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NATIONAL COMMISSION FOR HUMAN RIGHTS

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Summary in English

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GREEK NATIONAL COMMISSION FOR HUMAN RIGHTS

REPORT 2005: SUMMARY IN ENGLISH

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INTRODUCTION

By the GNCHR President

Professor Emerita Alice Yotopoulos-Marangopoulos

REVIEW OF THE STATE OF HUMAN RIGHTS IN 2005

PART A

International developments of Human Rights and their impact on Greece

I
A look at recent international developments

According to the Greek National Commission for Human Rights (GNCHR) statutory law, the President is under the obligation to report on the general state of Human Rights (HR), a duty I perform in the form of an introduction to GNCHR's Annual Report.

During the years of my Presidency, since GNCHR's establishment in 2000, I start my Introduction with a general overview of the most important issues in relation to HR on the international and regional level and then continue with a report on last year's developments in Greece.

This comparative review all the more confirms the impact of international events on the country's general development, particularly on HR-related matters. It is natural that our country's participation in international and regional intergovernmental organizations, the cooperation between international and regional NGOs as well as the increasingly frequent communication among nations and peoples, rapidly increase state interaction and the influence of the Earth's Mighty on international intergovernmental organizations and states, particularly the smaller and poorer ones.

As we shall see, last year was worse than the previous one for HR and world peace.

Terrorism and anti-terrorism continued to constitute a reason for peoples' misery and suffering.

The pre-emptive and falsely justified war against Iraq continued in a second phase, taking the form of a civil war between the conqueror's

collaborators and Iraqis opposing any form of cooperation with them. Death and misery are the order of the day in this unfortunate country.

Moreover, war threats directed against other countries (Syria and Iran, as we had foreseen in GNCHR's last year's report[1]) are on the rise. However, Muslims and immigrants, scorned or marginalized by Earth's rulers, plan and perform their attacks according to their own capacity – without the luxury of modern and abundant arms – and on the basis of their own perception of religion, life and death: with angry feelings for inferior treatment and a sense of need for unified action, for which we are responsible.

In this framework of mutually destructive strife, London suffered a triple attack by Al Qaeda on July 7, 2005, with France following suit (end of October – beginning of November 2005) with assaults, mainly arson, launched in its interior, by immigrants settled in slums.

Moreover, carefully worked-out plans against international organizations, mainly by the Mighty of the Earth, aim at the formers' weakening, particularly of the UN, mainly through the abolition or shrinkage of its important institutions, as well as the obstruction of the General Assembly's decision-making process.

As concerns the European Union (EU), formerly the hope of European nations, it is heading from bad to worse. Not only does it not pursue an independent and democratic policy, but it also exerts pressure on member states – especially during the British Presidency, following the bombing of July 7^{th,} 2005 – to accept rules (Directives etc.) abolishing HR.

The EU's latest handling of the Cyprus case and Turkey's accession constitute not only a violation of rules related to the "acquis communautaire" but also an insult to its dignity and status through the insolent treatment to which she is subjected by a clearly non-European country, recognized by an international court as a grave HR violator, which Europeans have, nonetheless, decided to accept in their ranks despite its contempt for EU principles.

And something completely unexpected: The Council of Europe, the Parliamentary Assembly to be exact, seems to slavishly follow HR violators and organizers of divisions between races, religions and political beliefs on a national and international level in order to achieve the "divide and rule"

[1] GNCHR Report 2004, Introduction, p. 26.

principle, and to turn peoples' attention away from the actual abolition of their fundamental rights, which is the practice of the Mighty of the Earth, towards passions and divisions of the past.

We shall now consider in more detail what has been stated above in connection with its impact on Greece.

II
Impact on Greece

1. For some years now, Greece, a fundamentally democratic country, has been negatively influenced not only by the general international environment but also by regulations or practices it explicitly incorporates, or tolerates, in its legal system. This was expected, mainly because of the country's membership in international and regional intergovernmental organizations and the pressure exerted by the Mighty of the Earth.

Let us start with the UN.

Following the shutdown of the UN's Information Centers in most countries (Greece, among others) two years ago, 2005 proved to be the year of concerted efforts to dismantle of the historic and most important Human Rights Commission of the same organization. It was also the year of the Commission's replacement by a small-numbered Council, modeled on the UN Security Council, and consequently with weakened support by NGOs and National HR Commissions.

This was basically an attempt at shutting the weak peoples' annoying mouths, mostly the Third World's nations denouncing violations of their rights mainly by the Mighty of the Earth. That is why the latter were the main instigators of the change. The proposal was discussed both at an ad hoc meeting and at the UN General Assembly annual session (2005), following a proposal by the Secretary General and the UN High Commissioner for Human Rights.

The reaction of Greek NGOs, on the initiative of the Marangopoulos Foundation for Human Rights (MFHR), a GNCHR member, was very strong. Not only did it send a memorandum to the UN, signed by 131 influential organizations[2], but it also participated, through its representatives, at the New York and subsequently the Geneva talks[3].

[2] Headed by the General Confederation of Labour, the Supreme Administration of Unions of Civil Servants, Bar Associations, etc.

[3] Mr. Kofi Annan responded to the Marangopoulos Foundation, justifying his proposal with arguments already refuted by the Greek Resolution and by the representations of other countries' organizations.

GNCHR itself also issued a special resolution, published in the present volume[4].

Because of the states' and the civil society's ensuing reaction, the replacement plan of the multi-membered Commission by the new Council, with fewer members, was not adopted and was referred for further elaboration.

Lately, things have changed. The proposed new UN plan for a HR Council provides for a larger membership compared to the original one (47 members instead of the previous 15, the old Commission comprising 53 members), proposes Geneva as its headquarters and is in favor, among many other improvements, of the NGOs' and National HR Commissions' participation, in other words, the civil society.

The main opponent of the improved plan for a HR Council is the United States! Although the new body proposed by Mr. Kofi Annan still bears the name "HR Council", it is incontestably closer to the old "HR Commission". The changes introduced by Mr. Annan came as an unavoidable consequence of strong reactions.

The US considers the substitution of the Commission non-beneficial, as the new body does not offer safeguards for its (US's) essentially control-free policy.

Finally, on March 15th, 2006, the world countries voted in favor of the new HR Council, with the US, Israel, the Marshall Islands and Palau voting against.

In general, the UN 2005 General Assembly proved to be a disappointment for HR. The principal issues relating to HR, concerning all member states, were unfavorably received by the Mighty of the Earth, more particularly the US, whose representative, Mr. Bolton, submitted more than 700 proposals-amendments and it is well known that the G. Assembly reaches its decisions unanimously in most cases.

Thus, the following crucial HR problems of the world's societies were not given satisfactory solutions during their discussion at the 60th G. Assembly:

[4] See Part G, No. 1, of the present volume.

a) Proliferation of weapons of mass destruction: The Disarmament Commission, operating within the framework of the General Assembly, referred the above issue, after several years of postponement, to its 2006 proceedings. Not even the matters of nuclear disarmament and non-proliferation of weapons of mass destruction have reached a consensus, with the US heading the reaction. Still, the Mighty of the Earth, the US among them, argue that the development of nuclear weaponry by small states constitutes a "casus belli", although the former are the possessors and, so far, sole users of these weapons in Japan and recently in Iraq (in the 1991 Gulf War and the more recent one) and the former Yugoslavia, particularly Kosovo (munitions containing depleted uranium). Neighboring Greece[5] is and will not be in a position to avoid the negative effects of a lengthy radioactive radiation resulting from the use of these weapons.

b) The Peace-building Commission. Following various reactions, it was decided that a Peace-building Commission be established to facilitate the countries' transition from war to peace, though not their non-transition from peace to war. It will be dominated by members representing powerful states, contributing to the transformation of the Commission's work into a massive economic enterprise, namely the reconstruction of the countries previously turned by war to rubble and dirt.

It was also decided that a permanent "Relief Fund" be set up in order to provide, within 3-4 days, immediate economic assistance to countries hurt by "natural disasters". It remains to be seen what sums the rich and powerful countries[6] will accept to pay, if indeed they ever do, given that they are responsible, as the atmosphere's main polluters, for most of the extreme climate changes affecting all of us, and refuse to bring their pollutant-levels below obligatory international regulation providing for limit-levels and establishing relevant controls, as well as sanctions.

c) Reform of the Security Council. The General Assembly pledged to continue its 10-year effort to render the 15-member Security Council broader and more representative of the UN's member states, as well as of the contemporary geopolitical reality. And less unequal than it is today, given the distinction between permanent and non-permanent members or

[5] It is noted that radiation transmitted by depleted uranium lasts for over four and a half billion years, following successive mutations!

[6] These are, indeed, the less consistent in regard to their payment obligations to the United Nations Capital Development Fund (part of the United Nations Development Programme).

between those having the right to veto and those who do not. In any case, this effort bore no results.

d) The objective of drawing up and adopting a Treaty on terrorism, including a universally acceptable definition of terrorism, proved unattainable. The negotiations related to the treaty's creation and signing were referred to the next General Assembly. Meanwhile, the ad hoc committee on terrorism (a subsidiary body of the 6th Committee [Legal] of the General Assembly) was called to elaborate on the text of the above treaty.

In reality, a profound disagreement exists regarding the concept of terrorism. The powerful violators of peoples' freedoms consider liberation struggles to be terrorist acts (e.g., the British in Cyprus hanged the heroic youngsters, students in their majority, struggling for their country's liberation). This inability to reach an international agreement has led, as we shall see, to "anti-terrorist" regulations on EU's part, which violate HR of people residing in its member states.

e) The environment. Issues related to a substantial and binding environmental protection met with great reactions on the part of the world's greatest polluters, despite the unprecedented disasters affecting our planet lately. The Kyoto Protocol, providing for maximum limits for pollutants and relevant controls, has met with its greatest reaction on the part of the US (which alone produces more than 36% of the world's pollutants), although the country encountered most of the severest weather disasters in the past year (mainly continuous hurricanes of an extraordinary intensity).

Greece, also a polluting country, has suffered extreme weather conditions, mainly cataclysmic rains and snowfalls occurring unusually often. It has, however, ratified the Kyoto Protocol (2002) and the Aarhus Convention (2005)[7].

f) Arms trafficking. This important issue, related to violent criminality's global proliferation, was again referred to the General Assembly in 2005. The result was its postponement for 2006, when the proceedings of the Disarmament Commission, operating within the General Assembly's framework, will start anew. Profit, as can be seen, is put foremost.

[7] Greece has been the subject of a number of convictions for polluting the atmosphere, especially with respect to the operation of Public Power Corporation (D.E.I.).

g) Promotion of the Millennium Development Goals. No progress was achieved towards an essential promotion of the Millennium Development Goals concerning the elimination of poverty, the universal establishment of primary education, the effective realization of equality between sexes, the decrease of child mortality, the improvement of mothers' health, the struggle against HIV/AIDS and other diseases, environmental sustainability and the coordinated global effort for development (under a more humanitarian and equitable form).

h) Apart from the General Assembly, among the series of painful facts concerning the UN, we would like to refer to the shrinking effort of the Organization itself. Indeed, following the painful events that took place two years ago consisting in the shutdown of most of the UN's Information Centres in various countries – despite numerous protests – the shrinking of the offices of the UN High Commissioner for Refugees (UNHCR) is now also under discussion. And this, regardless of the fact that in view of the international situation and wars, the number of refugees and internally displaced persons is increasing the world over. In any case, funding of UNHCR's European offices is constantly reduced, while it is expected that UN grants for European Councils for Refugees will be terminated by 2007. In Greece, the Greek Council for Refugees' relevant expenses are mostly covered by the Greek Public Sector.

2. The European Union's attitude leads to serious violations and increasing dangers for HR, particularly for Europeans' HR. The manner in which the terrible terrorist attack against London (July 7, 2005) was handled causing fear and grief among the people of Great Britain proved tragically harmful to all of us.

Unfortunately, Great Britain did not realize that the main reason behind the attack was the form and extent of its anti-terrorist policy. Since 2001, it has directed its policy - in concert with North American policy – against HR within its territory, with laws infringing upon such important HR as habeas corpus, fair trial and the prohibition of torture. Abroad, it has reached the point of waging "pre-emptive anti-terrorist wars" justified by reasons they themselves confessed to be false (the war against Iraq). Moreover, they generated a frightful racial hatred between Arab-Muslims and Christians, which in our age and time constitutes a violation of the generally recognized principle of prohibition of racial discrimination, an important element of the human right to equality without racial or any other discrimination.

The EU British Presidency, following immediately after the tragic events in London, instead of realizing how false and conducive to the damage its antiterrorist policy has been, considered it wise to intensify it and press for the extension of such policy to Europe. It did not take into account that both the catalytic to HR anti-terrorist legislation since 2001 and the surveillance mechanisms (2.500.000 cameras and additional numerous tools), as well as the experienced Scotland Yard, have not been able to provide effective protection against Al Qaeda's terrorist attacks. Furthermore, almost 15 days after the deadly attacks, and although the surveillance alarm had reached its zenith, three similar attacks would be repeated in London, though at a time and under circumstances preventing casualties. Obviously on purpose, the point being to prove that when the attacker does not even fear for his own life in attaining his goals, no means of protection is capable of preventing him from taking action.

Consequently, the EU British Presidency recommended, quite pressingly, the adoption of new anti-terrorist measures. These should be stricter than the two European framework-decisions concerning the European arrest warrant and anti-terrorist acts incorporated into our legislation by Law 3251/2004. In Greece, at least, they constituted an unnecessary and certainly alarming form of oppression, since the pre-existing Law 2928/2003 was adequate[8]. GNCHR's comments on the Bill concerning the protection of personal data and the protection of privacy in the field of electronic communications, aiming at the incorporation of Directive 2003/58/EC, pointed out a number of dangers regarding the opposite effect of what the Bill's title was suggesting, namely, the abolition or restriction of the protection of privacy already protected by our legal system[9].

Indeed, there existed an adequate protective legal framework, national, regional and international, complemented by laws for their implementation. One should refer, among others, to:

Firstly, our Constitution and particularly Article 19 Par. 1, 2 and 3, combined with Articles 9 and 9a. Reference should be made, secondly, to Article 8 of the ECHR, the CoE Convention 108/1981, EU Directive 97/66/EC and Article 17 of the ICCPR[10].

[8] Law 2928/2003 proved in practice adequate in handling the "November 17" terrorist organization, with no serious HR violations taking place.
[9] See Part G', No. 3 of the present volume.
[10] See, also, Laws 2472/97 and 2774/1999.

In essence, then, the provisions of Directive 2002/58/EC, as incorporated by Law 3251/2004, introduce particularly alarming exceptions to the protection already existing but no additional protective measures[11].

Recently, however, the EU (the European Parliament and the European Council) voted a new Directive 2006/24/EC[12], which goes even further. In other words, it turns the former Directive's exceptions into rules. One is thus left with provisions widely infringing upon citizens' HR, more specifically their privacy, the free and unrestricted communication among all citizens, the development of personality and the freedom of movement and action related thereto. And this, despite multiple reactions[13], official objections and reservations on the part of many countries, including Greece.

In order to offer us some comfort, the new Directive reassures us that the data "stolen", recorded and processed during our private conversations, will solely refer to the identity of the communicating persons, their geographical location, the place where the communicating parties are, the starting and ending time of the communication, without inclusion of the contents of such communication. A fairy tale for very small children. First of all, what is explicitly allowed is already too much. Second, if one does not follow the conversation, how will one know when it was terminated? And then, after one has heard the "stolen" conversations, out of discretion apparently, one will not listen to them and one (the mechanism spying on all citizens) will not record and monitor them!

It is clear that these regulations are in direct conflict with all the abovementioned provisions of our Constitution[14] and the international instruments ratified by Greece.

The paradox is that at the very moment we are witnessing, in essence, the abolition of the protection of privacy and electronic communication, an Independent Authority for the Protection of Electronic Communications has

[11] See GNCHR's Observations on the Bill incorporating Directive 2002/58/EC, Part G', No. 3, of the present volume.

[12] Voted on March 15th, 2006.

[13] See GNCHR's Resolution in Part G', No. 7 of the present volume.

[14] Eventually, only Ireland and Slovakia voted against this new Directive, the latter being in direct conflict not only with their respective Constitutions but also with the provisions of the European Treaty stating that the matter in question be regulated by a Framework-Decision, not a Directive.

been established.[15] My doubts are further justified by the inefficiency of this new Authority regarding the recent case of a mobile telecommunications Company.

Unfortunately, in our time, HR protection is being internationally promoted through various activities or measures, even when the exact opposite is happening.

Finally, who will bear, the excessive costs involved? It is us, ourselves, for being spied upon, since the sums will be paid along with the taxes on the relevant means of communication!

The recent scandal surrounding a major mobile telecommunications Company that shook Greece and to which we have already alluded, raises yet another question: How will it be possible to prevent a repetition of such phenomena, following the adoption of the abovementioned new Directive (2006/24/EC), which mainly legalizes surveillance combined with the already effected infiltration of certain pieces of equipment relevant to the surveillance of communications by well-known, powerful and arbitrary supranational interests?

3. But that was not the end of it. It was recently revealed that, for a long time now, planes chartered by a well known foreign intelligence agency fly unimpeded throughout European skies, arbitrarily arresting people and subsequently transferring them not only to the infamous purgatory of Guantanamo but to its new smaller European branches[16]. Obviously, a most serious fundamental rights violation is taking place: arrests without a judicial warrant, extraditions without proper procedure, illegal interrogations, subjection to torture, etc. In other words, it is a case not only of degrading the human personality, but it also constitutes a blow to the Rule of law and to fundamental rules of its protection and the protection of human beings.

[15] Nonetheless, the position expressed by Resolution 58/2005 of the former Independent Authority for the Protection of Personal Data, prohibiting the use of cameras intended for monitoring the activities of the public, was a right one. In addition, the establishment of the new Authority will most probably give rise to problems of constitutionality and harmonization with Directive 1995/46/EC.

[16] See GNCHR's relevant Resolution, Part G', No. 6 of the present volume.

What is the EU's answer to this? What do European countries do? Are they ready to accept it in full? Or, perhaps, some sort of reaction and substantial protection of HR is being organized, as prescribed by the "acquis communautaire"?

4. We also recently witnessed certain unexpected signs on the part of the Council of Europe, which appear inconsistent and not in compliance with the standing principles that the Council has until now protected. These originate from the Parliamentary Assembly. The first concerned a proposal addressed to the Council of Ministers about an anti-Communist resolution providing for various measures, among them the establishment of one central and national committees to conduct interrogations regarding past Communist crimes. The Greek MEPs from all parties voted with prudence, rejecting the proposal.

Nevertheless, the Parliamentary Assembly approved it by a majority, in an amended form. In other words, it removed the proposal establishing the above-mentioned interrogation committees. Thus, the resurgence of old passions as well as the citizens' concentration to past events, so that they remain absent in the reaction to their HR' present-day violation, was avoided.

What also took us by surprise regarding the Parliamentary Assembly was a resolution on the issue of 1) the situation of the non-Muslim minorities in Turkey, and 2) the difficult situation of the Turkish minority in Thrace[17]. Solely the difference in the formulation of the objects of research bears witness to the goal of Turkish efforts, within the frame of the whole Turkish campaign, to create issues against Greece while not hesitating to simultaneously express Turkey's plans and claims against Greece and Cyprus (always combined with HR violations against both countries).

Currently, Turkey is clearly taking an anti-European stance following the shameless handling on the part of an EU candidate state of the issue of the European Customs Union in conjunction with the non-recognition of the Republic of Cyprus' legal status! The EU's self-humiliation, which no longer rejects Turkey's EU accession without any discussion, is really beyond imagination[18].

[17] See Doc. 10724/13.10.2005 ("situation difficile"), "The plight of the Turkish Muslim Minority in Western Thrace, Greece".

[18] About Turkey's EU accession, see also the Introduction in GNCHR's Report 2004, pp. 28-29.

5. Let us, however, close our review on a happier note. The office of the Council of Europe Commissioner for Human Rights gives a glimpse of hope in Europe's rough seas. The Council's on-the-spot investigations in various member states of the CoE, together with contacts with competent persons bring to light violations of various kinds and degrees and are subsequently recorded in strict and fair reports and in cases of improved situations are usually very fruitful. The end result is enhanced by the promotion of relevant charges raised by NGOs and independent National HR Institutions with which the Commissioner is in good relations.

Control over the adjustment of directives and other measures of the EU to the principles and rules of HR established by International Law and the "acquis communautaire" is no easy task. This task lies within the competence of the European Court for HR in Strasbourg, following an appeal either by the High Commissioner or by an individual able to prove his victimization, according to relevant regulations.

PART B

Recent problems related to Human Rights in Greece

The problems that emerged last year in our country with regard to Human Rights were important both quantitatively and qualitatively. Most of them were due to events and legal measures taken on an international level, as well as to the handling of some international issues that affected our country as well. These issues were presented in Part A', Chapter II of this publication. In this present Part B' we will selectively deal with only a few strictly Greek issues that were addressed by our Commission.

1. Many scandals related to the Orthodox Church came to light, which, as it is well known, constitute only the tip of the iceberg. Those unveiled are also related to the insufficient functioning of the Greek judicial system, the corruption of justice officials.

As concerns the above, luckily, the Minister of Justice seems determined to effectively protect the human right of citizens to a fair trial.

Of course, the corruption of the judicial system is not new. Judges who have broken their oaths have appeared in the past, especially since organized crime has blossomed, offering huge profits to all parties involved.

These profits did not seduce only judges. Corruption has permeated all sectors of public, economic and social life. However, there have been and there are many honest judges, some of them true heroes in the fight against corruption[19]. In the past, however, it was them who took the rap, rather than those crooning with mafia leaders.

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Corruption has become a widely spread evil on a global scale – and we do not know the exact percentages related to the judicial body and other authorities and government services in each country. However, in connection with justice, we should not hide the fact that often the intermediary between the judge and the litigant is the attorney and without greater difficulty the attorneys undertaking mostly cases of renowned mafia enterprises could be unveiled since prisons have records of lawyers visiting their clients. Nevertheless, it would be useful for our country to ratify the European Criminal Law Convention on Corruption, which came into force in 2002 and was signed by Greece as well. It is not possible, however, to achieve a totally purged justice system in a society that is generally corrupt. This would constitute a social paradox.

