ref. No. 1165/23.3.2010) of the Supreme Court Public Prosecutor, in cases of complaints filed by detainees of Police Services concerning ill-treatment within the framework of preliminary investigation or arrest, the competent Public Prosecutor should be immediately informed and the complaints shall be not investigated by policemen of the same Service, as well as by the public prosecutor and the judicial authorities.

In addition to the criminal control for possible violations of human rights, police officers are subject to continuous administrative control, which is ensured by the especially strict disciplinary law, under which disciplinary offences are punished as soon as possible. Within this framework it was established by orders of the Headquarters the Officers' obligation to investigate any racist motive during the disciplinary investigation of cases concerning unethical behavior of police officers against persons who belong to vulnerable ethnic,

religious or social groups or are foreign citizens. In this case, it is mentioned in the findings of the administrative inquiries whether the existence of a racist motive in the behavior of the policemen under control has been investigated.

Furthermore, the investigation of a possible racist motivation is an obligation, which arises from circular order No. 7100/4/3 dated 24-5-2006 of the Hellenic Police Headquarters, in order to handle racism, xenophobia and intolerance during police action. Under the said circular order, police officers are bound to investigate the existence of a racist motive, whether as independent motive or as individual motive in case of existence of multiple motives in a crime, and especially when the alleged offenders admit so, or the injured parties and the witnesses of a crime claim so, or there are indications based on evidence accepted by the Code of Criminal Procedure or the alleged offenders or victims of the crime belong to different racial, religious and social group.

Furthermore, a manual entitled "Guide of Conduct of the Hellenic Police towards religious and vulnerable social groups" was issued and distributed to all the police personnel, which sets forth in a concise way the more specific categories of vulnerable groups and gives clear instructions to police officers regarding the treatment of such persons.

It is pointed out that the printed information bulletins on the rights of detainees include information on the possibility to file a written complaint about bad conditions of detention, ill-treatment, abuse or other breaches of their rights, according to a Model established especially to that purpose (Information Bulleting type "D-34"). Such models were translated into 16 languages. After their final standardization the said bulletins were sent to all the Services of the Greek Police, upon circular order No. 7100/24/3-e' dated 12-10-2010 of the Hellenic Police Commander.

Regarding the incident that took place in Chios, on 10th-10-2012, the inquiry conducted concluded that there was no involvement of police officers but that of a port police officer. Consequently, the investigation lies in the competence of the competent Port Authority.

Par. 70 - 71

It is true that the operation of the Office for arbitrary incidents has not become possible so far because of problems regarding the staff recruitment.

Nevertheless, we would like to point out that Law 4249/2014 aims at overcoming such difficulties, by expanding membership of the relevant committee within the Office to include lawyers who are members of a Greek Bar Association. The same Law also foresees the participation, without the right to vote, of a representative of the Greek Ombudsman. Besides, Law 4249/2014 widens the scope of the Office, which now covers allegations of illegal conduct on the grounds of racism or other forms of discriminatory treatment on the grounds of racial or ethnic origin, religious or other beliefs, disability, age, sexual orientation or gender identity and, more generally, any offending conduct against persons living in Greece.

Par. 72

On the occasion of publications and complaints concerning the participation of police officers in punishable offences related to the "Golden Dawn", the Hellenic Police Headquarters conducted a relevant inquiry and in cases where disciplinary or/and criminal liabilities ensued for the Hellenic Police Personnel, the procedures foreseen by the disciplinary or/and the criminal law respectively were followed.

Par. 73

The phrase "these remained largely insufficient to address the problem of racist violence", in the beginning of the paragraph, is largely unsubstantiated.

Par. 74

Concerning "the creation of a Task Force to develop a comprehensive national strategy to combat racism and intolerance", it is noted that the authorities responsible for putting in place the Human Rights National Action Plan, promoting the cooperation among national and regional services and consulting with the National Commission for Human Rights and other national or International Organizations are already in place, having exactly the mission recommended by the ECRI. We fear that a new Task Force could lead to duplication of efforts and confusion.

Par. 84

Regarding the protection of migrants in a vulnerable situation, such as victims of racist violence, according to the recent Joint Ministerial Decision (30651/2014) that has specified the issuance of residence permits for humanitarian reasons, third country nationals granted with a residence permit for humanitarian reasons, subject to the provisions and the criteria of the joint Ministerial Decisions for uninsured persons (official Gazette B' 1747/2006 and B' 1453/2014), will be entitled to free of charge medical services and health care.

Par. 86

The Report mentions various data, such as the main countries from which migrants in Greece originate, without however making a reference to their source. Furthermore, there are certain assumptions on the socio-economic situation and integration of migrants in Greece without however an adequate justification and without being based on relevant research or statistical data.