As concerns the Church, besides the scandals, it is well known that it imposes serious restrictions to religious freedom or that it constantly attempts to enforce them, aided by the State. It also denies us the right of free disposition of our body after death[20] for cremation, as opposed to the standing conditions in other Christian countries and in contrast to what the Church itself postulates with regard to the disposition of our body after death for transplants. Of course, burials (purchase of graves, funerals, etc.), as well as transplants are linked to important economic interests. Fortunately, a new bill was passed recently, not yet published in the Official Gazette, under the title «For the further use of information of the public sector and the regulation of matters pertaining to the jurisdiction of the Ministry of the Interior, Public Administration and Decentralization». The new law includes provisions that alternatively allow cremation for those whose «religious convictions» permit it and on the condition that they have clearly stated their wish themselves before dying or their families, after their death. Religious convictions are a personal matter: one's belief in the sphere of religion. Let us not forget that in our country all atheists, agnostics, etc. have been baptized at a very early age making it impossible for them to reach conscious decisions on their religious choices. Therefore, the fact that a person formally belongs

[19] GNCHR Report 2004, p. 32, footnote 6.

[20] See the analytical presentation of this subject in GNCHR Report 2000, p. 101.

to a certain dogma or a church does not necessarily mean that he or she professes in essence the convictions of such dogma or church.

GNCHR has repeatedly taken a clear stand for the protection of Human Rights and, in particular, the protection of religious freedom[21]. In 2005, it supported the reform of the relations between State and Church, accepting in its totality and with a few modifications the draft law submitted for approval to our Commission by the League of Human Rights, a NGO, and member of GNCHR[22].

We hope that the State will proceed to at least a new regulation of these relations, if not to a complete separation of State and Church. If not anything else, the scandals that the State itself has to face with regard to serious violations of citizens' HR should be enough. Is it logical to be burdened by the scandals of the Church, which constitute further HR violations? Last year, GNCHR suggested, in a special proposal, a new regulation of the relations between State and Church in various fields, which we hope that the competent authorities will study[23]. It takes courage to fight corruption and bring about the changes required by the new socio-economical and political conditions in our country.

More particularly, the Orthodox Church of Greece, which is furthermore characterized by a complete lack of evolution, cannot possibly assume now almost 200 years after the liberation of Greece, the position and the role it had in our social and public life during the Ottoman Occupation and right after that, when Greek political authorities were non-existent. At that time, the orthodox dogma was a national distinctive mark distinguishing us from our conquerors. That is why, any divergence was considered not only «heretic» but also «anti-national». Today, internationally established HR principles protect the right of religious freedom of people of any creed, but also of those supporting atheism and agnosticism. Any regulation that establishes discrimination in favour of any given dogma, its preaching and its followers, constitutes an infringement of the human rights of religious freedom and equality.

2. We will not fail to bring forth another example of regression in Human Right issues in our country, which pertains to our Justice system. It concerns the Decision of the plenary session of the State Council 1986/2005.

[21] GNCHR Report 2000, p. 81 ("ID cards") and p. 101 ("cremation of the dead").
[22] See Part C, No. 9, of the present volume.
[23] Ibid., Part C, No. 12.

The Highest Administrative Court, after paving the way for true equality between men and women in 1998 – and under very adverse constitutional provisions at that time – and becoming a pioneer of reform in 2001 by the provision of article 116, paragraph 2 of the Constitution, is now marking retrogression. By decision N. 1986/2005 of the plenary session of the State Council, the Highest Administrative Court handled the case in which a woman candidate for the post of border guard was not included in the list of appointees because of the limited percentage accorded to women, a maximum of 10%, provided for by the applicable administrative act in this instance. Although the Plenary of the State Council decided in favor of the plaintiff, it adopted a concept, which overlooks the constitutional reform of article 116, paragraph 2 of the 7th Revisional Parliament and literally reinstates the jurisprudence prevailing until 1998. Thus, according to the opinion of the majority of the plenary session of the State Council, by the reform of the Constitution in 2001, the legislator did not totally forbid any divergence from the principle of equality between men and women. The establishment of the divergence was considered legitimate, since it is provided for by a special law provision and from which it can be expressly deduced that such divergence was established on the basis of criteria that allow the courts to control the extent to which said divergence is justifiable, necessary and appropriate for its intended purpose.

This opinion overlooks the removal of the relevant provision on divergences of the old paragraph 2 of article 116, which most evidently – as it can be deduced from its wording and the relevant proposal to the House of Parliament – aimed precisely at the removal of the aforementioned divergences – exceptions. But it also overlooks the historical fact that all prohibitions established by law, obstructing women from exercising a great number of professions – among them that of the member of the State Council – were once deemed justifiable and appropriate[24].

It, therefore, constitutes a transgression of the letter of the legal provision, its historical interpretation and the spirit of the reforming legislator, but also shows an ignorance of the social developments on the issue, since it fails to take into consideration the cancellation of any divergence by the 7th Revisional Parliament, which not only establishes the principle of equality without exceptions, but also provides for much more. Namely, it establishes

[24] I believe it is useful to remind some of these prohibitions: Service of Archaeology, General Chemical State Laboratory, a career in the Judicial or diplomatic Corps, Public notaries, etc. They were not even able to undersign a contract while today they are captains of space satellites and heads of state.

positive measures in favor of women (promotional percentages, etc.) in order to ensure the achievement of true equality. Consequently, any divergence from the principle of equality between men and women contravenes the Constitution[25], since it leaves the door open to the former transgressions of this principle.

The criteria for the appointment to any post, office, profession, etc., which in the past were considered for men or women only, must from now on cover all the qualifications required for the specific post, may they be formal or essential, and must be the same for both genders. The equality between men and women must not allow the exclusion, in violation of their position on the list of successful candidates, of the men and women who fulfill these criteria successfully as proven by the results of a strict and fair contest.

3. Our Commission was concerned with the complex and thorny question of immigrants again in 2005, on the occasion of a new regulatory effort on the issue by the Ministry of the Interior[26] by the adoption of Law 3386/2005.

This law constitutes a true progress if we compare it with the previous conditions, since, as a result of the experience acquired from the application of the former legislation, it introduced innovative reforms, among which we cite the following:

a) Simultaneous issuance of residence and work permit, b) establishment of a policy facilitating the social integration of foreigners and the introduction of the status of long-term residents for immigrants, with certain privileges, c) establishment of more favorable conditions for family reunification, d) special care for victims of human trafficking and e) offering foreigners a third opportunity for acquiring a legal status.

Our Commission stressed[27] that the promotion of the social integration of immigrants is important to the development of our society, when these

[25] See GNCHR Report 2004, p. 231.

[26] See Part D ("Report of the Ministry of the Interior", the first report) and Part C, No. 4 ("Opinions of the GNCHR") of the present volume. We note that some of our remarks coincided with the final regulations adopted by the Minister.

[27] The author of the present also presented her opinions orally before the Standing Committee of the Parliament on issues of Public Administration, Public Order and Justice, where she was called to that end on 6.7.2005.

immigrants, after having spent enough time in our country, prove to be positive members of society and clearly contribute to it. We also supported the possibility for the children of immigrants who were born in Greece or arrived at an early age to acquire the Greek nationality, under the condition that they have successfully completed their studies in secondary education (general or technical education) and show positive social behavior. The problem of low birth rates should not be forgotten.

The unification of residence permit with the work permit is undoubtedly a positive measure, as long as it is not transformed into another demanding bureaucratic procedure when put into practice. It is a fact that immigrants suffer a great deal due to the bureaucratic whims they have to face during the fulfillment of the formalities imposed by the law.

For all other matters, we refer you to the detailed and clearly stated report of the Minister of the Interior and to our own Remarks[28].

4. We have also welcomed the efforts of a new regulatory legislation dealing with the problem of domestic violence, which primarily signifies violence against women and secondly violence against children.

The «Conclusions» of the Committee set up by the General Secretariat of Equality of the Ministry of the Interior, Public Administration and Decentralization, underlined two basic principles. First, that the greatest number of victims of violence are wives or female partners abused by their husbands or male partners. Second, that the existing provisions of the Penal Code on the eradication of such acts are insufficient. Social measures must be taken in favor of women, which will render the provisions of the Penal Code truly applicable and protective for women-victims.

A second Committee, under the supervision of the Ministry of Justice, drew up a draft law, which does not conform to the aforementioned findings/ indications of the Conclusions. While it is imperative that gender be included in the legislation – because the problem is essentially a gender problem, and as such it has been adopted by relevant international regulations and recent national legislation, the draft law has a gender-blind character, like the old provisions of the existing Penal Code which are insufficient. Furthermore, it does not provide for the establishment of new specific social institutions and the adoption of measures which, on the one hand address the issue of the inferior position of women, as it is often witnessed in our days, and on the

[28] See Part D, first report and Part C, No. 12, of the present volume.

other impose to or provide the proper authorities with the ability to assist women efficiently and seriously.

The author of the present urgently wrote and distributed a relevant text to the GNCHR members with the title: "Draft law on domestic violence – Basic observations (for further elaboration)"[29].

I cannot stress enough the fact that it must be understood that the problem has its roots in the strong remains of the concept of the different position and role of men and women, which once dominated society and have not yet completely faded away: the man is the head of the family and charged with the role of bringing wife and children to reason, while the woman is an obedient executor of his decisions and orders and a second-rate member of the family. In other words, the issue constitutes a violent form of infringement of what is today a widely recognised principle and human right, i.e. the protection of the woman's human dignity and the equality between men and women without discrimination. Nevertheless, this infringement is still accompanied in practice, according to international statistics, by the phenomenon that one out of 4 or 5 women is a victim of violence inside her own home. Indeed, in some countries or country areas, it is even all women or one out of two that are the object of such treatment.

For women to resist and defend their dignity, they must have protection against the possible reactions of a violent master, who does not tolerate resistance and addresses it with terrible violence. They must also have the necessary assistance to ensure a shelter and means to support themselves and their children, as well as some form of employment.
The abovementioned invitation and challenge by the undersigning president for further elaboration of the issue was answered by two NGOs members of GNCHR, the Association for Woman's Rights and Amnesty International, each of which submitted two noteworthy texts. The synthesis of these two texts resulted in the Opinion of the GNCHR, which was unanimously adopted[30].

We should not, however, neglect the fact that the draft law in question contains some successful and innovative provisions against domestic child abuse, as well as abuse of one parent by the other in the presence of the child, which are also mentioned in our Opinion.

[29] Ibid., Part C, Remarks – Decision No. 12, 1st annex to said decision.
[30] See Part C, No. 12, of the present volume.

It is also worth mentioning a special brochure published by Police Authorities[31] on this occasion and containing recommendations to law enforcement agents regarding the appropriate conduct in cases of violence against wives-female partners. It examines the issue in the correct manner and within its gender aspect, because it is truly a gender issue, and sets out the correct line of approach and handling of the issue by policemen, which is based on the respect of equality between men and women. The difficulty lies in the assimilation and application of these principles by police organs, as well as citizens in general, for that matter. To this end, the appropriate social measures, which are truly necessary, will be very helpful, as will the systematic teaching of the principles of equality and the monitoring of their application in practice.

5. It is also worth noting the issue of harmonization of family and professional life, an issue that also pertains to family and the relations between men and women. GNCHR examined this issue in a long opinion drawn up on the occasion of the integration of Directive 2003/73/ EC[32] into Greek legislation.

Here, I would like to stress a few basic points.

This serious issue mainly concerns women, who despite international and Greek legal provisions, are in practice deemed to be mainly, if not exclusively, responsible for carrying out family tasks along with the professional ones.

This is also a remnant of old perceptions about the different roles of men and women. It must be understood that a woman has a right to equality in every field of action. In particular, she has the right to develop her personality and talents, exactly as men do; she has the right to be self-sufficient and financially independent through her employment and play the role that is most interesting to her in the social and public life, exactly as men do.

Moreover, research findings show that many women who are victims of violence are unemployed[33]. They are less respected by their husbands

[31] Hellenic Police Headquarters, Administrative Section, Directorate of Organization – Legislation, Facing Domestic Violence, Athens, 2005. It also refers to 2, Decision No. 12, attached to Remarks, of the present volume.

[32] See Part C, No. 10, of the present volume.

[33] This conclusion also resulted from the 30 years of experience of the Advisory Section of the Association for Woman Rights.

because they do not contribute income to the household – even though housework has significant economic value. But it is also a fact that a woman does not have the ability to take her children and leave the house and/or support herself and her children, if she cannot stand on her own two feet by means of her work, which provides her with financial independence, experience of the world and also the self assurance required to take such an action.

It is also a fact that if women quit their jobs, the total family revenue of many Greek households would considerably decrease.

On the other hand, low birth rates are also due to the excessive burden of responsibilities assumed by women in connection with the lack of harmonization between professional occupation and family life.

Thus, the distribution of work between male and female members of the family, the correct selection and reinforcement of measures taken by the Government, local authorities, etc. to assist and take away some of the duties of both members of the couple within the family, is of the utmost importance. This is why the relevant Opinion-Decision of the GNCHR, on the occasion of the incorporation of Directive 2002/73/EC into Greek legislation, is of particular interest[34].

I will not repeat what is mentioned therein. But I believe it is worth mentioning an experience I had in Norway. There I was able to note the initiative of parents to establish nurseries in their neighbourhoods. More specifically, renting an apartment and employing one or more kindergarten teachers, with all relevant expenses shared by the parents whose children attend the nursery school, is a cost-effective and quality solution for many families.

6. We also consider it our duty to note our grave concern for the systematic deforestation of the capital and surrounding areas, an issue which our Commission had addressed last year as well[35].

The ecological committees that contacted us and several articles in the Press about the destruction of the National Garden have led us to return to this issue with greater force. The construction of an underground parking garage outside Aghia Sofia Children's Hospital, during the Olympic Games, has blocked the underground flow of a rich water source [possibly of the Eridanos river] that flowed to the National Garden and provided water to perennial gigantic trees, which bore signs with their scientific names in Latin. These and many other large trees died, while this underground water source that had once been so beneficial was directed to the sewage system!

[34] See Part C, No. 10, of the present volume.
[35] GNCHR Report 2004, pp. 101-103.

There is a dire need for the underground water supply to the only significant forest lung in Athens to be restored.

Our correspondence with the new public legal entity "Municipality of Athens- National Garden» is published hereunder[36].

We expect to see what actions are taken before we take the matter any further.

7. GNCHR was also concerned with the serious problem of trafficking in human beings, and especially of women and children, that has become so widespread due to the prevailing concept that everything is financially exploitable and, moreover, in the particularly dangerous form of international organized crime, which uses for its commission and the evasion of the culprits literally devilish means provided by contemporary technology. The Commission has therefore unanimously decided to propose to the Greek State the ratification of two international conventions that are truly important for the effective protection, especially of the socially weakest categories of women and children, against various forms of exploitation on a European or international level[37].

The first one is the Council of Europe Convention on action against trafficking in human beings of 2005 (ETS no. 197), the adoption of which was the crown of the concerted efforts made by this organization since 1980 for the eradication of this horrible phenomenon.

The second one is the Additional Protocol to the UN Convention on Children's Rights with regard to the sale of children, child prostitution and child pornography (25.5.2000). This contains provisions complementing the Convention on Children's Rights and particularly the right to protection against economic exploitation and the submission of children to any labour in general that is detrimental to the child's health and/or physical, mental, moral or social development. With regard to the latter issue, Greece has already ratified ILO Convention 182 against the worst forms of child labour (2001).

[36] See Part 2, No. 3, of the present volume.
[37] Ibid., Part C, No. 13.

GNCHR considers that despite the existing relevant Greek legislation[38], Greece's immediate ratification of these two international instruments will contribute to the containment of further propagation of such crimes in our country, especially those committed in cooperation with other criminal gangs on an international level. We note that the fight against these crimes will be effectively broadened through measures complemented by rules of prevention, control and assistance to victims.

8. I believe I must not remain silent before the sad acts of violence suffered by a member of our Committee, Mr. Christos Polyzogopoulos, President of GSEE (General Confederation of Workers in Greece). These acts caused surprise and concern to the Greek public both because of the manner in which two fundamental human rights of the sufferer were violated, the right to safety and the right to physical integrity, but also because of the location where the assault took place. The incident also raises more general questions about the establishment and operation of Police bodies specialized in dealing with these situations, which, when the incident occurred, did not do anything, although they were close by. And the incident involved the head representative of all Greek employees…

And a small epilogue of the Prologue

In the past year, as well as in all 5 previous years of GNCHR's operation – during the first 3 of which it was roofless and found a home in Marangopoulos Foundation for Human Rights, and, later even in the Ministry of Foreign Affairs, and without having secretarial support – our Commission did a lot of work with a zeal that is inversely proportional to the fee of its members, and more than once under great time pressure, because the relevant question or draft law, etc. was forwarded to us by the competent authorities at the very last moment.

[38] In Greece human trafficking is mainly regulated by L. 3064/2002 on «the fight against trafficking in human beings (inclusive of persons under age or foreigners), the crimes against sexual freedom, pornography of persons under age and in general the economic exploitation of sexual life. PD 233/2003, on the protection of assistance to victims of human trafficking complements the law. GNCHR had submitted its critique with the remarks about this law; see GNCHR Report 2002, p. 95.

Since the very beginning, our Commission set out a course of action to substantially protect and fight for Human Rights on a national and international level. This is why since the second year of its operation it was elected member of the four-member European Coordinating Committee of National Human Rights Institutions (Commissions or Ombudsmen). Many of its opinions and resolutions were innovative and subsequent developments vindicated them.

Basically its position was and is truly independent from any government or political party positions, as imposed by the relevant UN principles (Paris Principles). This is also due to the legal provision for the appointment of its members originating from various bodies representing a wide socio-political spectrum, as well as to the election of the presiding board (consisting of the President and two Vice Presidents) by vote of its members (except for the representatives of seven Ministries who do not have the right to vote in general). Moreover, if it did not have such independence in its organization and the positions it has adopted, it would betray its founding purpose and its reason to exist.

I warmly thank all GNCHR members for their most willing and substantial contribution to the Commission's important work. We also had a very fruitful and pleasant cooperation with the Ministries that participate in our Commission, and for that reason I thank their representatives.

I would also like to thank our scientific collaborators, and especially our most efficient and indefatigable secretary, Mrs. Katerina Pantou, who is in need of immediate help, as she fulfils on her own the whole task of the secretariat and administrative service.

Athens, 27 March 2006

A. Yotopoulos-Marangopoulos

III. LEGAL FRAMEWORK AND ORGANISATIONAL STRUCTURE OF THE GNCHR

a) Law No. 2667/1998 establishing the GNCHR

LAW No. 2667/1998[39]
(as amended by Law 2790/2000, Law 3051/2002 and Law 3156/2003)
Constitution of a National Commission for Human Rights
and a National Bioethics Commission

THE PRESIDENT OF THE HELLENIC REPUBLIC

We hereby promulgate the following law, which has been voted by Parliament:

SECTION A
National Commission for Human Rights

Article 1
Constitution and mission

1. A National Commission for Human Rights, which shall be subject to the Prime Minister, is hereby constituted.

2. The Commission shall be supported as to its staffing and infrastructure by the General Secretariat of the Council of Ministers, and its budget shall be incorporated into the budget of this service unit.

3. The Commission shall have its own secretariat. The President of the Commission shall be in charge of the secretariat.

4. The Commission shall constitute an advisory organ of the State on matters of the protection of human rights.

5. The Commission shall have as its mission:

(a) The constant monitoring of these issues, the informing of the public, and the advancement of research in this connection;

(b) The exchange of experiences at an international level with similar organs of international organizations, such as the UN, the Council of Europe, the OECD, or of other states;

(c) The formulation of policy proposals on matters concerned with its object.

6. The Commission shall in particular:

(a) examine issues in connection with the protection of human rights put before it by the Government or the Conference of Presidents of Parliament or proposed to it by its members or non-governmental organizations;

(b) submit recommendations and proposals, carry out studies, submit

[39] OJHR A' 281, 18.12.1998

reports and give an opinion on the taking of legislative, administrative and other measures which contribute to the improvement of the protection of human rights;

(c) develop initiatives on the sensitization of public opinion and the mass media on matters of respect for human rights;

(d) undertake initiatives for the cultivation of respect for human rights within the framework of the educational system;

(e) deliver an opinion on reports which the country is to submit to international organizations on related matters;

(f) maintain constant communication and work together with international organizations, similar organs of other countries, and national or international non-governmental organizations;

(g) make its positions known publicly by every appropriate means;

(h) draw up an annual report on the protection of human rights;

(i) organize a Documentation Centre on human rights;

(j) examine the adaptation of Greek legislation to the provisions of international law on the protection of human rights and deliver an opinion in this connection to the competent organs of the State.

Article 2

Composition of the Commission

1. The Commission shall be made up of the following members:

(a) The President of the Special Parliamentary Committee on Institutions and Transparency;

(b) One representative of the General Confederation of Labour of Greece and one representative of the Supreme Administration of Unions of Civil Servants;

(c) Four representatives of non-governmental organizations whose activities cover the field of human rights. The Commission may, without prejudice to Article 9, decide upon its expansion by the participation of two further representatives of other non-governmental organizations (on 06.02.2003 NCHR included in its NGO membership the Greek League for Women's Rights and the Panhellenic Federation of Greek Roma Associations);

(d) Representatives of the political parties recognized in accordance with the Regulations of Parliament. Each party shall appoint one representative;

(e) (deleted by Law 3156/2003);

(f) The Greek Ombudsman;

(g) One member of the Authority for the Protection of Personal Data, proposed by its President;

(h) One member of National Radio and Television Council, proposed by its President;

(i) One member of the National Bioethics Commission, drawn from the sciences of Biology, Genetics, or Medicine, proposed by its President;

(j) Two persons of recognized authority with special knowledge of matters of the protection of human rights, appointed by the Prime Minister;

(k) One representative of the Ministries of the Interior, Public Administration and Decentralization, of Foreign Affairs, of Justice, of Public Order, of Education and Religious Affairs, of Labour and Social Security, and for the Press and Mass Media, appointed by a decision of the competent minister;

(l) Three professors or associate professors of Public Law or Public International Law. At its first meeting after incorporation, the Commission shall draw lots in which the following departments of the country's university-level educational institutions shall take part: (a) the Department of Law of the University of Athens; (b) the Department of Law of the University of Thessaloniki; (c) the Department of Law of the University of Thrace; (d) the Department of Political Science and Public Administration of the University of Athens; (e) the General Department of Law of the Panteion University; (f) the Department of Political Science of the Panteion University. These departments shall propose one professor or associate professor of Public Law or Public International Law each. The departments of the university-level educational institutions shall be under an obligation to appoint their representative within two months from receipt of the Commission's invitation.

It shall be possible by a decision of the Commission for other departments of the country's university-level educational institutions with a similar subject to be added for subsequent drawings of lots. Six (6) months before the expiry of its term of office, the Commission shall draw lots among the above departments for the next term of office;

(m) One member of the Athens Bar Association.

2. An equal number of alternates, appointed in the same way as its full members, shall be provided for the members of the Commission.

3. The members of the Commission and their alternates shall be appointed by a decision of the Prime Minister for a term of office of three (3) years. The term of the members of the Commission who take part in its first composition expires, irrespective of the date of their appointment, on 15 March 2003 (as amended by Law 3051/2002).

4. The Prime Minister shall convene in writing a session of the members of the Commission, with a view to the election of its President and the 1st and 2nd Vice-President. For the election of the Presidents and the Vice-Presidents, the absolute majority of the members of the Commission present who have a vote shall be required. Members drawn from the categories of sub-paras. (a), (b), (e), (j) and (l) of paragraph 1 of the present article may be elected as President and Vice-President (as amended by Law 2790/2000).

5. The representatives of the ministries shall take part in the taking of decisions without voting rights.

6. The Commission shall be deemed to have been lawfully incorporated if two of the members of sub-para. (c) and the members of sub-paras (a), (e), (j) and (k) of paragraph 1 of the present article have been appointed (as amended by Law 2790/2000).

7. The members of the new composition of the Commission shall be appointed at the latest two (2) months before the expiry of the term of office of the previous composition.

8. The manner of incorporation of the Commission and any other relevant detail shall be regulated by a decision of the Prime Minister.

Article 3

Commissioning of specialist studies

1. The General Secretariat for Research and Technology of the Ministry of Development may commission, on the proposal of the Commission, on a contract for services, the compilation of specialist studies for its purposes from academic working parties.

2. The working parties, on the conclusion of the relevant study, shall submit a report to the Commission, which may be made public by a decision on its part.

Article 4

Operation of the Commission

1. The Commission shall meet regularly every two months and extra-ordinarily when summoned by the President or on the application of at least five (5) of its members. The members shall be summoned by the President by any appropriate means.

2. The Commission shall have a quorum if: (a) there is present the absolute majority of its members, and (b) among the members present is the President of the Commission or one Vice-President.

3. The Vice-Presidents shall substitute for the President in the order of their rank when the latter is lacking, is impeded, or is absent.

4. The decisions of the Commission shall be taken by a majority of the members present. In the event of a tied vote, the President shall have the casting vote.

5. The Commission shall, at its discretion, invite persons to be heard before it who can assist its work by an account of personal experiences or the expression of views in connection with the protection of human rights.

4. The compensation of the members of the Commission shall be set by a decision of the Ministers of the Interior, Public Administration and Decentralization, and of Finance, by way of deviation from the provisions in

force concerning a fee or compensation by reason of service on councils and commissions of the public sector.

5. The Regulations for the operation of the Commission shall be drawn up by a decision of the Prime Minister. The operation of sub-commissions, the distribution of competences among the sub-commissions and the members, the procedure for the invitation and audience of persons summoned before it, and any other detail shall be regulated by these Regulations. The Regulations may be amended by a decision of the Prime Minister, following an opinion on the part of the Commission.

Article 5
Annual report

The Commission shall by the end of January of each year submit its report to the Prime Minister, the President of Parliament, and the leaders of the political parties which are represented in the national and the European Parliament.

Article 6
Assistance of public services

1. At the end of each year, the ministries which are represented on the Commission shall lodge a report with their observations on the protection of human rights in the field of their responsibility.

2. In order to fulfill its mission, the Commission may seek from public services and from individuals any information, document or any item relating to the protection of human rights. The President may take cognizance of documents and other items which are characterized as restricted. Public services must assist the work of the Commission.

Article 7
Research officers

1. Three (3) posts for specialist academic staff, within the meaning of para. 2 of Article 25 of Law 1943/1991 (OJHR 50 A), on a private law employment contract of a term of three (3) years, are hereby constituted. This contract shall be renewable (as amended by Law 3156/2003).

These posts shall be filled following a public invitation by the Commission for applications. Selection from the candidates shall be in accordance with the provisions of paragraphs 2, 5 and 6 of Article 19 of Law 2190/1994 (OJHR 28 A), as replaced by Article 4 of Law 2527/1997 (OJHR 206 A), by five members of the Commission who have a vote, to be nominated by its President.

2. The legal research officers shall assist the Commission by preparing proposals on issues assigned to them and shall brief it on the work of

international organizations which are active in the field of human rights. In addition, they shall keep a relevant file of texts and academic studies.

3. The remuneration of the legal research officers who are engaged in accordance with paragraph 1 of this article shall be determined by the decision of para. 6 of Article 4 of the present law, by way of deviation from the provisions in force concerning the remuneration of specialist academic personnel.

Article 8

Secretariat of the Commission

1. One (1) post of secretary and three (3) posts for secretarial and technical support of the Commission are hereby constituted.

2. The following shall be regulated by a Presidential Decree issued on the proposal of the Ministers of the Interior, Public Administration and Decentralization, of Foreign Affairs, of Finance, and of Justice:

(a) The distribution of the posts of para. 1 by category, branch and specialization, as well as issues concerning the organization of the secretarial and technical support of the Commission;

(b) The filling of the posts of para. 1, which may be by the making available or secondment of civil servants or employees of public law legal persons, or those employed on a contract of employment of a fixed or indefinite duration with the State, public law legal persons or private law legal persons of any form which are under the direct or indirect control of the State;

(c) any matter concerning the in-service status and the remuneration of this personnel.

3. It shall be permitted for an employee of a ministry or public law legal person of Grade A or B of category ΠΕ, proposed by the President of the Commission, to be seconded as secretary of the Commission, by a decision of the Minister of the Interior, Public Administration and Decentralization and of the minister jointly competent in the particular instance.

4. Until such time as the Presidential Decree of para. 1 is issued, it shall be permitted for the Commission to make use of employees and to use technical support provided by the Ministry of Foreign Affairs and of Justice in accordance with the decisions of the competent ministers.

Article 9

Transitional provisions

In the first composition of the Commission the following non-governmental organizations shall be represented: Amnesty International, the Hellenic League for Human Rights, the Marangopoulos Foundation for Human Rights, and the Greek Council for Refugees.

[Regulations on the Bioethics Commission follow.]

SECTION C
Final provision

Article 19
This law shall come into force as from its publication in the Official Journal of the Hellenic Republic.

We hereby mandate the publication of the present law in the Official Journal of the Hellenic Republic and its execution as a law of the State.

Athens, 17 December 1998

CONSTANTINOS STEPHANOPOULOS
PRESIDENT OF THE REPUBLIC

CONSTANTINOS G. SIMITIS
PRIME MINISTER
THE MINISTERS (…)
Endorsed and the Great Seal of State affixed
Athens, 18 December 1998

b) Mission and mandate of GNCHR

The Greek National Commission for Human Rights (GNCHR) was founded by Law 2667/1998 and inaugurated on 10 January 2000, when it was first convened by the Prime Minister, and its President and two Vice-Presidents were elected.

GNCHR is a statutory National Human Rights Institution having a consultative status with the Greek State on issues pertaining to human rights protection. The creation of GNCHR emanated from the need to monitor developments regarding human rights protection on the domestic and international plane, to inform Greek public opinion about human rights-related issues and, above all, to provide guidelines to the Greek State aimed at the establishment of a modern, principled policy of human rights protection. The original source of inspiration for the creation of GNCHR were the Paris Principles, adopted by the United Nations and the Council of Europe.

According to Law 2667/1998, by which GNCHR was established, GNCHR has the following substantive competences:

1. The study of human rights issues raised by the government, by the Convention of the Presidents of the Greek Parliament, by GNCHR members or by non-governmental organisations;
2. The submission of recommendations and proposals, elaboration of studies, submission of reports and opinions for legislative, administrative or other measures which may lead to the amelioration of human rights protection in Greece;
3. The development of initiatives for the sensitisation of the public opinion and the mass media on issues related to respect for human rights;
4. The cultivation of respect for human rights in the context of the national educational system;
5. The maintenance of permanent contacts and co-operation with international organizations, similar organs of other States, as well as with national or international non-governmental organizations;
6. The submission of consultative opinions regarding human rights-related reports, which Greece is to submit to international organizations;
7. The publicizing of GNCHR positions in any appropriate manner;
8. The drawing up of an annual report on human rights protection in Greece;
9. The organization of a Human Rights Documentation Centre;
10. The examination of the ways in which Greek legislation may be harmonized with the international law standards on human rights protection,

and the subsequent submission of relevant opinions to competent State organs.

c) Membership of GNCHR

In accordance with Article 2 of Law 2667/1998, as amended in 2002 and 2003, the following are members of GNCHR:

1. The President of the Special Parliamentary Commission for Institutions and Transparency;
2. A representative of the General Confederation of Greek Workers, and his/her alternate;
3. A representative of the Supreme Administration of Civil Servants' Unions, and his/her alternate;
4. Six representatives (and their alternates) of Non-Governmental Organizations active in the field of human rights protection, that is, Amnesty International Greek Section, the Hellenic League for Human Rights, the Marangopoulos Foundation for Human Rights, the Greek Council for Refugees, the Greek League for Women's Rights and the Panhellenic Federation of Greek Roma Associations;
5. Representatives of the political parties represented in the Greek Parliament. Each political party designates one representative and his/her alternate;
6. The Greek Ombudsman and his/her alternate;
7. One member of the Authority for the Protection of Personal Data and his/her alternate, proposed by the President of the above Authority;
8. One member of the National Radio and Television Council and his/her alternate, proposed by the President of the Council;
9. One member of the National Commission for Bioethics and his/her alternate, proposed by the President of that Commission;
10. Two personalities widely recognized for their expertise in the field of human rights protection, designated by the Prime Minister;
11. One representative (and one alternate) of the: Ministry of Interior, Public Administration and Decentralisation, Ministry of National Education and Religion, Ministry of Labour and Social Security and Ministry of the Press and Mass Media. Each of these persons (who do not have the right to vote) is designated by the competent Minister;
12. Three Professors or Associate Professors (and their alternates) of Public Law or Public International Law, members of the University of Athens, Faculty of Political Science and Administration, of the University of Thessaloniki, Faculty of Law and of the University of Thrace, Faculty of Law;

13. One member of the Athens Bar Association and his/her alternate.

It is worthy to note the originality of the law provisions concerning GNCHR membership and the election of Members, of the President and the two Vice-Presidents. Each institution participating in GNCHR designates its representatives. All representatives -except for those of seven Ministries who take part in the sessions of the Plenary and the Sub-Commissions without the right to vote- elect the President and the two Vice-Presidents of GNCHR. This particular, liberal system ensures GNCHR's independence and impartiality.

d) The organisational structure of GNCHR

Since January the 10th 2000 (starting date of functions), and to date, President of the GNCHR (Commissioner) has been Emer. Professor Alice Yotopoulos-Marangopoulos. For the year 2005, First Vice-President was Mr. Nikos Frangakis (until 02.06.05), and Professor Haritini Dipla (elected on 15 September 2005), while Ms Angeliki Chryssohoidou-Argyropoulou (elected on 20 January 2005) was Second Vice-President.

GNCHR has established five Sub-Commissions:

1. The Sub-Commission for Civil and Political Rights (Head, Prof. Nikolaos Klamaris)
2. The Sub-Commission for Social, Economic and Cultural Rights (Head, Mr. Nikos Frangakis until 02.06.05 and from 02.11.06 Prof. Iro Nikolakopoulou-Stefanou)
3. The Sub-Commission for the Application of Human Rights to Aliens (Head, Ms Angeliki Chryssohoidou-Argyropoulou)
4. The Sub-Commission for the Promotion of Human Rights (Head, Ms Georgia Zervou)
5. The Sub-Commission for International Communication and Co-operation (Head, Prof. Haritini Dipla)

According to the Rules of Procedure of GNCHR the Plenary convenes every two months. In practice the Plenary meets every month. According to the above Rules each Sub-Commission holds at least one meeting per month. The Sub-Commissions' work consists of the preparation of reports on issues related to their specific field of action. All these reports are subsequently submitted to the GNCHR (Plenary) for discussion and decision.

The GNCHR currently employs three Legal/Research Officers (Ms Christina Papadopoulou, Ms Chryssoula Moukiou and Mr. Vassilios Georgakopoulos); it also employs an Executive Secretary (Ms Katerina Pantou).

Since 2003 GNCHR has acquired its own premises in Athens (Neofytou Vamva, 6, 10674 Athens); it also maintains its own website (www.nchr.gr).

IV. SUMMARY OF THE WORK OF THE GNCHR FROM 2000 TO DATE

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In the beginning of the first year of its life, 2000, GNCHR collected and studied all major international and European documentation regarding human rights protection issues in Greece, which have been raised in international and European fora, with a view to examining the actual compliance of Greece with international and European human rights standards and law. Accordingly, the major issues of concern have been the following: issues pertaining to the effectiveness of the Greek justice system; freedom of religion; conscientious objection to military service; conditions of detention; non-discrimination on the grounds of race, ethnic origin or sex; protection of minority populations.

In the course of the meetings of the GNCHR Plenary and the Sub-Commissions since 2000 the following issues have been discussed and relevant action was taken, including notification of the GNCHR resolutions and recommendations to all competent Greek authorities (also published in GNCHR Annual Reports):

- GNCHR proposals on the draft Charter of Fundamental Rights of the European Union (11 July 2000): GNCHR submitted to the EU Convention and competent Greek authorities proposals regarding the inclusion within the body of the Charter of specific substantive provisions regarding:
  1. The inclusion in the body of the Charter of a substantive notion of effective equality, especially with regard to women;
  2. The abolition and prevention of modern forms of slavery, especially those pertaining to trafficking and sexual exploitation of women and children;
  3. The prevention of human rights violations, especially gender-related, by fundamentalists;
  4. The express abolition of the death penalty in all circumstances;
  5. The strengthening of the legal status and the establishment of implementation measures relating to social and economic rights.
- The issue of inclusion of religious affiliation in Greek citizens' identity cards (13 July 2000): GNCHR adopted a resolution according to which the inclusion of religious affiliation in Greek citizens' identity cards is not in accordance with the Greek Constitution (article 5 paras 1 and 2 and article 13), or with current international and European human rights law, as well as European Community law. GNCHR pointed out that the selection of religion as a particular determining

identity conflicts with religious freedom and, more specifically, with the right not to declare or to remain silent as to one's religious faith, and gives rise to dangers of possible discrimination by reason of religion, as past experience has proved.

- Ratification of humanitarian law treaties (28 September 2000): GNCHR called upon the Greek government to proceed to the ratification of the 1999 Second Protocol to the Convention for the Protection of Cultural Property in the Event of Armed Conflict, as well as of the 2000 Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict (Greece had already signed these Protocols).
- The 2000 Bill on aliens/immigration (9 November and 30 December 2000): GNCHR expressed its criticism and submitted recommendations regarding certain provisions and omissions of the above Bill (later Law 2910/2001) which were considered to contravene current international standards of immigration and human rights law, such as: the lack of expert research on which the above Bill should have been based; non justification of visa application decisions by Greek consulates; lack of special protection of long-term immigrants; lack of effective protection of immigrant families; need to prevent human, especially women, trafficking through immigration legislation; access of immigrant children to education; access of detained immigrants to legal counseling. GNCHR stressed that the Greek government should take all appropriate measures for the establishment of specialised research into contemporary conditions of migration and for the establishment of an integrated immigration policy.
- Cremation of the deceased (7 December 2000): GNCHR proposed to the competent Greek authorities the modification of the current legislative framework for the protection by Greek law of every person's right, without any distinction whatsoever, to choose between cremation and burial when deceased. Current Greek law exclusively provides for the latter. GNCHR has noted that where the deceased has not expressed any special preference as between cremation and burial, his/her family (in order of priority: spouse, adult children, siblings, as in the case of the donation of organs of the body) should be able to choose.
- Ratification of the Rome Statute of the International Criminal Court (7 December 2000): GNCHR called upon the Greek government to proceed to the ratification of the Statute of the International Criminal Court (signed by Greece in 1998, later ratified by Law 3003/2002).
- Human Rights Education and Promotion (2000-to date): GNCHR has initiated a programme of human rights education and promotion,

giving priority to specific population groups, that is, police force, civil servants, lawyers, journalists and students. In 2001 the Fourth Sub-Commission of GNCHR provided a number of Greek Universities with documentation with a view to establishing special human rights courses in their curricula. In April 2001 the Greek Open University accepted and started work on the proposal of the Fourth Sub-Commission of GNCHR, with a view to creating a new course on human rights. On 6 June 2002 the Fourth Sub-Commission provided the Greek Open University with more back-up information and ideas for the creation of the human rights course.

In June 2001 the Fourth Sub-Commission of GNCHR commissioned the Communication and Mass Media Department of the University of Athens to carry out a special study on Greek TV news bulletins and the promotion and establishment by them of stereotypes and discrimination mechanisms. The study was completed in February 2002 and widely publicized in December 2002, after a relevant public discussion, which was organized by the Fourth Sub-Commission of GNCHR at the Athens Journalists' Association on 5 December 2002.

In addition, the Fourth Sub-Commission of GNCHR in 2001 had consultations with the Greek Ministry of Public Order and the National School of Public Administration. The Sub-Commission has urged the above Ministry (special educational material has also been provided to them by the Fourth Sub-Commission) and the National School to promote and strengthen human rights education in their curricula for policemen and public servants respectively.

In 2005, a TV spot addressing the issue of racism and xenophobia was widely screened both by the national and private TV channels; the idea of the spot was initiated by the Fourth Sub-Commission back in 2002 and its production was generously supported by ERT, the National Radio and Television Company. The spot received positive feed-back from various social entities and the media.

- Amendment of the Greek Constitution in 2001 (1 February 2001): GNCHR submitted to the Greek government and to the parliamentary political parties recommendations regarding the amendment of a series of constitutional provisions on: conscientious objection to military service, abolition of the death penalty in all circumstances (the death penalty in time of peace has been abolished in Greece), protection of personal data, the right of association of civil servants, Greek mass media, the right to property, the protection of the natural and cultural environment, the participation of civil servants in political parties and in national elections, the competences of the Greek Council of State, and the Greek independent administrative authorities.

- Freedom of religion (1 March 2001): In light of the recent case law of the European Court of Human Rights, GNCHR proposed the modification, according to the above-mentioned jurisprudence, of the current Greek legal framework regarding: 1. Prosecution of proselytism. The Greek state was urged to proceed to abrogating the relevant legislation in force and create a new relevant legal framework grounded in the right to freedom of thought, conscience and religion; 2. The establishment of places of worship. GNCHR urged the Greek authorities to abrogate the relevant antiquated legislation and comply with the judgments of the European Court of Human Rights; 3. The situation of the Muslim minority in western Thrace. In light of the ECHR case law, GNCHR pointed out that the competence of Muftis in Thrace should be contained in religious affairs only and not transcend to the fields of administration and justice; 4. Discrimination against conscientious objectors. GNCHR proposed the modification of Greek legislation with a view to eliminating legal and social discrimination against conscientious objectors to military service.
- Use of force and of firearms by police forces (4 April 2001): Upon request of the Minister of Public Order, GNCHR proposed the modification of the current relevant Greek legal framework in line with the relevant principles and norms of the United Nations and the Council of Europe. GNCHR stressed that the Greek legislation and police education and training were inadequate to confront modern forms of violence and criminality. According to GNCHR the new legislation should be squarely grounded in the principle of necessity and proportionality and guided, inter alia, by the 1979 UN Code of Conduct for Law Enforcement Officials and the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. GNCHR also stressed the imperative of intensifying the training courses of all Greek police personnel and of effectively safeguarding the latter's right to life and physical integrity and their families' special social security rights.
- Bill on organised crime (3 May 2001): GNCHR submitted to the Ministry of Justice a series of recommendations, based mainly on European human rights principles and the UN Convention against Transnational Organized Crime (Palermo Convention), regarding the draft of the "Law on the amendment of the Greek Criminal Code and the Code of Criminal Procedure for the protection of citizens from indictable acts of criminal groups" (later Law 2928/2001). GNCHR pointed out, inter alia, that mixed jury courts should not be excluded from the adjudication of organized crime cases, the investigative infiltration should be supervised by a judge and underlined the

cautiousness with which DNA-related information (evidence) should be handled.

- Protection of refugees (asylum) in Greece (8 June 2001): GNCHR submitted to all competent Ministries proposals for a series of legislative and administrative amendments aimed at the modernization and harmonization of the Greek asylum framework with the established and emerging standards of international and European Community law. The main issues of concern were: 1. The free movement of refugees and asylum seekers; 2. Asylum seekers in transit areas of ports and airports; 3. Refugee reception centers; 4. The serious shortage of state trained interpreters and translators; 5. Asylum seekers without documentation, especially in Athens; 6. Review of asylum decisions and lack of judicial appeal on merits; 7. Inadequacy of legal aid to refugees and asylum seekers.
- Establishment of a comprehensive legal aid system (25 June 2001): GNCHR proposed to the Ministry of Justice the restructuring and modernization of legal aid schemes in accordance with the legal aid standards established by the Council of Europe, the European Union and the case law on the European Convention on Human Rights. GNCHR expressed its concern at the inadequacy of legal aid as it was structured and applied in Greece and stressed that legal aid should be available to every person who is in need of it, in all jurisdictions and all procedural stages. Particular attention should be paid by the Greek state to vulnerable social groups such as asylum seekers, refugees and alien immigrants potentially discriminated against on the ground of their racial or ethnic origin.
- Conditions of detention in Greece (5 July 2001): GNCHR, in view of relevant recent reports of, among others, the European Committee for the Prevention of Torture and the UN Committee against Torture, having regard to recent case law of the European Court of Human Rights and having visited some Greek prisons and police detention centres, submitted to the Ministry of Justice and the Ministry of Public Order a series of proposals aiming at the urgent reformation and modernization of the Greek detention centres and related legislation and practice. In particular GNCHR underlined the need for Greece to effectively comply with the recommendations of the above international and European organs, the need for creation of new modern detention centers, the separation of minor and adult detainees, the provision of adequate health care services to all detainees and the putting into effect of the new aliens legislation that provides for the creation of new detention centers for aliens under deportation.
- Alternative civil-social service (5 July 2001): GNCHR proposed to

the Ministry of National Defence amendments for the modernization of the Greek law regarding alternative civil-social service, instead of military service, in accordance with the relevant established principles of the Council of Europe and the case law of the European Court of Human Rights. GNCHR stressed, inter alia, that alternative service should be of a reasonable duration and never have the character of punishment, while the relevant authority should be independent from the military and provide adequate procedural safeguards.