Par. 87

Concerning the statement that "no specific results are yet known" about the National Strategy for the Integration of Third Country Nationals (TCN), we should remark that in the context of this National Strategy and in order to achieve its goals, the Social Integration Division of the Greek Ministry of Interior, as Responsible Authority for the European Integration Fund (EIF) 2007-2013, has implemented, in collaboration with public and private stakeholders in the integration process as well as in collaboration with civil society organizations, a series of actions promoting the smooth integration of third country nationals in the Greek society. All actions in the context of the Greek EIF and their results are published in the Fund's website. Specifically, from the Annual Programmes of EIF that have been implemented so far, overall 944,554 people (locals and migrants) have benefited through actions in the following fields: Pre-departure measures; Information Services to TCNs and raising awareness of local society; Education and training; Health; Culture – Sports; Research:; Networking and cooperation at local and European level.

Point 88

It is noted that the "Migration and Integration Code" (4251/2014) has been adopted and entered into force on 1st June 2014 (see art.148) and not on 1st April 2014.

In addition the phrase "Although it does not include… - as was initially envisaged" should be replaced by the following "According to a new joint ministerial decision (no 51738/2014, B' 2947) of November 2014, which determines the number of work stamps required to renew residence permits, the current number of work stamps has been reduced". It is here worth mentioning, as provided by the new Ministerial Decision, that third country nationals, insured at the Social Security Institute, should be insured for minimum 50 working days per year."

Further the last sentence of the same phrase "… it contains some transitional provisions." could be accordingly modified as following: "The Code contains also some transitional provisions".

Par. 89

First of all, it is noted that the official translation is “Migrants Integration Councils” and not “local integration councils”. The Migrant Integration Councils are set up by a Decision of the Municipal Councils. After the local government elections of May 2014 resulting in new local authorities, the setting up of new Municipal Councils started in September 2014. At the moment, the number of the Migrant Integration Councils that will be set up by the new authorities cannot yet be known. Indeed, during the past four years 219 Migrant Integration Councils were set up, while a considerably smaller number of them operated. In order to support their operation, the Division of Social Integration, as Responsible Authority of the EIF Greece, has so far implemented two (2) actions for the technical support of Migrant Integration Councils and one training programme for their members. The Division intends to continue supporting the Migrant Integration Councils’ operation through new actions in the next programmatic period 2014-2020.

Par. 94-95

The Greek Government has already adopted a Law for the operation of a mosque in Athens while the only condition laid down for granting license to other places of prayer is that they are safe for the gathering of the worshipers, in accordance with applicable laws (on fire safety issues, etc.). Specifically, the joint circular, issued in May 2014, clarifies and provides guidance on the implementation of the legislation on the granting of a permit to establish and operate places of worship of religious communities other than the Orthodox Church. The said circular, while fully respecting the right of persons belonging to a religious community to practice freely and without any impediment their religion, aims at ensuring through appropriate regulations both the safety and protection of those gathering in the place of worship and the safety and quality of life of those living nearby, thus safeguarding and promoting social peace and mutual understanding.

Moreover, it is to be noted that the Council of State (Supreme Administrative Court), referring to the Constitution and to relevant international human rights treaties, found recently that the legislative framework providing for the funding by the State of the construction of the mosque does not violate the principles of equality and freedom of expression of religious beliefs, but instead it allows persons of Muslim religion to practice their religion in accordance with the general public interest”.

As a result, administrative procedures are progressing normally and in accordance with the normal pace of executing public works. Any attempt to bypass ordinary administrative procedures might create legal problems, which would entail additional delays. The Mosque of Athens is being built from public funds and therefore is a public project.

Par. 98-114

The Integrated Action Plan for the social integration of the Greek Roma (2002-2008) was based on two priority axes, with emphasis on accommodation infrastructures and services. The Integrated Action Plan aimed at the implementation of a national policy through interventions and actions that contributed to reducing social inequalities. The Ministry of Interior was responsible for implementing the Infrastructures axe through works and actions in the area of improvement of living conditions for the Greek Roma. Within this context, Local authorities were funded for the construction of houses and basic infrastructure works,

prefabricated houses, the construction of water supply and drainage networks, road construction, lighting, establishing of social infrastructure for renewal and redevelopment projects, playgrounds, purchase of land etc. The infrastructures were financed by the national resources of the Public Investment Program. The approved budget amounts to 120 million €. So far works of 94 million € have been integrated into the budget and the amount of 62 million € has been paid. This work is in the phase of repayment of obligations from the previous financial years.

A housing loans scheme for Greek Roma (2002-2009) living in shacks or any other construction that did not meet minimum requirements of permanent habitation. The program provided for 9.000 loans, amounting to 60.000€ each, which were guaranteed by the State budget, while favorable payment terms were applied for loans provided for main residence purposes. According to our records, 7.854 applications were approved while 6.625 loans have been already concluded. The disbursement is effectuated by banks, while the beneficiaries choose the place or residence themselves. The loans have been granted on the basis of social criteria taking into account the living conditions of that group, with special emphasis on large families with minor children, people in widowhood, disabled, or families with low income. The program has been completed in accordance with article 38 of law 4075/2012.