- Implementation by Greece of ILO Convention No 111 on non-discrimination in employment and occupation (20 August 2001 - a formal request for an opinion was submitted to GNCHR by the Greek Ministry of Labour): GNCHR submitted its comments to the Ministry of Labour, placing particular emphasis on the important issues, requiring particular attention by the Greek state, of affirmative action in favour of women in Greece (following the new Article 116 para 2 of the Greek Constitution) and of the legal and factual gender equality in the framework of the relevant, evolving European Community law.
- Resolution on terrorism and human rights after the events of 11.09.2001 (20 September 2001): GNCHR was one of the first National Institutions that issued such a resolution calling upon states to abide by their international law obligations in the course of their struggle against terrorism that should in no way lead to new ethno-cultural divisions and enmities all over the world and to human rights violations.
- Protection of social rights of refugees and asylum seekers in Greece (20 September 2001): GNCHR submitted to the competent Greek Ministries a series of recommendations, based on European and international human rights standards, for the modernization and the strengthening of the current, inadequate system of refugee social protection in Greece. The main issues tackled by GNCHR in its report are: 1. Reception centres for asylum seekers; 2. Employment and vocational training of refugees and asylum seekers; 3. Provision of aid and special allowances; 4. Education; 5. Special protection of unaccompanied minor refugees and asylum seekers.
- Draft Report of the Greek Foreign Ministry on Racism, Intolerance and Xenophobia to the Committee of Ministers of the Council of Europe (22 October 2001): Comments of the Second (Social, Economic and Cultural Rights) and Third (Application of Human Rights to Aliens) GNCHR Sub-Commissions were submitted to the Greek Foreign Ministry upon the latter's request. The above Sub-Commissions stressed, inter alia, that the Council of Europe should in no way proceed to the devaluation of the European Commission

against Racism and Intolerance and that Greece should proceed to the ratification of the European Framework Convention for the Protection of National Minorities, as well as Protocol No 12 of ECHR on the prohibition of all forms of discrimination.

- Second Mediterranean Conference of National Human Rights Institutions (1-3 November 2001): GNCHR successfully organized and hosted the above Conference from 1-3 November 2001 in Athens, which was attended by 14 National Institutions and was concluded with the adoption of the Athens Declaration (text available at www.GNCHR.gr). The major theme of the Conference was immigration and asylum following the Durban World Conference against racism of September 2001. The Conference was coupled with an open Colloquium on the above topic, organized by GNCHR in Athens.
- Issues regarding protection of Roma in Greece (29 November 2001): GNCHR submitted to the competent Greek authorities its report on Roma in Greece containing a long series of measures that Greece should take in order to meet the needs for social and legal protection of this particularly vulnerable social group. The main issues of particular concern to GNCHR have been the following: 1. The de facto social marginalisation of Roma; 2. Housing of Roma; 3. Provision of adequate health services to Roma; 4. Establishment of new education system tailored for the particular characteristics to Roma population; 5. Discrimination and violence against Roma by local indigenous populations and law enforcement personnel.
- 2001 Reports of the Ministers of Justice and of Public Order to the UN CAT (13 December 2001): GNCHR submitted its comments on the above Reports, upon request of the relevant Ministries, in accordance with Law 2667/1998 founding GNCHR. GNCHR urged the Ministries to make particular reference in their Reports to the actual practice, that is, application of the UN Convention against Torture by Greek authorities. GNCHR also stressed the importance that Greek authorities should attach to the advancement of education and training of law enforcement personnel, to the amelioration of detention conditions in Greece and to the treatment by Greek authorities of immigrants and asylum seekers in accordance with international law and protection standards.
- Main issues of racial discrimination in Greece – Proposals for the modernization of Greek law and practice (20 December 2001): With this report GNCHR underlined the major issues concerning racial equality in Greece already raised by competent UN and Council of Europe organs and proposed that the Greek government proceed to the overhaul of the relevant policy and legislation, taking in particular

into account Directive 2000/43/EC implementing the principle of equal treatment between persons irrespective of racial or ethnic origin. GNCHR stressed that Greece should fully comply with the recommendations of the UN CERD and ECRI and proceed to the modification of Greek anti-racism legislation and policy with a view to living up to current EC law and relevant standards laid down by the Council of Europe.

- 2001 Greco-Turkish Protocol for the implementation of article 8 of the Greco-Turkish Agreement on combating crime, especially terrorism, organized crime, illicit drug trafficking and illegal migration (31 January 2002): GNCHR issued an opinion expressing its serious concern at, inter alia, the non-inclusion in the above Protocol (Law 3030/2002) of any express clauses pertaining to the effective protection of asylum seekers arriving in Greece from Turkey, according to the Geneva/New York Refugee Convention and Protocol. GNCHR pointed out that in a number of cases the conditions of aliens' refoulement/readmission raise concerns as to the safeguarding of fundamental rights of all persons attempting to enter Greek territory, including illegal migrants.
- Appeal to the Greek Foreign Minister pertaining to the treatment by the US authorities of Afghan detainees (28 February 2002): GNCHR has called upon the Greek Foreign Minister to exercise his utmost influence so that international human rights principles are adhered to in this case, especially those emanating from the UN Convention against Torture, the International Covenant on Civil and Political Rights and international, conventional and customary, humanitarian law.
- Appeal to the Greek Foreign Minister for the ratification by Greece of the anti-discrimination 12th Protocol to the European Convention on Human Rights, already signed by Greece (28 February 2002).
- Resolution on the 2001 proposals for an EU Council Framework Decision on combating terrorism and for an EU Council Framework Decision on the European arrest warrant and the surrender procedures between Member States (28 February 2002): GNCHR commented on the above proposals dated December 2001 and stressed that these Decisions should be squarely based upon international and European human rights standards and principles. With regard to the decision on combating terrorism GNCHR stressed that EU member states should show utmost cautiousness to the identification of the aims by which terrorist acts are identified and that the right to a fair trial should be always adhered to in the

course of the relevant procedures. As to the European arrest warrant decision, GNCHR pointed to the precarious situation that the above decision may engender especially for third country nationals who have occasionally been discriminated against and victimised by state measures and policies adopted by certain states following the events of 11 September 2001.

- Research project on TV news bulletins and human rights protection (28 February 2002): The Fourth Sub-Commission of GNCHR commissioned the Department of Communication and Mass Media of the University of Athens to carry out the above research that was concluded in February 2002. The research demonstrated the existence of a pattern of serious violations of human rights by TV news bulletins, which have taken the form of "infotainment", of mainly private TV channels in Greece. The research attested to the fact that TV news in Greece tend to arbitrarily categorize and stigmatize particular ethnic and social groups infringing upon their human dignity and flagrantly violating fundamental contemporary standards of human rights protection, primarily the one of presumption of innocence. The research results were publicized at a special public discussion event in the premises of the Athens Journalists' Association, organized by the Fourth Sub-Commission of GNCHR on 5 December 2002.
- 2002 Core Document of the Greek Foreign Ministry to the UN Human Rights Committee (28 February 2002): GNCHR submitted to the Greek Foreign Ministry, upon the latter's request, its comments on the above Core Document pertaining to basic information on the framework of human rights protection in Greece. The main issues that were regarded by GNCHR as insufficiently covered by the above Core Document were the following: 1. Human rights education of law enforcement officials and public servants; 2. Compliance and cooperation of Greece with the recommendations of the Council of Europe Social Rights Committee and ECRI, as well as with the judgments of the European Court of Human Rights; 3. Provision by Greece of data regarding religion and languages used in Greece.
- Bill on combating trafficking in persons and providing protection to victims (28 February 2002): GNCHR submitted to the Greek authorities a series of substantive proposals for the amendment of the above Bill (later Law 3064/2002 and relevant Presidential Decree 233/2003), in accordance with the relevant protection standards agreed upon by the United Nations, the Council of Europe and the European Union. The main issues on which GNCHR focused its attention are: 1. The necessary modification of the limited nature of the definition of trafficking included in the above Bill; 2. The necessity for expansion

of the manners in which the victim's coerced acquiescence may be obtained; 3. The necessary establishment of a holistic legal and institutional framework for the provision of effective legal social protection to all victims of trafficking, especially during the phase of their repatriation; 4. The extensive protection that should be provided to minors; 5. The necessary criminalisation of professional exploitation of prostitutes.

- Appeal to the Greek Foreign Minister for the signature and ratification by Greece of the 13th Protocol to ECHR (concerning the abolition of the death penalty in all circumstances, 24 April 2002 – The death penalty in time of peace had already been abolished in Greece).
- Restrictive quotas against women employed by the Greek Police and Fire Brigade (29 May 2002): GNCHR issued a special report on the above issue calling upon the Greek Ministry of Public Order, in charge of Greek Police and Fire Brigade, to abide by the new provisions of the Greek Constitution on affirmative action in favour of women, the relevant case law of the Greek Council of State and EC legislation. GNCHR stressed that according to the new article 116 para 2 of the Greek Constitution (2001) any kind of gender-based exclusion or restriction, including restrictive quotas against women, is to be considered as null and void. The competent Minister of Public Order in December 2002 put forward a Bill providing for the elimination of restrictive quotas against police women candidates.
- Issues relating to reception and access of asylum seekers to the asylum procedure in Greece (6 June 2002): GNCHR expressed its grave concern at reports of international NGOs regarding alleged instances of refoulement of asylum seekers by Greek authorities and issued a series of asylum law and practice-related recommendations with special reference to: the arrest of asylum seekers in border areas; these detainees' information about the Greek asylum procedure and their concomitant rights; provision of legal aid; facilitation of asylum seekers' communication with any person they wish to contact in order to inform them about their case; the creation of new permanent state reception centers for asylum seekers; the application of article 48 of Law 2910/2001, as amended by Law 3013/2002, which provides for the establishment of regional detention centres for aliens subject to administrative deportation.
- Report on Law 2956/2001 pertaining to temporary employment through "companies of temporary employment" (4 July 2002): GNCHR forwarded to the Greek government the above report underlining its concerns at the raison d'être itself and application of

the above Law that provides for the leasing of employees through the above-mentioned companies to various businesses in Greece. GNCHR stressed that the above form of employment contravenes in practice human and labour rights of the persons employed through this system. GNCHR also pointed to the necessity of strengthening the efficiency of the competent Body of Labour Inspectors, in charge of safeguarding the proper application of labour law in Greece.

- Bill on the Greek administration's compliance with judicial decisions (9 July 2002): GNCHR submitted to the Greek authorities a number of proposals for ensuring conformity of the above Bill (late Law 3068/2002) with the prescriptions of the Greek Constitution, the International Covenant on Civil and Political Rights and the European Convention on Human Rights. The main points of GNCHR were the following: 1. The most effective means of compliance by the administration would be the establishment by law of the "action for performance" against the Greek administration; 2. Compliance should be provided for also in cases of judgments regarding interim protection; 3. The judicial board in charge of supervising the administration's compliance should include judges who have already participated in the relevant proceedings; 4. The waiting period regarding compliance should not be beyond the limits of reasonableness established in European human rights law. Finally GNCHR pointed out that the above Bill should proceed to the abrogation of the antiquated preferential default interest of the Greek state, as prescribed by contemporary human rights law and principles.
- Initial (2002) Report of Greece to the UN Committee on Economic, Social and Cultural Rights (4 September 2002): GNCHR, upon urgent request of the Greek Foreign Ministry, submitted its comments on the above Report, which had been prepared by thirteen Ministries, in accordance with Law 2667/1998 founding GNCHR. GNCHR pointed to a series of issues falling under the scope of the Report that were not sufficiently, or at all, tackled by the above Report, such as: 1. The inadequate Greek legal framework against racial or ethnic discrimination; 2. The inadequate legal and institutional framework for the protection and integration of alien immigrants and refugees; 3. Issues of unemployment and new forms of employment, such as temporary employment through "companies of temporary employment", that contravene modern human rights standards; 4. High poverty rate and inadequate social welfare infrastructure; 5. Implementation of the development and protection programme for Roma; 6. Issues pertaining to socio-legal protection of aliens, especially women, victims of human trafficking; 7. Issues regarding state education; 8. Issues arising from

the practice of mass media, especially from private TV channels, and the flagrant or indirect violation by them of human dignity.

- Athens Conference on the Greek Presidency of the EU Council and the challenge of asylum and immigration, 8-9 November 2002 (co-organised with the Greek Ombudsman, UNHCR BO for Greece and the Greek Council for Refugees): This was a two-day open conference attended by representatives of competent Greek Ministries, the EU Commission, UNHCR, GNCHR and Greek NGOs. The conference ended with the adoption of a series of conclusions on the European and Greek immigration and asylum law and policy, which were publicized and forwarded to all competent Greek, European and international organizations.
- International Conventions on Migrant Workers and the position of Greece (12 December 2002). GNCHR proposed that Greece accede to the following Conventions on Migrant Workers, regarding them as necessary for, inter alia, the planning and implementation of a contemporary, human rights-based immigration law and policy by Greece: ILO Convention (No 97) concerning Migration for Employment (revised 1949), ILO Convention (No 143) on Migrant Workers (Supplementary provisions, 1975) and the 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families.
- Issues relating to discrimination against alien workers with regard to their employment injury compensation (12 December 2002). GNCHR recommended the abrogation of article 5 of Royal Decree of 24.07.1920 and of Law 551/1915 which condition employment injury compensation to alien workers on the norm of reciprocity or the alien worker's residence in Greece, in violation of, inter alia, fundamental social rights provisions of the Greek Constitution and relevant provisions of the 1966 International Covenant on Economic, Social and Cultural Rights. With the same resolution GNCHR recommended also the ratification by Greece of the 1964 Employment Injury Benefits Convention of ILO (No 121).
- Commentary on the Bill of the Ministry of Public Order regarding arms possession and use of firearms by police personnel and their relevant training (12 December 2002). Upon request of the Minister of Public Order, GNCHR submitted its comments on the above Bill (later Law 3169/2003) of 12.11.2002. GNCHR regarded this Bill as moving in the right direction, in accordance with its own earlier proposals of 5 April 2001, the 1979 UN Code of Conduct for Law Enforcement Officials and the 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. GNCHR proposed

the modification of a series of provisions of the above Bill so that they conform to the principles of necessity and proportionality in which the relevant policy and practice should be grounded. GNCHR also stressed the necessity of intensification and streamlining by the Ministry of Public Order of human rights education and further training in the curricula of all law enforcement officials in Greece.

- Resolution on Greece's combat against terrorism in its territory (12 December 2002). GNCHR, following its former relevant Resolutions of 2001 and 2002, expressed its outright condemnation of acts of terrorism carried out in Greece and called upon all competent Greek authorities and professional associations, such as the Athens Bar and the Athens Journalists' Association, to ensure that the struggle against terrorism is not carried out to the detriment of the fundamental principles enshrined in international human rights law and in the Greek Constitution.
- Greece's compliance with the Conclusions of the European Committee of Social Rights (12 December 2002). Given the importance of the European Social Charter (ESC) and of the supervisory work of the European Committee of Social Rights (ECSR) for the protection of fundamental social rights in contracting states such as Greece, GNCHR proposed that Greece recognize the right of Greek NGOs to lodge complaints with ECSR, according to the 1995 Additional Protocol to ESC, and fully comply with the Conclusions of ECSR, pertaining to the collective complaints against Greece.
- The detention conditions in Greece in 2002 (12 December 2002): GNCHR paid particular attention and studied the latest relevant reports of the European Committee for the Prevention of Torture, the United Nations Committee against Torture and the Council of Europe Commissioner for Human Rights. Taking also into account the responses of the Greek authorities to the above reports, GNCHR proceeded to submitting to the competent Greek authorities a series of recommendations with a view to ensuring, inter alia, the following: full compliance of Greece with the recommendations of the above United Nations and Council of Europe organs; promotion and strengthening continuous education of all personnel involved in the detention process; creation of detention centers of aliens under deportation according to Aliens' Law 2910/2001; special legislation for and attention to asylum seekers under detention, in accordance with the relevant GNCHR proposals of 06 June 2002; establishment of a detainee complaint procedure in all detention centers; decongestion of the prison and detention centers in the area of Athens through establishment of new prisons and detention centers in other regions;

special treatment of detainees who are drug addicts and their strict separation from other detainees in all prisons and detention centers.

- Proposals to the European Convention for the Constitutional Treaty of the European Union (07 May 2003): GNCHR submitted to the European Convention a series of reasoned proposals pertaining to the following major issues: (a) The inclusion of peace and equality, especially equality between men and women, in the "values" of the European Union; (b) The addition to the Union's objectives of social objectives proclaimed by the EC and EU Treaties; (c) The addition to the Constitution of a provision mainstreaming the principle of, and concomitant right to, environmental protection and amelioration; (d) Providing the EU Charter of Fundamental Rights with constitutional force; (e) The entrenchment in the Constitution of the proscription of all forms of discrimination; (f) The express entrenchment in the Constitution of gender equality, protection of maternity and of paternity and of the reconciling of family and professional life; (g) The protection of public health in the European Union.
- Resolution on Muslim weddings by proxy in Greece (29 May 2003): GNCHR held extensive discussions on the complex legal and social issues arising from this subject. GNCHR stressed the importance of respect for cultural and religious identities in a pluralist, democratic society. Taking into consideration the relevant principles and rules of international, European and Greek human rights law GNCHR reached the following conclusions: (a) Muslim weddings by proxy should be considered by Greek law as "non-existent" with regard to the proxy and the principal's "spouse" and as "null and void" with regard to the principal; (b) The principle of legal security dictates that Muslim weddings by proxy already carried out in Greece should be considered as valid; (c) The minimum age for the conclusion of a Muslim wedding should be reviewed in the light of article 23 para. 3 of ICCPR and of the fundamental constitutional principle of gender equality.
- Draft Agreements (a) on extradition and (b) on mutual legal assistance between the European Union and the United States of America (29 May 2003): GNCHR expressed its reservation to the above Agreements and submitted to the Greek Government and the European Union comments regarding the following major issues: (a) The need for amending article 4 para. 2 of the Extradition Agreement due the unwarranted lowering of the seriousness of the offence with which the persons under extradition are charged; (b) The need for an express inclusion of a provision proscribing the extradition of nationals; (c) The need for amending article 13 so that extradition should be proscribed in cases where no adequate guarantees are

provided regarding the non-execution of a potential death penalty by the requesting State and the non-application by the same State of measures amounting to torture or inhuman or degrading treatment or punishment; (d) Article 14 should be modified so that the requesting State is expressly obliged to consult the requested State to determine the extent to which the particularly sensitive information can be protected by the requested State; (e) Article 9 of the Agreement on Mutual Legal Assistance should be amended so that there is guaranteed every person's right of access to personal data collected and exchanged between the contracting States; (f) Article 9 paras c and e of the same Agreement should be amended so that the requesting State is not provided with unlimited space of action in using personal data-related evidence or information obtained from the requested State.

- Supplementary reply of GNCHR to the Greek Foreign Ministry on the Initial Report by Greece to the Committee of the International Covenant on Economic, Social and Cultural Rights (29 May 2003): Upon the above Ministry's request, GNCHR submitted to it supplementary comments regarding the following main issues: (a) The independent nature, operation and work of GNCHR; (b) The protection by Greece of the social rights of Roma, refugees and asylum seekers. GNCHR stressed once again the need for Greece to intensify her efforts for the improvement of the socio-legal situation of the above specially vulnerable groups; (c) The need to improve the conditions relating to the education of children belonging to these social groups; (d) The promotion by the Fourth GNCHR Sub-Commission of human rights education in Greece in co-operation with the Ministry of Education.
- Bill on the reform of juvenile criminal law (29 May 2003): GNCHR recognized the improvement of the relevant legislation that the above Bill (later Law 3189/2003) brings with. However it submitted to the Justice Ministry a series of recommendations pertaining to the above Bill and the protection that should be afforded by Greek criminal law to the physical and mental health of minors. GNCHR proposed, inter alia, the following: (a) Introduction into Greek legislation of special protective measures aiming at the rehabilitation and social integration of juvenile offenders; (b) Amendment of the Bill so that specialized psychological care is provided to juvenile offenders; (c) The strict observance of the rule prescribing the separation of minor and adult detainees, especially if the latter are drug addicts and (d) The avoidance of institutionalized treatment of juvenile offenders.

- Bill on the acceleration of criminal procedure (29 May 2003): GNCHR submitted to the Justice Ministry a series of recommendations on the above Bill (later Law 3160/2003). The major issues are the following: (a) The need for furthering the protection of suspects, taking fully into account the case law of article 6 ECHR; (b) The preservation of the right of appeal against judicial council decisions; (c) Problems arising from the restriction of the right of appeal by the increase of the appeal ability limits. GNCHR stressed that the above new provision raises serious issues of incompatibility with ECHR and ICCPR; (d) The issue of restriction of the right of appeal against ultra vires acts. GNCHR proposed that the relevant restrictive grounds in the law should be indicative.
- Proposals on the protection of the rights of mentally disabled persons subject to criminal security measures (19 June 2003): Taking into account the international and European developments in the area of protection of the above particularly vulnerable persons, GNCHR proposed to the Justice Ministry a series of amendments of criminal law for the enhancement of the protection of these persons. In particular GNCHR submitted to the Greek State the following major proposals: (a) Amendment of Greek criminal law so that detention of the above persons is ordered solely by courts of justice following open court sessions; (b) The detention should be primarily conditioned on the existence of the relevant pathology and not on vague legal conditions such as "danger to public safety"; (c) Amendment of legislation so that detention is subject to a complete judicial control as prescribed by contemporary international and European human rights standards; (d) The entrenchment in Greek law of the right of the mentally disabled to be present in all relevant judicial proceedings.
- Reply of GNCHR to the appeal of the "Committee for the recognition of the ancient Greek religion of the Twelve Gods" regarding human rights violations (25 September 2003): GNCHR held an extensive discussion on the above issue with representatives of the aforementioned Committee and reached the following conclusions: (a) GNCHR advised the Ministry of Education and Religious Affairs that they respond immediately and definitively to the application of the above Committee regarding the granting of a permit for establishing a place of worship; (b) GNCHR also advised the above Ministry that they review the outdated legal framework regarding the establishment of churches/temples and places of worship, as already proposed by GNCHR on 01 March 2001 (see supra).
- Bill regarding the provision of legal aid to persons with low income (30 October 2003): GNCHR submitted to the Greek Ministry of Justice its comments on the above Bill (later Law 3226/2004). The

major points raised by GNCHR were the following: GNCHR proposed that the Bill should not condition the provision of legal aid to non-nationals on the latter's legal residence in the European Union. GNCHR proposed that legal aid should be provided also with regard to administrative law litigation and that it should cover early preliminary (legal counseling) stages of all legal proceedings (civil, criminal and administrative). GNCHR also recommended that special consideration should be given by the Bill to asylum seekers as well as to victims of racial discrimination, as already noted by GNCHR in its relevant recommendations of 25 June 2001 (see supra).