Although the objectives of the Integrated Action Plan were clear, problems have arisen in the implementation procedures. In particular, many municipalities have seen improvements in housing and housing conditions. However, at operational level a single management centre was lacking; the final beneficiaries (local authorities) were not adequately prepared and a vertical (thematic) approach was opted for instead of a horizontal one. Finally, in many cases, obstacles in Plan's implementation were also due to the local society (social exclusion of Roma) and due to problems related to civil registration process (lack of civil status registration of Roma, lack of documents etc).

The above mentioned deficiencies were highlighted in the **"Assessment of actions integrated in the National Integrated Plan as well as other actions related to the Roma"** within the context of the project "Elaboration of a study on the current situation of Roma in Greece, assessment of activities and elaboration of an action plan for the 4th planning period" implemented by the ESF Actions Coordination and Monitoring Authority. The Integrated Action Plan results assessment became the basis for further consultation, which has been taken into account during the planning of the National Strategy for the Social Integration of Roma 2012-2020.

In relation to the loan mechanism, it should be stressed that it managed to offer visible results for the Roma population; however, it has not been possible to address all cases.

It should be noted that we consider it important to reiterate that Greek Roma are covered by the framework of human and civil rights as the rest of the Greek population does. This includes **access to education**, which practically entails that the leading legal documents on access to education make no particular mention on Roma children. Nevertheless, the Ministry of Education will continue to apply the additional proactive measures and special programs considering the particular needs of the Romani population and the prejudice or exclusion that Roma children might face during their schooling. Further to the abovementioned, an important development took place recently by which, in full compliance with the judgments of the European Court of Human Rights, a Circular was issued by the Ministry of Education in May 2014 by which the closure of the 12th Primary School in Aspropyrgos was decided. Roma children who attended the said school may now attend other schools in the area of Aspropyrgos. Moreover, in the Circular issued in June 2014 with regard to the educational planning of the school year 2014-2015 the importance of the unobstructed access of Roma children to schools was once again stressed. All Heads of School Units were reminded of their obligation to enroll Roma pupils in Primary Schools and were called upon to provide support in any possible way so that Roma students are included in the education process. In the abovementioned Circular it is made clear that schools also ought to cooperate with those

involved in the implementation of the program “Education of Roma children”, so that interventions in Roma education have an effective outcome.

Par. 115-126

With reference to the Muslim minority in Thrace **(paras. 115-126)**, the geographic area where the members of the minority inhabit is the regional administration of Eastern Macedonia and Thrace. Therefore, the description “Western Thrace” is inaccurate.

Regarding stateless Muslims in Thrace, there are a few pending applications for Greek citizenship. Actually, there are only five (5) cases of stateless Muslims, who are supplied with a special type of residence permit (Stateless Person ID Card). These persons have not applied for Greek citizenship.

With regard to the role of the Ministry of Foreign Affairs in connection with the Muslim minority, it is to be noted that every single Ministry of the Greek Government and local administration act according to their competences in this area, as in any other part of Greece. The mission of the Regional Bureau of the Ministry of Foreign Affairs is limited to monitoring compliance with Greece’s international obligations.

In a recent development, the Greek Parliament, on 27 November 2014, passed a law which establishes a new academic unit for Teachers of the Minority Program in the Democritus University of Thrace (Alexandroupolis) which gives the opportunity to its graduates to be specialized in minority education and be allocated to the minority schools upon examination – aiming at further improving the standards of the minority education, thus satisfying a long standing request of the minority.

Par. 142 and 143

By law, in August 2014, a Committee for the Planning and Coordination of Action on Sexual Education for the students in Secondary Education was composed, which is expected to contribute positively with regard to raising students’ awareness of LGBT issues. In the Circular of June 2014 mentioned above, schools are urged to include in their work for the school year 2014-2015 actions for the prevention of school violence and bullying, in collaboration with school counselors and with the Coordinators for Actions for the Prevention of school violence and bullying in their region.

Par. 146 and 147

Regarding the incident of adducing of transsexual persons in 2013, in Thessaloniki, and arrest of their counsel, upon complaint lodged by the counsel, a Sworn Administrative Inquiry has been conducted by the Administrative Inquiries Sub-directorate of the General Police Directorate of Thessaloniki and by decision of the Director it was filed, as no reprehensible behaviour on the part of the arrested policemen was substantiated while, until today, as regards the filed complaint, the launching or not of a criminal prosecution against the policeman concerned has not been notified to the competent Directorate of the Hellenic Police Headquarters.