- The incorporation of the EU Charter of Fundamental Rights into the draft Constitutional Treaty of the Union (30 October 2003): Following up to a relevant document of the French National Human Rights Commission, GNCHR submitted to the Greek Government and the European Union a series of proposals the most important of which are the following: (a) The incorporation of the Charter into the Constitution keeping intact the letter and spirit of the Charter as adopted at Nice; (b) Avoidance of Charter amendments that would restrict the interpretation potentials of European domestic courts; (c) The deletion of all Charter amendments made by the Convention (except for the purely "drafting adjustments"); (d) The need for informing the jurists and the public of the EU Member States on the above legal documents given their utmost politico-legal significance.
- The continuing use by Greece of anti-personnel mines in border areas (30 October 2003): GNCHR welcomed the deposition by Greece of the instrument of ratification of the Mine Ban Treaty (Ottawa, 1997, Law 2999/2002) at the United Nations on 25 September 2003. However GNCHR expressed its grave concern at the continuing use by Greece of anti-personnel mines in border areas that have caused a large number of victims including asylum seekers and illegal immigrants. This has been a practice that violates the fundamental human right to life entrenched in international human rights law, as well as basic international principles of refugee protection. GNCHR called upon the Greek State to immediately de-mine the above areas, to destroy the anti-personnel mines currently on stock and to avoid their use in the future.
- The loss of Greek nationality by virtue of ex article 19 of the Greek Nationality Code (GNC) and the procedure for its reacquisition (30 October 2003): The above provision, in force until 1998, led to the denationalisation of approximately 60,000 Greek citizens, mainly of Muslim/Turkish origin in Thrace, who had left Greece "with no intention of return". GNCHR expressed its concern at the fact that the Greek

State did not provide through statutory legislation for the reacquisition of Greek nationality in the above cases, given the fact that ex article 19 GNC was considered as contrary to the Greek Constitution and to contemporary human rights protection standards. GNCHR also pointed out that it would be necessary the promulgation of specific statutory legislation providing for the possibility of reacquisition of Greek nationality in these cases. GNCHR also proposed that Greece accede to the 1961 Convention on the Reduction of Statelessness.

- Defining the position of cultural rights in domestic legal order and the relevant action of GNCHR (17 December 2003): The above issue was forwarded to the Plenary by the Second Sub-Commission that decided to propose to GNCHR the promotion of the position of cultural rights in Greece. GNCHR took into account the international, European and national standards of cultural rights protection and concluded that even though in Greece there are institutional safeguards of cultural rights the latter have not been adequately advanced or protected by the State in actual practice. GNCHR pointed out the need for protecting not only "horizontal" cultural rights covering the whole population of the country but also "vertical" cultural rights regarding members of minority groups who live in Greece and constitute a significant part of modern Greek society.
- The protection of "de facto" refugees in Greece (17 December 2003): GNCHR expressed its concern at the practice of the Greek Ministry of Public Order by which the renewal of de facto ("humanitarian") refugee permits was unjustifiably denied. GNCHR welcomed the declaration of the above Ministry that this practice has ended but called upon it to give express and clear orders to the competent authorities so that they correctly apply current Greek asylum law and they treat favourably de facto refugees, according to the international and European standards of refugee protection. GNCHR reemphasized that refugee and immigration law and policy should be seriously overhauled by the Greek State and be characterized by clarity and broadmindedness in accordance with the European rule of law.
- Bill entitled "Application of the principle of equal treatment irrespective of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation" (transposition of Directives 2000/43/EC and 2000/78/EC) (17 December 2003): GNCHR submitted to the competent Ministries a series of comments on the above very significant Bill that attempts to introduce into Greek law new standards of protection against discrimination which has not been developed in Greece so far. GNCHR underlined that the relevant legislation should be flexible and effective for the protection of the especially

vulnerable social groups it purports to cover. As a consequence, GNCHR proposed amendments of the Bill provisions relating to the following major issues: (a) Defence of rights: The law should expressly enable all NGOs with a legitimate interest to provide legal support to/ on behalf of the complainants; (b) Burden of proof: For the effective transposition there is to be an amendment of all Greek Procedural Codes; (c) Criminal sanctions: There is to be a harmonization of the new law with the existing anti-racism Law 927/1979; (d) Social dialogue and equality bodies: GNCHR proposed that social dialogue take place with all members of the civil society with a legitimate interest in ensuring the observance anti-discrimination legislation. Also the equality bodies should have a wider scope of action and adopt policies that will bring them closer to (potential) victims of discrimination. Finally GNCHR stressed the need for a systematic overhaul by the competent Greek Ministries of Greek legislation so that it becomes harmonized with the principle of equal treatment, especially in cases of religious minorities.

- The prevention of torture and other cruel, inhuman and degrading treatment or punishment and the accession and application by Greece of the Optional Protocol to the relevant United Nations Convention (2002) (17 December 2003): GNCHR reminded the Greek State of the significant issue of protection of the rights of detained persons in Greece and especially of detainees who are mentally disabled, of alien detainees and of detainees belonging to minority groups, all of whom are especially vulnerable. As a consequence, GNCHR stressed the particularly important role that the above Optional Protocol may well play in human rights protection and especially for the protection of detainees. GNCHR underlined in particular the significance of the new Subcommittee on Prevention and of the independent National Preventive Mechanisms provided for by the Protocol. These organs, especially through their visits to places of detention and the relevant reports, have the potential to enhance the detention conditions and to prevent detainees' ill treatment worldwide. As a consequence, GNCHR called upon the Greek State to accede to the above Protocol and proceed to its effective implementation, especially through the independent National Preventive Mechanisms provided for by the Protocol.
- Human rights violations through the provision and application of inhuman and degrading penalties in certain states (17 December 2003): Following a proposal by the Marangopoulos Foundation for Human Rights (MFHR, NGO member of GNCHR) GNCHR decided to deal with the issue of inhuman and degrading penalties provided for and

imposed by criminal legislation of certain States. MFHR has submitted to GNCHR a relevant study that, after its approval by GNCHR, will be forwarded to the other three NHRIs members of the European Coordinating Committee of NHRIs requesting their cooperation. The Greek Society of Criminology has also accepted to cooperate with GNCHR on the same issue.

- Translation into Greek, publication and distribution of the Pocket Book on Human Rights for the Police entitled "International Human Rights Standards for Law Enforcement" (United Nations High Commissioner for Human Rights, UNHCHR): In 2003 the Fourth Sub-Commission of GNCHR (Promotion of Human Rights) received the permission by the Office of UNHCHR to translate into Greek, publish and distribute the above Pocket Book to the Greek police. The Pocket Book was published by the Greek National Printing House in early 2004 and has, in the meantime, been distributed to all police force in Greece.
- Opinion/decision on the Protection of the Scarce Green Areas in the City of Athens and its surroundings (10 May 2004): The Commission carefully examined the appeals and reports submitted by a number of non-governmental entities dealing with the protection of the environment (e.g. the Greek branch of WWF). The opinion underlined the importance and emergency of the matter and invited all competent State authorities to make it a priority issue in their agenda. It stressed the negative effect that the Olympic Games' related constructions have had on the green areas of the periphery of Athens. It also made reference to the fact that the relevant Authorities often disregard decisions of the Supreme Administrative Court pertaining, inter alia, to the protection of green areas in the city of Athens, a practice that has been previously criticised by the NCHR (see NCHR's 2002 report: Comments and proposals of the NCHR on the Bill on the Greek administration's compliance with judicial decisions, 9 July 2002). Finally, the GNCHR made a series of proposals with regards to the issue. It is noteworthy that a considerable number of media has taken interest in the above decision, when rendered public.
- Resolution on the appeal of the "Holy Synod of the Old Calendarists" in Greece regarding violations of its constitutional rights and freedoms (10 June 2004)

  The Holy Synod of the Old Calendarists submitted an appeal presenting the problems related to the dissolution of marriages: following a recent opinion issued by the Piraeus Prosecutor's Department, Old Calendarists wishing to have their marriage dissolved spiritually, after the issuance of the divorce, should request the dissolution

from the Church of Greece instead of their own Old Calendarist Church, which has originally officiated them. It is worth mentioning that, currently in Greece, marriages officiated by the Church –as opposed to the civil ones- need to be dissolved at both the civil and the confessional levels. Consequently, once a marriage is finally dissolved at the civil level, and in order for the dissolution to be completed, the Church that has originally officiated it, needs also to pronounce its "spiritual" dissolution, while the Prosecutor's Department provides the service of legal document. The Plenary of GNCHR held extensive discussions on the aforementioned issue, and proposed the following: 1) since the confessional aspects of the dissolution are not affecting the lawfulness of the dissolution at the civil level, no legal document service is required by the Prosecutor's Department to any ecclesiastical authority. 2) Advises the relevant State authorities to take initiatives aiming at filling the legal gaps on the status of the Old Calendarist Church. 3) To the request by the Old Calendarists' Holy Synod for GNCHR to intervene and ask the Piraeus Prosecutor's Department to revoke its opinion, GNCHR replies that such action is not among its substantive competences, as provided by its founding law.

- Proposals on matters relating to conscientious objectors and the institution of alternative civil-social service in Greece (10 June 2004):

  The GNCHR decided to submit the following proposals to the Government: (a) that the duration of the alternative social service be longer than that of the regular military service by 50%; (b) that the duration of the unarmed military service be longer than the regular military service by 30%; (c) that the instigation of continuous and repeated prosecutions for refusing to perform military service be abolished; (d) that, as far as the competence of the Supervisory Body for Conscientious Objectors is concerned, it should be initially the responsibility of the Ministry of National Defence, on the condition that, when conscientious objectors are removed from the Enlistment Register, there would be a joint responsibility of the Ministry of the Interior and the Ministry of Health on the matter; (e) that rejections by the Committee for the Examination of Conscience be justified in detail; (f) that the composition of the aforementioned Committee be strengthened with two more State representatives, one from the Ministry of the Interior and one from the Ministry of Health; (g) that a special list of public benefit NGOs in which conscientious objectors may serve be drafted by a joint ministerial committee; (h) that the geographical criterion for the completion of the alternative unarmed

or social service be brought to conform to the same rules that apply to regular armed military service; (i) that the Council of Europe Resolution providing for long-term and elderly conscientious objectors to meet their military obligations be implemented. Finally, GNCHR addressed a letter to the Minister of National Defence (03.12.04), concerning the cases in which a professional soldier expresses his conscientious objection in relation to a particular military operation (the recent war in Iraq). The views expressed were: (a) that the term "conscientious objector" be interpreted in a broader way and (b) that the chronological point of its expression should be extended. The Ministry's reply (17.12.04) referred to recent positive developments on the topic introduced by Law 3257/2004 and, more specifically, the reduction of the duration of the service for both categories (unarmed /social service) and stressed the fact that, at present, conditions are not judged favorable for a reconsideration of the term, although these could well change in the immediate future.

- Opinion on the draft Presidential Decree of the Ministry of Public Order entitled "Code of Police Ethics" (1st July 2004): The GNCHR gave its opinion on the draft Presidential Decree entitled "Code of Police Ethics", proposed by the Minister of Public Order and by which Greek Government intends to implement many of the national and European rules of law concerning the Code of Conduct for Law Enforcement Officials, the use of force and firearms by Law Enforcement Officials etc. The Commission has previously translated into Greek, published and distributed to all Greek police force the Pocket Book on Human Rights for the Police entitled "International Human Rights Standards for Law Enforcement" (United Nations High Commissioner for Human Rights). This is the reason why the GNCHR while examining the above-mentioned draft expressed its concern about its effectiveness, as there would be two different manuals distributed, thus causing confusion as to the choice of the standards and rules to apply. Moreover, the Commission made a series of observations: a) in the draft there is no provision on the Policeman's obligation to be aware of and apply all international binding rules concerning human rights protection, b) the draft does not provide for the policeman's immunity in case of disseverance of an hierarchical order which is in breach of human rights law, c) there is no provision on the policeman's obligation not only to abstain from any act of corruption but also to fight against it and to denounce it to his/her superiors, d) there is no specific provision about the use of firearms, as provided in the "Basic Principles on the Use of Firearms by Law Enforcement Officials" adopted by the U.N. High

Commissioner for Human Rights, mainly based on the principle of non-using firearms except in cases of "vis major", and on the principle of proportionality, in the event firearms are used, e) the Commission underlined the fact that there is no special provision for the need to special care vis-a-vis vulnerable social groups, such as asylum seekers, migrants, women, children, disabled, old or sick persons, f) there are not very strict rules concerning the law Enforcement Officials' behaviour during the investigation procedure, emphasising the personal freedom of the detained persons, the prohibition of torture or any other cruel, inhuman or degrading behaviour and some other procedural points, g) the right to personal security, to a fair trial and to privacy should be mentioned more explicitly. The Minister of Public Order took into consideration the observations of the GNCHR, and the Presidential Decree No. 254/2004 (O.J. A' 238) which was finally issued, encompassed the quasi totality of the observations mentioned above, except for the one on the policemen's immunity in case of disseverance to a superior's order which is in breach of human rights law. Yet, GNCHR continues to express its reservations as to the efficiency of this Code, and maintains that the Manual produced by the GNCHR was, probably, more consistent with the international and European human rights law.

- Report of the GNCHR Special Committee to Korydallos central prison (1st July 2004): 1. Men's prison. Following a request by the imprisoned members of the "17 November." Organization, a sub-committee visited, the facilities, on May 21st. Their semi-basement cells are under observation on a 24-hour basis, and what is judged particularly inhuman is the narrow yard in which they exercise, with no trace of greenery and very high walls, one of which is covered with metal sheeting with a ceiling of barbed wire. Nevertheless, each prisoner has his own cell, which is comfortable enough and well-equipped. They are not in isolation, their lawyers and relatives are allowed to visit them, the premises (as well as the surgery and the kitchen) are clean and the catering satisfactory, but the library needs improvement. In contrast, the conditions of ordinary prisoners' cells are appalling: due to overcrowding, there is no separation of prisoners, even by category, and nearly all of them are drug-addicts. There is also a serious lack of occupational opportunity and the number of wardens is inadequate, but the Prison Council is a very useful institution. In conclusion, the conditions of the "17 November" Organization prisoners were incomparably better than those of the others. 2. Women's Prison (30 June 2004) On June 28th, the above committee visited the prison, which included, in a

special wing containing more than 20 cells, 7 members of the "17N" Organisation. Each prisoner lives in a separate cell with a window looking on to the wing's separate yard; which is more spacious than that of the Men's Prison. Each cell is clean and well-equipped, has bathroom facilities, and all the prisoners exercise together in the yard. However, because of the height of the walls and the material with which they are constructed (whitewashed zinc), the yard is very hot in summer and carries heat to the cells through ventilation. Contact with relatives and lawyers is the same as in Men's Prison. Two of the prisoners do artwork, and a request expressed by all of them was that there be a workshop to practice handicrafts, as well as plant-pots in which to grow plants. In contrast, in the main Women's Prison two to three detainees are housed in each cell (bigger than those in the Men's Prison) with a large window and rudimentary equipment. Prisoners can move about in the corridor separating the cells and there are also tables and seats at which they can sit in groups. Toilets are in a poor condition. The committee also visited two (of sixteen) large wards – with no seats or furniture - where 27 Roma women were packed into one and 35 in the other (there was another ward, in another wing, not in use). It seemed that women with mental illness were not given any special treatment. Most of the women have no occupation except in the laundry and the kitchen. The latter was clean and the food satisfactory. It should be noted that in there are no full-time doctors or a specialist nurse. As a general conclusion, it should be stressed that the prison suffers from overcrowding, while the living conditions of the "17 Nov." Organization members are clearly better than those of the rest. 3. In response to GNCHR's recommendations the Ministry of Justice undertook a number of measures to improve the situation. As regards the "17th Nov." Organization men prisoners, the walls have been reduced in height and the metal sheeting removed. In general, steps have also been taken regarding AIDS-infected prisoners, the categorization of prisoners, the decentralization of Agrarian and Closed Prisons, the inclusion of therapeutic institutions in the National Health System, the introduction of more dental clinics in prisons, the educational and professional development of prisoners, the overall improvement of facilities, and the legislation concerning prison overcrowding and public welfare work.

The following dissenting opinions of members of the Commission should be noted: Ms Divani is of the opinion that, although the cells of the "17 N" Organisation prisoners are better than those of others, the isolation to which they are subjected, without any obvious

reason, and, the unacceptable conditions of their outside exercise render their detention conditions inhumane.

According to Mr. Papaioannou, it is clear that they are being detained in a Special Security Unit, that is, a prison within a prison. The prisoners have been given no explanation of the reason why they are being considered as "high risk for escape" in relation to other prisoners serving similar sentences. Companionship is restricted to 10 people, usually the same, something that in the long term may have a negative impact on their health. They are forbidden to participate in any common prison activity and the space for outside exercise is, to say the best, judged as unacceptable. All visits take place within closed quarters. In conclusion, the "17 N. Organization" prisoners are treated differently, in that they are being detained in a prison within a prison: as far as their cells are concerned, this discrimination is, it would seem, beneficial; apart from this, though, it constitutes a violation of their fundamental rights.

According to Mr. Theodoridis' minority opinion, the detention conditions of the "17 N. Organization" prisoners lack legality, since the relevant presidential decrees provided for in the law relating to penitentiary confinement have not been promulgated."

- Observations/proposals on the protection of the rights of the mentally ill persons hospitalised in three hotels in the centre of Athens (7 October 2004): following complaints submitted to GNCHR by associations for the protection of rights of mentally ill persons, an ad hoc sub-committee of the GNCHR was formed and given the mandate to examine the issue on the basis on an in situ visit to the hotels in question, where a number of patients of the Dafni Psychiatric Hospital are relocated since the 1999 earthquake. The Plenary decided that the observations' document serves as a basis for a further elaboration by GNCHR of a series of concrete proposals on the psychiatric reform in Greece, as well as on the issue of the rights of mentally ill persons subject to criminal security measures (the GNCHR has previously deliberated on the above mentioned topic, see supra, Resolution of 19/6/2003) in collaboration with other relevant entities, such as the Greek Ombudsman, the Psychiatric Society of Greece and other NGOs active in the field of the protection of rights of this particularly vulnerable group of persons. It is worth noting that the GNCHR is among the entities invited to participate to a series of working sessions convened by the Ministry of Health on the issue of the enforcement of criminal security measures on mentally ill persons (the process is ongoing, and following the first session –January 2005-, the GNCHR has already formulated and, subsequently submitted, a series of observations to the Ministry of Health).

- Resolution on the violation of Human Rights by "employment seeking" television programmes (4 November 2004): The GNCHR discussed the problem concerning two T.V. reality shows scheduled for release on Greek TV, where the prize would be the passing of a work contract. The first show –named "Your chance"- invited the unemployed to compete with a view to earning a contract for any job, irrespective of qualifications. The selection process consisted in gaining the sympathy of the TV viewers, who would actually make the judgment on who the final winner would be. The second one -entitled "The candidate"- invited candidates to compete with a view to earning a contract with a specific employer, promising a very high salary to the eventual winner. According to the opinion issued by the GNCHR, the former reality-show is in breach of the constitutional, as well as the international law's principle of the right to work – as established by art. 22 of the Greek Constitution, art. 23 para 1 of the Universal Declaration of Human Rights, art. 6 of the International Covenant of Economic, Social and Educational Rights of the U.N. and the International Work Convention no. 122/1964-. The right to work is a social right, translating into the State's legal obligation to provide for the adequate conditions of every citizen's full-time employment aiming at their moral and material improvement. In the frame of that constitutional provision, the Greek legislator has provided for the establishment of Private Offices of Work Counselors (POWC), which are legally responsible for finding employees on behalf of the employers. Consequently, the above-mentioned reality-shows are in breach of the right to work, as no resignation from this specific social right may be conceived, the latter being a State's obligation; moreover, according to the Constitution, the TV viewers cannot substitute and/or replace the employer in its duties and rights. Finally, through these shows the Private Offices of Work Counselors (POWC) are replaced by the media –in this specific case, the TV-, thus altering the bilateral work contract (employer-employee) to a multilateral relationship (TV- unemployed person – employer - viewers) non-compatible with the constitutional and legal conception of the right to work and the guarantees provided by the law for the proper function of the POWC. In addition, these reality-shows breach the right to privacy, conceived both as the right to personal freedom and the right to personal data. Consequently, the GNCHR was of the opinion that the TV reality show entitled "Your chance" breached the right to work and the right to privacy, which are guaranteed on the constitutional and the international level and, should, therefore, be banned. A few days after this decision by the GNCHR was made public, the show was eventually banned and discontinued.

- Resolution of the GNCHR on issues pertaining to discriminatory treatment and behaviour vis-à-vis gays, lesbians, bisexuals and transsexuals and the extension of the right to civil marriage to same-sex couples (16 December 2004): At the request of the Greek Section of Amnesty International and the Greek Gay and Lesbian Association, GNCHR examined the aforementioned issues at the Plenary level and held extensive discussions on the complex legal and social issues arising from the subject. It stressed the importance of the respect for sexual identities in a pluralist, democratic society. Taking into consideration the relevant principles and rules of international, European and Greek human rights law, the GNCHR adopted the following positions and put forward proposals to the Greek competent authorities: 1. The GNCHR supports the legal recognition of the real symbiotic relationship between persons of the same sex, so that homosexuals and heterosexuals have equal social and welfare benefits. In this view, it proposes the formation of an ad hoc committee to be initiated by the Justice Ministry, which will examine in detail all the aspects associated with the introduction of new legal provisions to cater for the needs of same-sex couples, while taking into account the local context, the international experience, as well as the views of relevant actors and entities in the field. 2. It is also proposed that L. 927/1979 –on anti-discrimination- is modified so that protection on the grounds of sexual orientation is explicitly included therein. 3. It calls for the implementation of the public information campaigns related to the Law 3304/2005 entitled "Application of the principle of equal treatment irrespective of racial or ethnic origin, religious or other beliefs, disability, age or sexual orientation" (transposition of Directives 2000/43/EC and 2000/78/EC). 4. It proposes the abolition of art. 347 of the Greek Penal Code (on lechery between male homosexuals- sic-), which stipulates a different age of consent to the sexual encounter for the male victim of the act (17 years of age), whereas other legal provisions set the age of consent for the female victims of sexual offences to 15 years of age. Moreover, the same article penalises male homosexual prostitution, in opposition to recently adopted legislation, which sets the legal framework for the prostitution related issues irrespective of sex. 5. It calls the Greek National Council for Radio and Television to rigorously inflict the penalties provided by its statutes to those radio and television programmes and/or channels, which portray gays in a condescending way or infringe their rights. 6. Proposes to the Ministry of Public Order to establish a series of directives and training for law enforcement agents promoting the respect of the dignity and rights of gays; moreover, to facilitate the attribution of refugee status

to those applicants who have flown their country of origin due to persecution on the grounds of their sexual orientation. 7. Last, but not least, it invites the Ministry of Education to introduce to the school curricula a course on sexual education, inspiring and instigating school children to tolerance and acceptance of differing sexual identities; it also encourages the Ministry not to allow the discriminatory treatment of gay teachers, through circulating relevant directives.

- The transformation of the European Monitoring Centre on Racism and Xenophobia (EUMC) into a Fundamental Rights Agency (20 January 2005): The GNCHR adopted a resolution on the creation of a European Fundamental Rights Agency, after having actively participated to the debate that took place during the Public Hearing on the issue held in Brussels on 25/1/2005, and in co-operation with the European Group of NHRI. The topics tackled were the following: 1. The extent of the mandate of the Agency-to-be: it is proposed that the Agency has a large thematic area of work, covering all three pillars of the EU, in consistency with art. II-111 of the future Constitution and extending beyond the issues falling within the European level per se; the national level of action should be included inasmuch as it would be necessary for the implementation of art. 7 of the EU Treaty. 2. The list of rights: it is proposed that the competence of the Agency extends over the totality of rights included in the EU Charter of Fundamental Rights, while taking into account the "acquis communautaire" and maintaining emphasis on combating racism. 3. Competence of control to third countries: it is proposed that the Agency confines itself to the EU member States, including candidate countries, unless otherwise agreed with a particular country through a bilateral agreement; the geographical scope should cover 2nd Pillar activities in third countries. 4. Competencies/activities: it is proposed that data collection is maintained, as well as the conduct of studies and analyses. These tasks should be performed in co-operation with the CoE, the NHRIs of member States, the network of Independent Experts of the European Commission and the RAXEN network, so that overlapping of competencies is avoided. The Agency should also have the competency to submit expert opinions and analyses to the member States, and to perform evaluations and follow-up on the above, and to disseminate data, analyses and proposals to the civil society. The possibility and the power to intervene as amicus curiae before European jurisdictions, as well as the right to instigate public interest litigation before them, should also be examined. 5. Structure/ independence: Independence should be ensured through maintaining the existing requirements for membership to the Managing Board of

the EUMC, while adding representation of the European NHRI. No additional body should be created, beyond the Board, the Executive and the Director.

- Proposals on the issue of the free circulation of genetically modified organisms in the Greek market (20 January 2005): GNCHR took the initiative to issue an important decision concerning the free circulation of Genetically Modified Organisms (GMOs) and Genetically Modified Foods (GMFs). According to the vast majority of its members, the principle of precaution and the principle of prevention -guaranteed by international, European and domestic law- concerning the right to the protection of the environment and the right to health, prevail on the principle of economic freedom; as a result, this latter can be curtailed when there is a serious risk for the environment and/or the public health. In particular, the GNCHR took into consideration the provisions of: art. 15 of the Rio de Janeiro Declaration on the Environment and the Development; the "Carthage Protocol" on bio-safety and biological diversity; art. 174 of the E.U. Treaty; the provisions of the E.U. Directive 2001/18 and those of the E.U. Regulation 1830/2003; and of art. 24 (1) of the Greek Constitution on the right to environment. The main points of the decision were: a) Greece should immediately incorporate Directive 2001/18 into its national legal order (recently, the European Court passed a judgment against Greece for omission on that ground); b) scientific research should be encouraged, as stipulated in the E.U. Directive 18/2001; c) the Greek State should establish specific institutions responsible for public awareness on the preventive level, d) finally, all products should carry clear notification on the existence of GMOs in their composition/ ingredients, irrespective of percentage. These proposals fall within the spirit of the opinion of the GNCHR that financial considerations should by no means prevail on the protection of the environment and public health.
- Positions of the GNCHR and the Greek League for Women's Rights regarding the restrictive quotas against women candidates: Following a resolution of the Plenary Session (20.01.2005), the Marangopoulos Foundation for Human Rights and the Greek League for Women's Rights -both GNCHR members- publicised a text entitled "Equality and restrictive quotas at the expense of women". In it, they referred to a news report which stated that during the deliberation in the Council of State concerning the selection of border guards it was argued that the establishment of quotas to the disadvantage of women by the authority responsible is allowed, considering that it is common knowledge that women are not, or are less, suitable than

men for that type of service. It is GNCHR's belief that such a decision by the Council of State would constitute a breach of Art. 116, par. 2 of the Constitution, which introduced substantial equality between men and women, signifying that the enactment of restrictive quotas concerning the selection of women for any office is impermissible. In fact, the above provision constitutionally prescribed positive measures in favour of women, including favourable quotas. The Council of State as well as GNCHR played a crucial role in the establishment of this new perception. Furthermore, it should be stressed that advocates of substantial equality have always campaigned for employment based on merit, irrespective of gender, and not for the numerically equal hiring of men and women. From this point of view, women candidates for the post of border guard should be judged not only according to their theoretical knowledge but also according to their physical and intellectual competences. Successful candidates, be they male or female, should be appointed on the basis of the same criteria. In conclusion, it must be stressed that the acceptance of restrictive quotas would clearly constitute a violation of international conventions providing for substantial equality between the two sexes, which Greece has ratified and, therefore, recognizes as binding over national law (Art. 28, par. 1 of the Constitution).

- GNCHR Positions regarding the implementation of the Greek Law for Refugees (3 March 2005): This text was laid before the Plenary Session following a session of the Third Sub-Commission (01.11.2004) during which the Greek Council for Refugees (GCR) reintroduced the following issues concerning the non-application of the law: (a) access to the asylum process, (b) recognition of refugee status, (c) non-recognition of "humanitarian status" / non-renewal of the one previously granted, and (d) implementation of the Dublin Convention. The GNCHR: (a) points out that the above stated cases constitute a violation of Greek legislation as well as the Geneva Convention (1951) and the New York Protocol (1967), (b) calls on the Ministry of Public Order (M.P.O.) to ensure that Greek as well as international legislation ratified by the Greek State relating to refugee protection is properly implemented by it, (c) underlines the fact that these constitute a recurring phenomenon and are directly connected to the general framework of refugee protection in Greece, for the improvement of which GNCHR has, since 2001, submitted its proposals to the government, (d) expresses its disapproval of the fact that these problems, the majority of which has already been highlighted by GNCHR, not only continue to be present, but have significantly worsened over time, (e) calls on the M.P.O. to take immediate action for the protection of asylum-seekers and/or

refugees under "humanitarian status" according to the specific Greek legal provisions and not the ones concerning economic migrants, as those deprive them of the rights to which they are entitled to by Greek and international law, and (f) calls on the M.P.O., as the Ministry responsible, to urgently initiate a process of general revision of the Greek refugee-protection framework in cooperation with the competent NGOs and public organizations and in accordance with the Geneva Convention and GNCHR's recommendations. The text was adopted by the Plenary Session, but not in the form of a resolution, for reasons of urgency. The matter was also highlighted in a presentation to the GNCHR by Mr. D. Makris, référendaire to the Council of State.

- Observations-proposals on the Law 3251/2004 entitled "European arrest warrant: amendment of the Law 2928/2001 regarding the criminal organisations" (10 February 2005): Greek legal order had to incorporate two major Framework-Decisions of the European Community concerning the European arrest warrant and the surrender procedures between member-States and other antiterrorist measures. The GNCHR adopted the following points: a) First, it questioned the need to modify Law 2928/2001 and introduce Law 3251/2004; in GNCHR's view the former law was adequate enough to deal with the phenomena of organised crime and terrorism. The majority of the members of the Commission, in its plenary session of November 4th 2004, were of the opinion that the modification of the former law was not necessary from a social point of view. b) Second, to the question whether Greece has the legal obligation to incorporate European legal norms into its domestic legal order, the vast majority of the members voted in the affirmative. c) Third, to the question whether the principle of "double punishable offence" for the extradition of the persecuted person should be abolished, the overwhelming majority of the members of the Commission voted in the negative. d) Fourth, the question was arisen whether restraining the principle of "speciality" was right. Once again, the overwhelming majority of the Commission's members voted in a negative way. e) Fifth, on the question whether the "temporary transfer" of a wanted person -and without any time-limits-, should be allowed, the majority of the members voted in the negative. f) Moreover, the plenary session of the Commission had to answer to the issue of whether the lack of provision concerning the prohibition of the extradition of a Greek citizen was tolerable. The negative approach prevailed, beyond any doubt, g) In addition, the Commission decided that the provision concerning the definition of an act of terrorism (incorporated in the Greek Penal Code) in a way that the subjective criterion was also to be taken into mind was not

proper, h) The issue of the definition of an act of terrorism as an individual act also troubled our Commission, which was of the opinion that this definition was not right, i) Finally, it was decided that the legal provision concerning the appliance of the procedures of "special interrogative acts" and the procedure of the DNA examination to every crime described by the law as "terrorist", was not proper.

- Proposals with regard to the improvement of the implementation of the European Convention of Human Rights to the internal law and order: treatment measures regarding the issue of excessive duration of trials (31 March 2005); The Plenary Session of the Commission issued a decision related to the acceleration of the procedures before the Courts, in accordance with art. 13 of the European Convention of Human Rights, the Recommendations N. 2004/5 and 2004/6 of the Committee of Ministers of the Council of Europe and the European Court of Human Rights which not only issued an "arrêt de principe" Koudla v/Poland condemning the latter for the excessive length of its trials in the frame of art. 13 of the ECHR, but also passed many judgements against Greece, the 2/3 of which tackled the problem of the excessive duration of the procedure before the Courts. Consequently, our country had to adopt legal measures providing for a special legal means concerning the excessive duration of trials, especially the administrative ones. Our Commission shifted towards this direction and undertook a complete analysis of the law of most member States of the Council of Europe on the special issue of how the problem of excessive duration of the judicial procedures could be solved, underlying that the overwhelming majority of these state-members' law provide for a special legal means that can be lodged before the Court of a higher degree (or before the same Court where the case is pending) for excessive duration of the trial either during the trial process or after the Court's decision has been issued. Legal provisions concerning the liability to pay damages of the litigants that have not complied with their obligation to act in accordance with art. 6 al. 1 of the ECHR or the deduction of the penal penalty inflicted to the person accused or the personal liability of the judges that are in delay in issuing court decisions, are also found in many legal systems of the member States of the Council of Europe.

  Based on this comparative analysis and on the existing provisions of the Greek Code of Civil Procedure - bearing, also, in mind the provisions of the Greek Constitution- concerning the independence of Judges, our National Commission of Human Rights, approved the Report of its 1st Section presented to its Plenary Session, almost unanimously. The conclusions which were finally adopted by the

Plenary Session are the following: a) First, in compliance with art. 13 of the ECHR and the jurisprudence of the ECourtHR, there should be a special legal means that could be lodged during the main trial and filed by the litigant to the Court of a higher degree on the grounds of the excessive duration of the main trial. This Court (of a higher degree or, in general, the Court which is competent to decide upon the issue of excessive duration) could issue a decision (in the form of a recommendation or of a circular) "urging" the Court, before which the main case is pending, to decide upon it within a reasonable time-limit. b) Second, the litigant that has suffered damages from the excessive length of the trial can claim damages for this delay from the other litigant part, provided that the behavior of the first litigant before the Court has been flawless from the point of view of prompt acting. c) Third, techniques should be provided for and established in order to support judges in carrying out their duties faster, such as the litigants' obligation to lodge their documents in an electronic form as well. d) Fourth, in case of a penal procedure, there should be a possibility of deduction of the penalty inflicted to the person accused and, finally, found guilty, if the excessive length of the procedure and the way this procedure took place, contravened art. 6 al. 1 and art. 13 of the European Convention of Human Rights, on the condition that the person accused, as well as his/her legal defenders and witnesses acted in accordance with the provisions of the ECHR and that the penalty's deduction stays in proportion with the damage he suffered from the trial's delay. e) Finally, our Commission expressed its wish that the Greek State should support the judicial system from the point of view of increasing its personnel and upgrading its technical means, so that "the administration of Justice" would be more efficient according to the provisions of the European Convention of Human Rights and in compliance with the jurisprudence of the European Court of Human Rights.

- Resolution on the marriage of minors by the Muftis in Thrace (31 March 2005): The issue was introduced to the Plenary Session by the President, following the negative comments in both the Greek and the foreign Press about marriages of juveniles as young as eleven years of age, by the Muftis in Thrace. The GNCHR adopted the following: (a) Unanimously expresses its strong disapproval of these marriages. (b) Considers that the provisions of the Athens Treaty (1913) and the Lausanne Treaty (1923) are generally in force, particularly in relation to the Mufti's competence on matters of family law according to the rules of Muslim holy books. (c) Underlines the fact that exceptionally some provisions of the above treaties are

amended or replaced by more recent ones. (d) Stresses the point that, as far as the age of the persons to be married is concerned, recent internationally binding conventional provisions –as stipulated in Conventions ratified by Greece-, apply, namely: Art. 23, par. 2 of the ICCPR; Art. 16 of the CEDAW; as well as articles I 5 and II B3, 38 of the 1993 (UN) Vienna Declaration for Human Rights. (e) CEDAW, art. 16 para 2, declares null and void marriages between minors and refers for the minimum marriage age to the national laws. For Greece this law is art. 1350 of C.C. which fixes 18 years for both members of the couple. (f) In view of the above the GNCHR decided that marriages between Greek citizens and solemnized in G r e e c e –irrespective of creed- are only valid if both members of the couple are 18 years old. (g) Accepted, by majority, the proposal for the amendment of par. 2 of Art. 1350 of the CC, which, exceptionally, and for serious reasons, allows for a marriage to take place regardless of age, and its replacement by a provision of a transitional character stipulating that for a five-year period a marriage between persons of a minimum of 16 years of age, may be permitted for serious reasons and following a judicial decision.

- Resolution on the abolition of the UN Commission on Human Rights (3 June 2005): On June the 3rd, the GNCHR: (a) expressed its deep concern regarding the proposal made by UN officials (during the Commission's 61st Annual Conference) to dismantle the UNCHR; (b) noted that it would be understandable if a process of reform were initiated with a view to improving the overall performance of the Commission; and (c) requested that the Commission be maintained and, in the event that a strategy to improve its efficiency is implemented, representatives of NHRIs and NGOs' (holding consultative status with the UN) be included in the overall process.
- Recommendations on the draft National Plan for Social Inclusion (NPSI) 2005-2006 of the Ministry of Employment and Social Protection (14 June 2005): Following a request of the above Ministry concerning the Plan in question, the GNCHR recommended the following: (a) that, in relation to NGOs' involvement in the preparation of the Plan, other representative organisations be able to participate as well; (b) that among the vulnerable social groups selected, others in need also be included, such as asylum seekers and refugees (taking into account the 1951 UN Refugee Convention and the 1967 Additional Protocol); (c) that a greater emphasis be given to the resolution of problems relating to migration; (d) that specialized provisions be introduced for vulnerable persons, in particular the disabled; (e) that programmes of social sensitisation

be strengthened (e.g. in primary and secondary education) and that human rights be taught in a sensible manner; (f) that intercultural education be encouraged in connection to the use of "e-learning"; (g) that a plan for a Minimum Guaranteed Income (MGI) be elaborated according to EU standards; (h) that health care be extended to asylum seekers and residents under "humanitarian status" in parallel with regular health control (including the elderly). More attention should also be given to the promotion of the concepts of "Local Employment Pacts" and "Corporate Social Responsibility", as well as to the development of an advisory network for aliens. Finally, as far as the implementation of "best practices" is concerned, these could well include: (a) the creation of "Aliens Service Centres" as well as of an advisory network for them, as stated above; (b) the provision of "Health Care at Home" as part of the programme "Help at Home"; and (c) the implementation of a Programme for Teaching Human Rights in Primary and Secondary Education.

- Observations on the Bill presented by the Ministry of Justice re. "the protection of personal data and privacy in the electronic communications sector (incorporation of Directive 2002/58/EC)" (10 November 2005): Following receipt –on 20/04/05- of the Bill of the above mentioned Ministry, the GNCHR submitted its observations. The Bill aims at incorporating into national law, the Directive 2002/58/EC on privacy and electronic communications; the deadline for the incorporation of the above, expired on October 31st, 2003. The Directive refers to the wide use of the new advanced digital technologies by the public communication networks, thus generating particular need for the protection of personal data and privacy in general. For the GNCHR, the Bill's major issues are the privacy of communications and the protection of personal data. Non-reference to other points of note, due to lack of competence and technical expertise, should not be interpreted as consenting to them. The Bill combines in one text – and this is judged to be of paramount importance – provisions concerning the protection of privacy (the legal basis for which are Art. 19 of the Greek Constitution, Art. 8 of the ECHR, Art. 17 of the ICCPR and Art. 12 of the UDHR), as well as the protection of the individual from the processing of personal data, which is founded on different legal grounds (Art. 5A and 9A of the Constitution, the European Convention 108/1981). Thus, the examination of the Bill's provisions necessitates the distinction between these two main aspects, not always feasible, given the fact that the limits in protecting privacy and personal data are not always clearly drawn, especially in the rapidly changing field of communications technology. Finally, on the

occasion of the submission of its observations on the Bill, and also in relation to recent terrorist incidents, the GNCHR underlines the harm that might be caused to human rights by the use of surveillance cameras (especially the so-called "smart cameras").

- Observations on Law 3386/2005 re. "Entry and residence of third country nationals on Greek territory" (10 October 2005): Following receipt of the above-mentioned Bill (30.06.2005), the GNCHR's 3rd Sub-Commission urgently convened on July the 4th 2005, in order to examine it. Its concluding observations were, later, presented by the Commission's President before the competent Parliamentary committee (06.07.2005). The GNCHR (which deliberated on this issue on several occasions) expressed its disappointment regarding the procedures followed during the formulation of the Bill. In particular, it stressed that, when it comes to such important enactments (the Law under discussion regulates the status of about one tenth of the country's population), a wider consultation with bodies concerned, such as NGOs, representatives of immigrants' associations and the civil society in general, should take place. Moreover, the limited amount of time granted did not allow for all the GNCHR's observations to be taken into account in the final stages of the Bill's discussion. The deficiencies in many of the Law's provisions give the impression that it is repressive and anti-integrative in character. It was further suggested that the Greek legislation should be harmonized not only with EC Law but with the State's international obligations regarding the protection of vulnerable groups (especially children) as well. Considering that the Bill aimed at amending Law 2910/2001 by incorporating EU Directives 86/2003, 109/2003 and 81/2004, thus simplifying and updating current procedures, the GNCHR is concerned regarding the issues of working permits, family reunion, human trafficking, residence permits for exceptional or humanitarian reasons, administrative expulsion, protection of minors, second-generation immigrants, civil rights, penalties (Art. 82 par. 4, Art. 83, Art. 86 par. 2, 3, 5, 6, Art. 84, par. 4, Art. 87 par. 3, Art. 88) and interim provisions.
- Proposal regarding Par. 5 Art. 64 of the Bill re. "Enlistment in the Greek Armed Forces and other provisions" (25 November 2005): Following the notification of a request by the General Confederation of Labor (GCL) to the Ministry of National Defense concerning the above matter, the GNCHR convened urgently on November 24th. The Bill's paragraph in question refers to the fact that those who take part in the union movement or go on strike during the period of their alternative service are deprived of their right to serve unarmed

military service or alternative social service. The GNCHR agreed with the GCL that the provision runs contrary to articles 22 par. 2 (the right to syndicalism) and 23 par. 2 (the right to participate in a strike) of the Constitution, as well as to the provision establishing the right to conscientious objection (interpretative statement of art. 6 par. 4 of the Constitution). With the exception of two members suggesting the re-examination of the provision of the above-mentioned Bill as to its constitutionality, the others present agreed that it be removed from the text.

- Resolution regarding flights –in and out of Greece- performed by foreign secret services, and the abduction and interrogation of Pakistani immigrants (19 December 2005): The GNCHR expressed its concern regarding the activities of foreign secret services on Greek soil and the human rights-related implications. In particular, it observed that the alleged abduction and interrogation of a number of immigrants of Pakistani origin in July 2005 necessitated a thorough inquiry, while expressing its satisfaction with the course of the investigation so far. The issue is of major importance for the peaceful coexistence with the immigrant population in Greece. Moreover, information about secret flights performed by the CIA from and over EU soil, as reported by human rights organisations, by which individuals are transferred to secret CIA detention centres in Europe and/or elsewhere without following due legal process, should be scrupulously investigated by all the authorities concerned, including those of Greece.
- Resolution regarding the new EU Directive for the processing of personal data – new measures for the suppression of terrorism (19 December 2005): The GNCHR expressed its deepest concern regarding the forthcoming EU Directive abolishing the protection of privacy and subjecting all European residents to constant surveillance and monitoring of all their communications through all technical means available - while these same residents are going to bear the extravagant cost involved – and to making these data accessible to European and non-European state authorities. Furthermore, the affirmation that secret services will refrain from recording the content of the communication and confine themselves to keeping track only of the duration, place and names involved appears quite absurd. Consequently, the GNCHR urgently requested that the adoption of the new Directive be stopped, considering that an adequate number of relevant and binding European instruments are already into force. The very essence of human dignity as well as the "acquis communautaire" are at stake.

- Resolution regarding the Council of Europe's proposal for a Resolution on the "Need for international condemnation of the crimes committed by totalitarian communist regimes" (19 January 2006): The GNCHR expressed its deepest concern upon hearing of the above proposal about to be discussed by the Council of Europe's (CoE) Parliamentary Assembly (23-27 January 2006). The Resolution's sponsor, Mr Lindblad, a Swedish MP, proposed to the CoE Committee of Ministers the adoption of measures, such as the formation of a European and national investigative committees to look into communist "crimes", which are considered by the GNCHR as non democratic. The GNCHR is of the conviction that if this draft resolution were adopted, not only would the principle of popular sovereignty be harmed, but divisive political enmities would also be revived. It therefore invited all members of the Parliamentary Assembly to vote against it.
- Proposal on State-Church relations (19 January 2006): Following receipt of the proposal for a Bill on the above mentioned issue drafted by the Greek League for Human Rights (19.10.2005), the GNCHR deliberated on it during two if its Plenary sessions (15.12.2005 and 19.01.2006). The Bill was approved by majority vote, while some of the Commission's members submitted their separate observations or abstained from the vote. The Bill includes the following articles: (1) religious freedom and equality; (2) religious associations; (3) taxation of religious communities; (4) the Church of Greece and other public law religious entities (The GNCHR proposed a few amendments); (5) temples and places of worship; (6) religious education in primary and secondary education (the GNCHR proposed a few amendments); (7) religious education; (8) abolition of the religious oath before state courts (including witness's oath, expert's oath, interpreter's oath and jury's oath); (9) civil marriage (10) issuance of registrar's certificates; (11) abolition of the special treatment of clergymen before the law; (12) abolition of a reference to the individual's religious beliefs in legal documents; (13) the prohibition of proselytism; (14) regulations concerning cemeteries; (15) cremation of the dead; (16) clergymen's remuneration; (17) the return to the Church of any land property ceded by it to the Greek State; (18) social security for clergymen (the GNCHR proposed a few amendments); (19) the Ministry of Education; (20) Religious departments in government ministries; (21) other legal provisions to be abolished; and (22) entry into force. As stated in the preamble, the Bill aims not only to safeguard religious freedom and equality but also to create the necessary conditions for the Church Institutions to develop independently of the State. Finally, it should

be noted that, following a GNCHR reminder of its positions on "the cremation of the dead" (GNCHR Report 2000) addressed to the President of the Greek Parliament and the competent Parliamentary Committee (21.12.2005), a new law has been introduced (3448/2006) dealing, among others, with the above mentioned issue (art. 35).

- Resolution concerning the reconciliation between professional and family life, in view of the incorporation of EU Directive 73/2002 into Greek legislation (9 March 2006): Following a proposal by its President, the GNCHR's 2nd Sub-Commission convened twice to discuss the above issue (on 27.06.2005 and 02.11.2005) before referring it to the Plenary session. The latter (on 09.03.2006), considering (a) that the general principle of EC Law regarding the reconciliation ("harmonisation") of professional and family life concerns both parents, if reconciliation is perceived in its broader sense, (b) that parental leave is not the only means to facilitate "harmonisation", and (c) that neither "harmonisation" nor maternity should constitute exceptions to the principle of equality between the sexes, recommended: (1) the adoption of a concrete definition of the concept of "family"; (2) the adoption of specific proposals-regulations relating to the matter of parental leave (such as providing for the judges' right to parental leave); (3) the general granting of paid parental leave to persons working in the public and private sector, especially to single-parent families; (4) that the father's parental leave constitute an individual and non-transferable right; (5) that, as far as working hours are concerned, the workers' rights be secured either through collective negotiations or other consultations; (6) that variations of working hours, particularly flexible working hours (part-time employment etc.) be always promoted on a voluntary basis, with respect to workers' rights; (7) that women's right of return to the same or a similar position they occupied before childbirth be secured after childbirth ; and that support mechanisms be strengthened to cover workers' needs. Finally, the GNCHR expressed its satisfaction regarding the provision, under Law 3386/2005, regarding the family reunion of third country nationals', as well as for the granting of family allowances, while reserving the right to express its specific observations when notified of the relevant Bill.
- Medical care and hospitalisation of non-nationals, members of the minority of Thrace and other categories of aliens (9 February 2006): Following the receipt of a Commission Member's note addressed to the President, the GNCHR's 2nd Sub-Commission convened on 02.11.2005, before referring the issue to the Plenary Session (on 09.02.2006). The issue in question is the loss of

Greek nationality, on the basis of art. 19 (now repealed) of the Greek Nationality Code. Although a solution was provided through naturalisation, the Thrace minority's non-nationals were only granted a non national's pass without provision for medical care. This also applies to other vulnerable groups, such as asylum-seekers, uninsured recognised refugees and some other particular categories of immigrants. The GNCHR, considering, among others, art. 27 of the ICESCR, recommended that a new Ministry Resolution be adopted broadening the scope of the competent Ministry's previous one (48566), which will provide for: (a) both non-nationals (members of the minority of Thrace) who do not opt for the process of naturalisation and those regaining Greek nationality through it, so that a health booklet or a "non-insured person's" booklet (as the case may be) be issued in parallel with the issuance of the non-nationality certificate, (b) free medical care and hospitalisation, to aliens who do not have asylum seeker's identity card (their application being at the first stage of registration), though providing evidence of their application for asylum, (c) other specific categories of migrants, and (d) specific categories of nationals and non-nationals suffering from infectious diseases. It should be stressed that only those recognised refugees desiring a "non-insured person's" health booklet should be granted one, given that they share the same rights as Greek citizens.

- Observations-Resolution on the Bill re. "violence within the family"(9 February 2006): Following receipt of the Ministry of Justice relevant Bill (17.01.2006), the GNCHR's Plenary deliberated on the matter, in the light of recommendations submitted by its President, by the Greek League for Women's Rights, by the Greek Section of Amnesty International and by the General Secretariat for Equality. The observations include: (1) the Bill does not deal with the essence of the problem, i.e. the violence against women, nor with its root cause, the persisting roles of "man-master" and "woman-servant"; (2) the acts it claims to punish are those already covered under the Penal Code, except for the case of rape within marriage; moreover, confusion will be created as to which acts will continue to be regulated by the Penal Code and/or by pre-existing law; (3) the relevant legislation is neutral from the point of view of gender, covering perpetrators and victims of both genders; but why is the perpetrator left unpunished when the victim is the wife and the perpetrator her husband or companion? (4) the establishment of ad hoc institutions to deal with the issue is not provided for; (5) the institution for mediation on criminal issues, as provided for in the Bill, raises doubts from the perspective of both constitutionality and efficiency; (6) the police and the Prosecutor

remain the main arbiters in the pro-judicial phase, although already proven to be unsuitable for the task, while the establishment of an ad hoc institution to deal with the problem, such as a special body of family social workers, is not provided for, (7) the recommendation (23.06.2005) addressed to the General Secretariat for Equality by the Greek League for Women's Rights, has obviously not received the necessary attention. To the GNCHR's view, a Bill addressing an issue of concern to a considerable number of families should be the product of a participatory process, both from the penal and the social points of view.

- Resolution regarding the proposal to the relevant Greek authorities to ratify: a) the CoE Convention on Action against Trafficking in Human Beings, and b) the Additional Protocol to the UN Convention on the Rights of the Child, on the sale of children, children's prostitution and children's pornography (9 March 2006): Although the above mentioned instruments originate from different international organisations, they, nonetheless, attempt to subject the alarming phenomenon of "human trafficking" to a stricter framework of legal regulations and sanctions. While the first addresses human trafficking in general, mainly on the European continent and in Southeastern Europe in particular, the second focuses on children's trafficking, the sale of children's organs, child prostitution, pornography and sex tourism. Both instruments complement pre-existing international and European legal texts and include monitoring mechanisms necessary for reaching the goals they set. Greece has already signed both conventions (on 17.11.2005 and on 07.09.2000, respectively), but has not yet ratified them. It is to be noted that a Memorandum of Co-operation regarding the distribution of roles and the co-ordination of action between state bodies and NGOs against human trafficking, was concluded among the Secretary-Generals of the Ministries of Health, Justice and Foreign Affairs. The GNCHR recommends the ratification of the two conventions by Greece.

V. GNCHR'S ACTIVITIES AT THE EUROPEAN AND INTERNATIONAL LEVEL

a) Statements of GNCHR

Statement by Pr. Haritini Dipla, Member of the Greek National Commission of Human Rights,
to the 61st Session of UNCHR, Geneva, 14-15 April 2005

Honourable Chair, Distinguished Delegates,

I am very pleased to address this audience today on behalf of the Greek National Commission for Human Rights.

During the past year, the Greek Commission has delivered opinions on various Human Rights issues and has organised several activities. As a matter of fact, the Greek Commission considers the interaction between National Institutions and Regional Organisations as a very important process within which they may develop partnerships and create a favourable environment for consultation and co-operation.

In this regard, allow me to refer to two particular contributions of the Greek Commission to the activities of two regional organisations, that is the European Union and the Council of Europe:

1. The Greek Commission welcomes the initiative of transforming the European Monitoring Centre on Racism and Xenophobia into a Fundamental Rights Agency and follows this process with particular interest. It has presented its comments to the European Group of National Institutions, in view of adopting a common position.

We have proposed the following:

- The mandate of the Agency should cover a large thematic area of work, comprising all three pillars of the European Union.
- The list of rights should cover the totality of rights included in the European Union's Charter of Fundamental Rights, with special emphasis on combating racism.
- The competence of the Agency should confine to the EU member States (including the candidate countries).
- The data collection on fundamental rights should be maintained, with emphasis given to racism, as well as the conduct of studies and analyses, subsequently disseminated to the civil society. This should be performed in co-operation with: the Council of Europe, the National Human Rights Institutions of member States, the Network of Independent Experts of the European Commission, as well as the European Racism and Xenophobia Network (RAXEN), which is

operating within the framework of the European Monitoring Centre on Racism and Xenophobia (EUMC). .

- The possibility of providing the Agency with the power to intervene as amicus curiae before European jurisdictions should be examined.
- Finally, the Agency should be endowed with complete independence. The representatives of the European Parliament, the European Commission and ECRI –European Committee Against Racism and Intolerance- are already participating ex officio to the Executive body of the European Monitoring Centre on Racism and Xenophobia (EUMC). National Human Rights Institutions of EU Member States should also be represented within its governing body, or, for as long as there is no such body in a certain Member State, by an equivalent independent institution operating in that State.

2. The second input of the Greek Commission to the regional co-operation relates to the activities of the Council of Europe. Firstly, in the elaboration of drafting a new European Convention for the Prevention of Terrorism, where, in co-operation with the European Co-ordinating Group of National Institutions, a common position was formulated.

The Greek Commission provided comments focusing on the following points:

- Adopting the Human Rights approach is a sine qua non condition in order to safeguard the respect of universal human rights principles and break the vicious circle of terrorism and counter-terrorism. The so-called "pre-emptive antiterrorist wars" should by all means be condemned, as inefficient and inappropriate for an international community that respects the ideals of democracy and the rule of law.
- Although the title of the Convention refers to the prevention of terrorism, it is clear that its scope is broader since it includes the repressive dimension as well. In addition, the need of cooperation between the European countries in order to address the real causes of terrorism should be underlined.
- As far as the description of terrorist acts in the preamble is concerned, the wording should not only confine to mentioning the intent but also to clearly mention violent acts. It should be reminded that, in this respect, there is currently a considerable dynamic towards achieving a consensus on the definition of terrorism, within the UN, as witnessed by the Secretary General's March 2005 Report entitled "In Larger Freedom: towards

Development, Security and Human Rights for All".

- With regards to criminalising preparatory activities, these offences should be very strictly defined, as well as the national response measures aiming at containing these acts. Along the lines of the European Convention of Human Rights, authorisation for States-Parties to adopt necessary anti-terrorist measures should be provided under the condition that they are necessary "in a democratic society".
- With regards to the treatment of detainees suspect of having committed terrorist acts or convicted for such acts, it is essential that reference is explicitly made to the obligation of States-Parties to comply with the provisions of international human rights instruments, such as the UN Convention Against Torture (UNCAT) and the International Covenant of Civil and Political Rights (ICCPR).

The second input of the Greek Commission to the activities of the Council of Europe concerns recommendations on ways and means to accelerate the procedure before Greek courts in compliance with the European Convention of Human Rights and the relevant case-law of the European Court of Human Rights. It is worth noting that 2/3 of the decisions issued by the European Court against Greece concerned the problem of the excessive length of the procedure before Courts, in particular the administrative ones. Based on a comparative analysis of how other European countries deal with this issue, the main points of those recommendations focus on:

- Introducing special legal means at the disposal of the litigant in order to avoid an excessive length of the main trial;
- the possibility for a litigant to claim damages suffered from the excessive length of the trial;
- the possibility for the convicted to claim a deduction of the penalty inflicted due to the excessive length of the procedure in a penal trial;
- practical ways to accelerate procedures such as the submission of documents in an electronic format;
- finally, the increase of personnel and improvement of technical facilities to achieve a more efficient administration of justice.

Mr. Chairman, with these words, I would like to thank you for your attention and to stress once again the need for strengthening the dialogue between the National Institutions and the International Organisations, as well as for reserving to them a more distinct role within the activities of those organisations.

GNCHR APPEAL ON THE ABOLITION OF THE UN COMMISSION ON HUMAN RIGHTS

The GNCHR's Plenary adopted the following resolution on June the 2nd, 2005:

1. The GNCHR expresses its consternation and deep concern in relation to the proposal to dismantle the historic and fruitful United Nations Commission on Human Rights.

   The above-mentioned proposal was presented by UN officials during the 61st Annual Conference of the Commission, held in Geneva in April 2005.

2. It would be understandable if a process of reform were initiated in view of proposing improvements to the overall performance of the Commission. In any case, serious shortcomings may be observed in the functioning of various UN bodies – including smaller Councils, such as the Security Council, which the authorities suggesting the abolition of the Commission mention as a "model" –, as well as in the UN Organisation as a whole.

3. The GNCHR requests that the Commission be maintained and, in the event that a comprehensive study on ways to improve its efficiency is conducted, it stresses the importance of including, in the overall process, representatives of the NGOs holding consultative status with the UN, as well as representatives of the independent National Human Rights Institutions.

Athens, 3 June 2005

Statement by European National Human Rights Institutions regarding freedom of expression and respect for religion Copenhagen, 02.02.2006

The undersigned European National Human Rights Institutions, meeting in Copenhagen on 2 February 2006, follow with deep concern the current lack of dialogue caused by the printing of drawings of the Prophet Muhammad, and the subsequent international response.

The European national human rights institutions are obviously fully committed to the protection and promotion of the right to freedom of expression, as well as to the right to respect for one's religion. Freedom of expression is often seen as a precondition for the exercise of other rights and as such imperative to a democratic society, but is and has never been unconditional. All human rights must be exercised in a way which does not violate the rights of others.

European history has taught us the extremely dangerous consequences of a gradual accumulation of events reinforcing an explicit divide between majority and ethnic and religious minorities. Such divide foster hate and aggression that is counterproductive to any society. The publication of the drawings and the obvious reaction to them should be seen in the context of this harsh and dichotomising debate.

We therefore take this opportunity to urge governments, independent institutions and civil society everywhere to collaborate in an effort to ensure and promote a climate of peaceful dialogue, with respect for diversity and human rights without any form of discrimination.

Mrs. Haritini Dipla, Vice-President of the Greek Commission for Human Rights

Mr. Maurice Manning, President of the Irish Human Rights Commission

Mr. Morten Kjaerum, Executive Director of the Danish Institute for Human Rights

Mr. Joël Thoraval, President of the French Advisory Commission for Human Rights

b) GNCHR contributions to the drafting and implementation of International texts and co-operation with international bodies

Draft Submission to the United Nations Ad-Hoc Committee on the drafting of a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities

6th Session
1st - 12th of August 2005
New York

Submission by

The Irish Human Rights Commission and the Swedish Disability Ombudsman on behalf of the European Grouping of National Institutions[1]

On

Towards An Innovative Monitoring Mechanism for the Convention
–
Taking Domestic Sovereign Responsibility Seriously

1. Introduction – Why Monitoring Matters

2. Proactive Role – the treaty monitoring body as an agent for change at the Domestic Level

   (a) Taking Domestic Sovereign Responsibility Seriously - National Action Plans and a Facilitative Role for the Treaty Body

[1] At its meeting on February 16th 2005 the European Coordinating Group of National Institutions mandated the Irish Human Rights Commission and the Swedish Ombudsman for Persons with Disabilities to coordinate the views of the European Group of National Institutions at the 6th Session of the Ad Hoc Committee

(b) Harnessing Domestic Institutional Champions for Change – National Human Rights Institutions and their relationship to the treaty monitoring process

(c) Sustaining a Domestic Momentum for Change – Raising the Capacity of Disability NGOs to engage constructively with Domestic Reform processes

(d) Reviewing Progress toward Domestic Change – International Monitoring of National Action Plans

(e) Assisting in the Search for Solutions to Common Challenges: Thematic Studies leading to Practical Recommendations

(f) Adding Insight and Jurisprudence to the Operation of the Existing Treaty Monitoring Bodies

(g) Adding a Focal Point for the Specialised Agencies and other Bodies on disability

(h) Harnessing the Strengths of the UN Special Rapporteur as an ex officio member of the treaty monitoring body

3. Reactive Role –Complaints and Inquiries

    a. Individual Complaints procedure – Testing Rhetoric with Individual Experience

    b. Collective Complaints Procedure – Getting at Systemic Failures

    c. Inquiries – Getting at Persistent Patterns of Violations

4. Composition of proposed treaty monitoring body

5. Summary of Recommendations

"…globally, the implementation of our rights lags far behind their articulation. Our objective must be to help bridge the gap between the lofty rhetoric of human rights in the halls of the United Nations, and its sobering realities on the ground"

United Nations High Commissioner for Human Rights: OHCHR Plan of Action – Protection and Empowerment (Geneva, May 2005, p 5).

1. Introduction – Why Monitoring Matters

The European Group of National Institutions view the drafting and eventual adoption of the proposed convention on the rights of persons with disabilities as perhaps the single most significant event in the history of people with disabilities throughout the world.

The adoption of the Convention should have huge symbolic importance. Throughout history and in all cultures the fate and status of persons with disabilities was not traditionally viewed as a legitimate concern for justice and human rights. Only recently has the framework of reference shifted decisively towards justice and human rights in the disability context. The only puzzle is why this has taken so long given that the Universal Declaration on Human Rights has been in existence for over 50 years.

Without doubt, great strides have already been made in the past two decades to secure and advance the human rights of persons with disabilities at both the international and regional levels. The adoption of the UN Standard Rules on the Equalisation of Opportunities for Persons with disabilities (Standard Rules) in 1993 marked a vitally important stepping stone in the right direction[2]. The explicit linkage drawn between violations of the Standard Rules with violations of human rights by the United Nations Human Rights Commission in 1998 was one further step in forging a closer nexus between human rights and disability.[3]

At European regional level there have also been significant advances. With respect to civil and political rights, the European Court of Human Rights is beginning to pay increased attention in its case law to the situation of Europeans with disabilities[4]. Likewise, and with respect to economic, social and cultural rights, the European Committee of Social Rights has, through its Collective Complaint mechanism and general reporting system, has begun

[2] General assembly Resolution 48/96, 20 December 1993.

[3] Resolution 98/31 of the United Nations Human Rights Commission, on the rights of persons with disabilities.

[4] See e.g., Luke Clements & Janet Read, Disabled People and European Human Rights: A Review of the Implications of the 1998 Human Rights Act for Disabled Children and Adults in the UK, (Policy Press, UK, 2003).

to address the social situation of Europeans with disabilities[5]. The output of these two adjudicatory bodies is complemented by a growing corpus of policy recommendations in the field issued by the Committee of Ministers of the Council of Europe.[6] Following its second Ministerial Conference on Disability (Malaga) the Council of Europe is currently drafting an action plan for a new decade of Europeans with disabilities.

The adoption of the Framework Directive on Employment by the European Union Council of Ministers in 2000 marks a milestone at EU level in advancing the fight against discrimination based, inter alia, on disability. While this Directive is truly historic at EU level it nevertheless applies only in the employment field. However, the EU has armed itself with a clear legal competence to combat discrimination on the ground of disability in much broader a range of fields (e.g., education, housing) and it is entirely conceivable that a range of supplementary non-discrimination Directives will be adopted by the Council of Ministers in the years ahead.

There can be no doubt that the conscience of Europe has been awakened to view disability as a human rights issue and that European Regional institutions have begun to respond positively.

This openness to the need for change has also taken root within the domestic law and policy of most European countries (some of which exceed the minima set down in regional standards). Many European countries have established dedicated institutions to promote positive policies in favour of persons with disabilities and to hear (or assist individuals and groups in making) complaints. This process of law reform is, of course, is replicated elsewhere in the world at both the regional and national levels.

It was natural that this move towards the human rights framework that is being experienced in all regions of the world would sooner or later lead to pressure for a global instrument that would at once capture the essence of the movement for reform and also help to meaningfully advance it. The disability Convention should help to consolidate the shift to the rights-based perspective on disability. It should help to embed a new mindset on disability

[5] See e.g., Collective Complaint 13, Autisme-Europe v France, (2004), available at: http://www.coe.int/T/E/Human_Rights/Esc/

[6] For a slightly dated round up of Council of Europe and EU contributions to the field see generally Quinn & Degener, A Survey of International, Comparative and Regional Disability Law Reform, in Breslin & Yee, Disability Rights Law and Policy, (Transnational, 2002).

in law and policy – one that sees persons with disabilities as 'subjects' and not as 'objects' – as individuals capable and willing to take charge of their own personal destiny.

However, the adoption of the Convention – no matter how important at the level of ideas – is not an end in itself. It will be marginal unless it can play a meaningful role in not just reflecting the paradigm shift to rights but in also helping to animate and drive the process of domestic reform. There is a world of difference between the 'myth system' fostered by paper rules and the 'operational system' of any given system on the ground. To be avoided is the so-called 'temptation of elegance' – vis, the drafting of a fine sounding or even inspirational instrument that nevertheless fails to connect with the process of change. The challenge, as always, is to ensure traction between the paper rules of international law and the real rules that govern the lives and life-chances of persons with disabilities in the countries where they live.

That is why we view the issue of monitoring as arguably the single most important issue in the context of the draft convention. We were gratified to learn that the EU

> "is entirely convinced of the need for this convention to have a strong and effective international monitoring mechanism"[7]

International human rights law, at best, provides for a system of outer supervision for the domestic implementation of treaty obligations. It is no substitute for – and it is not designed to displace – domestic sovereign responsibility in the field. Our view is that the monitoring mechanism chosen should add value to that process of change by animating it where it occurs and by stimulating it to occur in countries where it has not yet taken root. That is, the monitoring mechanism should not exist for its own sake but for the sake of adding value at the international level to the process of reform taking place at the domestic level.

We set out below our initial views on monitoring. We held a meeting of European NHRIs in Dublin hosted by the Irish Human Rights Commission on 16 April 2005 to forge a common approach which is reflected below.[8]
We realise that the debate will continue for some time yet. Our intention

[7] Speaking points for the EU at the 4th Session of the Ad Hoc Committee.
[8] A full set of papers delivered at the Dublin conference are available at: http://www.ihrc.ie/documents/article.asp?NID=135&NCID=8&T=N&Print=

is not to provide hard textual language. Rather, our intention is to set out some ideas that we think could meaningfully advance the purposes of the convention.

A treaty monitoring body under this convention should become an authoritative source of insights into the human rights of persons with disabilities – something which the existing treaty machinery lacks capacity. It should drive the human rights perspective on disability at the international level by enunciating it, clarifying it and applying it. Such normative refinement is a sine qua non for effective domestic law reform and is conspicuous by its absence at present.

Secondly, a treaty monitoring body should not exist in an ethereal sense but be seen as part of the process of change. This means that it must be more directly and effectively tied to processes of reform at the domestic level. This does not necessarily mean that the treaty body should prod reform through negative determinations against States Parties. It means that a way should be found to open up a genuine dialogue between the treaty monitoring body and the policy stakeholders at domestic level. To a certain extent the treaty monitoring body could be seen as a partner in that process – one that provides the normative clarity necessary for reform to take place.

The complexity of the changes that will be required across a broad range of policy fields (education, health, employment, housing, etc.) means that to assign a purely reactive role to the new treaty monitoring body may not be enough in order to add the necessary stimulus for change at the international level. That is to say, a more proactive role for the treaty body would appear required to ensure that the values expressed in the pure ether of international law find traction in the processes of domestic reform. It is one thing to accept these values at a high level of generality. It is quite another to give them concrete expression in domestic law and policy. A clearer, stronger and more results-oriented transmission belt is needed between the two.

We feel that a treaty monitoring body is essential if this transmission belt is to be put in place and a dynamic for reform is created and sustained. We are aware that any such body should seek to innovate and not merely replicate the existing system for its own sake. It is of course both symbolically and operationally important that the monitoring mechanism for the disability convention should be as closely aligned as possible to that of the existing treaty system and its likely structure when eventually reformed. Yet, if the

core function of such a monitoring system is to stimulate change, then we also see a need to innovate.

We are also aware of the many excellent submissions to date on the issue of monitoring – not least from the disability NGOs. And we are aware that the United Nations Human Rights Commission has, at its sixty first session in 2005, specifically requested the Office of the United Nations High Commissioner for Human Rights (OHCHR) to prepare an expert paper on the topic of monitoring to be available at the seventh session of the Ad Hoc Committee which we greatly look forward to[9].

We feel that a combination of functions would be important for any new monitoring body. Primarily, that body should act – and be seen to act –as a change enabler at both Regional and country level. There are many overlapping elements to this role which we identify below. Three critical success factors can be readily identified to ensure that change actually takes place.

First, Governments must take their sovereign responsibility seriously by crafting action-oriented National Action Plans. The focus here should not be to defend 'what is' but to image and then plan for 'what ought to be' in active consultation with persons with disabilities and their NGOs.

Secondly, it is vitally important that National Human Rights Institutions should be directly engaged with the process. They are potentially important institutional champions of the process. Treaties may, of themselves, lead to change. But the process of change is more likely to take place and lead to better results if an appropriate institutional architecture is in place at the domestic level. The existence of some form of National human rights mechanism with oversight responsibilities in the field and as a champion of the domestic law reform process is obviously required generally and especially in the disability context since there are so few internal champions of disability reform.

Thirdly, the capacities of NGOs need to be raised to enable a virtuous cycle of domestic reform to take root. The dynamic of change could develop a constructive momentum of its own if disability NGOs were assisted to enable them to enhance their overall level of engagement with domestic and international processes of change. The best outcome of all – from a

[9] Human Rights Commission Resolution 2005/65 adopted at its sixty first session (2005) on the human rights of persons with disabilities: E/CN.4/2005/65.

process perspective – would be to use the new treaty mechanism to help stimulate disability groups and raise their capacity to assert their rights in the political process and thus heighten the responsiveness of the political system to their rights and concerns. This would certainly ensure that any change would be sustainable.

We also believe that a complaints/inquiries system adds an important 'reality-check' in the process of change. Even the best-laid plans can go awry and it often requires some form of complaints procedure to bring anomalies to light and to restore the focus on the human element. The convention is not just about 'social engineering' – it is also about the enjoyment of individual human rights.

We also add our views as to the composition of the new treaty body.

2. Proactive Role – The treaty monitoring body as an agent of Change

We are of the view that the treaty monitoring body should be viewed primary as a change enabler – as a body that helps to transmit values and ideals into concrete reform strategies in the countries and Regions where people with disabilities live.

The most important change that will need to happen at domestic level to give full effect to the convention is to ensure that there is a culture-shift away from welfare towards rights – from viewing persons with disabilities as objects to viewing them as subjects with equal rights. Embedding this positive ethic is crucial to driving, maintaining and deepening the process of change that is needed throughout the world.

The actual process of change and reform will be multi-faceted. Some of it can – and should – be achieved immediately. With respect to so-called 'obligations of result' there can be no excuse for delay. With respect to such obligations – which can be important in the disability context – immediate action will be required.

Other changes – so-called 'obligations of conduct' - will necessarily be more gradual since they will depend on the availability of resources as well as on having in place the correct institutional infrastructure to enable change to occur. It bears emphasising that the need to progressively achieve elements of a reform strategy should never stand as a pretext for unjustifiable delay.

The key thing with respect to such progressive obligations is that a clear and honest start is made to begin to ratchet up levels of the enjoyment of rights.

(a) Taking Domestic Sovereign Responsibility Seriously - National Action Plans and a Facilitative Role for the treaty monitoring body

The States Parties will have to assume sovereign ownership of the process of reform - a process that will be long term. All of which points to the vital necessity of putting into place a National Action Plan to give effect to the Convention.

Naturally, these Plans should be tailored to the circumstances of each country. They should be drafted with the active involvement of disability groups and civil society at all stages (as is required under Rule 18 of the United Nations Standard Rules). At a minimum they should contain:

i. clearly defined goals and objectives within each sector,
ii. deadlines for action and for rolling forward its programmatic elements,
iii. an in-built review mechanism

Draft Article 6 of the Convention (statistics and data collection) already implicitly envisages that such a Plan would be drawn up and implemented. We feel that this could be made much more explicit in the body of the Convention.

The proposed treaty monitoring body could play an important facilitative role in assisting States compile their National Action Plans. It could adopt general Protocols for the drafting of such Plans. It could act as a repository or clearing-house for best practice and facilitate inter-Governmental contact to ensure the transfer of relevant good practice on particular topics. It could build up and provide a knowledge bank on which the States Parties can draw.

It would be wise to commence the process with the drafting of a Baseline Report under which States would self-report on the current law and practice. A frank acknowledgement of where challenges lie would be an excellent start in putting together an action programme aimed at achieving real and measurable results. Much of the knowledge required for such a Baseline Study is already scattered in the existing Reports of States Parties to various

human rights instruments. It would be a useful learning exercise for all concerned to bring all of this information together with a sustained focus on persons with disabilities.

Such an approach would be fully in keeping with the recently announced OHCHR 'Plan of Action – Protection and Empowerment' which focuses on greater country engagement as well as closer partnership with civil society[10].

The important point is that the drafting of a National Action Plan would encourage States to take charge of the process for change. It would plant a dynamic for change. And it would embolden persons with disabilities to assume a measure of responsibility for their own fate by engaging actively in the process and by holding Governments to account.

(b) Harnessing Domestic Institutional Champions for Change - National Human Rights Institutions and their relationship to the treaty monitoring body.

We assume the existence of a focal point within domestic administrations for the development and implementation of coherent disability policies (see draft Article 4 of the Convention).

An internal process of reform can best be sustained if some independent agency has competence to evaluate performance and make recommendations for change. It is obvious that the closer this institution is to the process of change on the ground then the more quickly it can act to highlight shortcomings and bring about timely adjustments to law and policy.

All of which, in our view, points to the need for a National Human Rights Institution (NHRIs) with the capacity to review law and practice in the field of disability, to recommend changes in law and policy, to engage in educational campaigns in support of the convention and the rights of persons with disabilities and to entertain complaints (or assist complainants pursue their grievance) in accordance with local practice and procedure.

The United Nations High Commissioner for Human Rights articulated six "effectiveness factors" that any national institution must adhere

[10] OHCHR, Geneva, May, 2005.

to: independence, defined jurisdiction, adequate powers, accessibility, cooperation, operational efficiency, and accountability.[11]

Such institutions already exist in many countries. Or it may prove necessary to create one. It does not so much matter (at least for present purposes) whether such an institution is a stand-alone agency or fully integrated into a broader agency with a wider remit (e.g., dealing with gender, age or race or with general human rights issues). The integration of the relevant functions into a broader based body has many advantages provided adequate space and expertise is devoted to disability. This, however, is a big proviso in practice. To a certain extent this will depend on local institutional arrangements into which such an institution should fit and add value. States are probably due a margin of appreciation in how exactly such institutions fit with existing bodies.

What matters more is that such an institution actually exists and is specifically tasked and adequately equipped to deal with disability and human rights issues. Such institutions should be constructed on the basis of the Paris Principles.

Naturally, the international treaty monitoring body should develop a close working relationship with such institutions. If the institution is charged – as it should be – with the domestic monitoring of law and practice in accordance with the convention then it follows that the treaty monitoring body could play a crucial role in enriching the thinking and understating of international norms. In as much as the treaty monitoring body will evaluate progress achieved under National Action Plans then NHRIs should play a formal and crucial role in this process.

Regular – and perhaps Regional –meetings of such Institutions among themselves and with the treaty monitoring body should take place to ensure a smooth translation of international norms into domestic practice.

It bears emphasising that NHRIs have indeed stepped up their engagement on disability issues over the past number of years. This was one of the key

[11] United Nations Centre For Human Rights, National Human Rights Institutions: A Handbook On The Establishment And Strengthening Of National Institutions For The Promotion And Protection Of Human Rights, Professional Training Series No. 4 at 10, U.N. DOC. HR/P/PT/4, U.N. Sales No. E.95.XIV.2 (1995).

recommendations of the OHCHR Study on Disability in 2002[12]. In 2005 the OHCHR reported much progress by NHRIs on this issue[13]. The fact that we at European level are combining to make this submission is proof of our seriousness on the issues.

(c) Sustaining a Domestic Momentum for Change – Raising the Capacity of Disability NGOs to engage constructively with Domestic Reform Processes

One of the big inhibiters of change in the past has been the relative invisibility of persons with disabilities and their NGOs in the political process. They are a classic 'discrete and insular' minority whose voice is seldom heard or heeded. One corollary of the shift to the rights-based perspective on disability is that the focus for political agitation by and on behalf of persons with disabilities should shift away from welfare and more towards justice and rights. This calls for new and relatively sophisticated political skills if persons with disabilities are to engage constructively and effectively.

To a certain extent the NGOs have already begun to make this shift. The very process of drafting the convention has had this effect. And the Office of the HCHR recently reports even more positive experience in this regard[14].

It is, of course, in a States' own interest to raise the general level of competence of disability NGOs. The increasing engagement of such NGOs in the process could lead to a reduction in needless and costly mistakes. Their active engagement should ensure the crafting of solutions that more genuinely meets their needs and respect their rights. And their involvement in the process can impart a sense of responsibility for their own destiny and confer added legitimacy over the process.

We are of the view that many purposes would be served by up-skilling the disability NGOs to become more actively engaged in domestic reform processes. However, it must be frankly acknowledged, that there is a large skills-gap that needs to be bridged before such engagement can have full

[12] OHCHR Study on the, Current Use and Future Potential of the UN Human Rights Instruments in the Context of Disability, (Geneva, 2002).
[13] Report of the OHCHR on progress on the implementation of the recommendations contained in the study on the human rights of persons with disabilities; E/CN.4/2005/82 (Geneva, 30 December 2004).
[14] Id.

effect. To be sure, this skills-gap does not happen everywhere and with respect to all impairment-specific groups. Many disability NGOs are now very highly skilled indeed. However, the resulting imbalance as between the various groupings would call for the equalisation of skills among all such groups to allow for a fair ventilation of all claims within the reform process.

In our view, the treaty monitoring body should be given an explicit role to help conscientise the disability community and to raise their general skills. This could have the empowering function described in the OHCHR Plan of Action (p. 12) –

> Experience from many countries teaches us that human rights are most readily respected, protected and fulfilled when people are empowered to assert and claim their rights.

In so far as the rising of such capacities help in the process of democratisation we would strongly suggest that the democratisation element of development aid programmes should be adjusted to include capacity raising for disability groups. We consider this to be an aspect of 'mainstreaming' which is already covered under draft Article 4 (c). It is our understanding that this 'mainstreaming' obligation applies as much to external relations (including development aid and democratisation) as it does to internal policy-making.

(d) Reviewing Progress toward Domestic Change – International Monitoring of National Action Plans

Such periodic reporting as should take place should focus less on an inert statement of current law and practice and should focus more on the steps taken to progress National Action Plans. That is, the focus should be on the dynamics of change rather than the statics of law or policy.

A large amount of information will already be in the system through the periodic reporting mechanism under the existing human rights treaties. It should be possible to review such plans periodically. It might make sense to do so regionally which gives each region some degree of ownership over the process of change and motivates States Parties to seek common solutions among their peers.

The treaty body should then be in a position to draft Recommendations that may whether be general to a Region or more specifically directed to the States Parties within that Region.

Additionally, the treaty monitoring body could and should play a role in reviewing the content and implementation of such National Action Plans. States should periodically report on the steps they have taken to implement their own National Action Plans – indicating the obstacles or difficulties encountered.

The treaty monitoring body should be able to draw on its knowledge base to advise the States Parties on measures they should take to overcome these obstacles based on success elsewhere in the world with respect to similar challenges.

It should be possible to develop (and to involve many entities including the Specialised Agencies) indicators that could be used to measure progress in the achievement of National Action Plans. This has obvious relevance to the development of national statistics and indicators.

The treaty monitoring body should also be in a position to harness its networks and contacts to put the States in touch with agencies or bodies that can meaningfully assist it in moving its reform agenda forward. We would envisage a key role for NHRIs in this review process.

(e) Assisting in the Search for Solutions to Common Challenges: Thematic Studies leading to Practical Recommendations

All issues and all rights are important in the context of disability. As we see it, the primary purpose of the draft Convention is to secure the full and equal enjoyment of all human rights for persons with disabilities. This means identifying where change is needed as well as having a clear appreciation of the obstacles to change. And it means the construction of a rational approach to dissolving those obstacles. Many States have a head start. No State has all the answers. And all States face extreme difficulties on several important and connected issues.

Some of the changes needed will tax even the most conscientious of States. Even with the best political will in the world, general principles can often be hard to translate into concrete practice. Very often what is needed is to constantly broaden the frame of analysis to explore how different States experience problems that they share in common and how they might move forward toward their resolution. These challenges are quite pronounced across a range of issues under the draft convention. The challenge of de-institutionalisation alone, for example, is global and requires considerable forethought and planning.

The treaty monitoring body could add real value to the resolution of seemingly intractable issues by engaging in Thematic Studies which involve the States Parties in a collective search for practical directions.

It is envisaged that States Parties will be consulted by the treaty monitoring body as to the areas in which such Thematic Studies could prove most useful. The States Parties should be actively involved in providing information and data that could be useful to the result. Responsibility for the ultimate set of Recommendations would remain with the treaty body.

It would, in our view, make sense to empower the proposed treaty monitoring body with the possibility of requesting thematic reports from the States Parties on certain thematic issues or challenges. If all States Parties are asked to separately and jointly identify where the main obstacles to change occur on selected topics then this would, in itself create a clearing in the search for workable solutions.

Real added value could be generated if the proposed treaty monitoring body could provide its own independent analysis of the data revealed from the thematic reports and put forward its own Recommendations regarding ways of overcoming obstacles.
It would make sense to harness the collective wisdom and experience of the Specialised Agencies of the United Nations in this regard including bodies such as the World Bank.

The Recommendations of the proposed treaty monitoring body could be directed at the States Parties, the Specialised Institutions of the United Nations and such Regional or others bodies as would appear to have something positive to offer in the process of change.

Such a Thematic Report would be dynamic in the sense that it would focus on key challenges and stimulate a dynamic for reform around a clear set of recommendations.

(f) Adding Insight and Jurisprudence to the Operation of the Existing Treaty Monitoring Bodies

Any new treaty monitoring body should not exist in isolation but should be closely tied to the existing treaty monitoring structure. If this is to be a human rights convention then a close working relationship must be developed with the existing bodies (whether merged or not).

The new treaty monitoring body should co-operate fully with the co-ordination efforts of the other treaty bodies. It could and should assist in the drafting of General Comments of those bodies and seek their input in any General Comments it might draft. It should explore ways of ensuring that the human rights perspective on disability is not lost in the work of those bodies.

This nexus is a two-way street. The jurisprudence of these bodies can and should evolve with a disability focus and that in turn should impact positively on the work of the new treaty body.

Additionally it is important that the treaty monitoring body develop a strong relationship with the existing special rapporteurs in the field of human rights. Many of these special rapporteurs have potentially a huge contribution to make in helping to identify problems and obstacles and indeed in suggested suitable areas for Thematic Studies[15].

(g) Adding a Focal Point between the Specialised Agencies and Other Bodies at the International Level

Through time the new treaty monitoring body should develop sufficient expertise to identify how the collective strengths of the various Specialised Agencies could be better focused in order to assist States in meeting their obligations under the convention.

At a minimum the treaty monitoring body should be explicitly empowered to request information and reports from the Specialised Agencies and other bodies concerning their activities in the broad field of disability. Such information would be particularly useful with respect to Thematic Studies. It could provide useful context to the thinking of the treaty monitoring body.

The treaty monitoring body should also be explicitly empowered to address Recommendations to these bodies in order to optimise their contribution to the overall goals of the convention.

(h) Harnessing the Strengths of the Office of the UN Special Rapporteur as an ex officio member of the treaty monitoring body

[15] Among those with the most to contribute would include the special rapporteurs on the right to adequate housing, arbitrary detention, right to education, human rights and extreme poverty, right to health, rights and freedoms of indigenous people, rights of migrants, freedom from torture, and violence against women.

The Office of the UN Special Rapporteur under the Standard Rules is now well established. The Rapporteur reports formally to the UN Commission for Social development. Over the past number of years the Special Rapporteur has also attended and made statements before the UN Commission on Human Rights and time is set aside in the Commission to focus on human rights and disability issues. This is an extremely welcome development which should continue and deepen.

A significant amount of experience and insight has now evolved within the Office of Special Rapporteur. The Standard Rules are necessarily more detailed that the Convention but yet quite complementary.

We are of the view that the holder of the Office of Special Rapporteur should be an ex officio member of the treaty monitoring body. The presence of the Special Rapporteur in the treaty monitoring body could only serve to enrich its deliberations especially as regards the achievement of its more programmatic elements.

We do not believe, however, that the Special Rapporteur should have voting rights on the treaty monitoring body since his/her roles are quite distinct.

3. Reactive Role – Complaints and Inquiries

It is important, in our view, to complement a programmatic approach (as above) that focuses on the need to embed a positive dynamic of change with one that more resolutely focuses on the actual enjoyment of the rights protected by individuals and groups who are, after all, the ultimate beneficiaries of the convention. History shows that the raw edges of human experience can be too easily ignored by exclusively programmatic approaches.

All of which points to the necessity of some form of complaints mechanism and inquiry procedure. It must be remembered that the proposed convention is a human rights instrument.

The fact that the treaty monitoring body should play an active and facilitative role in helping States Parties in their own efforts need not detract from its authority or independence in any way. That is to say, there is no inherent contradiction between the new body playing a proactive and facilitative role on the one hand towards States and playing a reactive one on the other hand that focuses on complaints and inquiries.

(a) Individual Complaints Mechanism

An individual complaints mechanism would enable an individual who considers him/herself to be a victim of a violation to lodge an individual complaint with the treaty monitoring body based on his/her own experiences.

A focus on how the individual – qua individual – enjoys his/her rights is extremely useful. It may point up inequities as between people with disabilities and others and even within the field of disability. It may point to shortcomings in the delivery of services that arguably amounts to disrespect for the inherent dignity of the person. And it helps to provide a yardstick – perhaps the only one that really matters – in measuring the progressive achievement of the more programmatic obligations contained in the convention.

This mechanism would be optional in the sense that it would only apply to States that make a Declaration recognising the competence of the treaty monitoring body to entertain such complaints. Since the focus would be on individual allegations of violations there would presumably be the standard requirement that domestic remedies would be exhausted in accordance with the jurisprudence of the existing treaty monitoring bodies.

Such an individual complaints mechanism can provide a window on more systemic problems that might otherwise go unheeded.

At any time it should be possible to seek and obtain interim measures if it appears to the treaty monitoring body that irreparable harm might otherwise be done.

We believe the treaty monitoring body should have the option of convening an oral hearing on individual complaints if deemed necessary to allow for the full ventilation of the claims and counter-claims. The treaty monitoring body should retain carriage of the complaint until such time as it is satisfied that adequate steps have been taken to remedy any negative decision against the State Part in question.

Four of the current treaties (ICCPR, CERD, CEDAW, and CAT) allow for individual complaints of treaty violations. These complaints are made to the relevant treaty monitoring body which then adjudicates on the alleged violation.

Individual complaints allow the raw edge of human experience to be ventilated before treaty monitoring bodies. They bring the normative ambiguities of

the treaties into sharp focus and require a clear response from the treaty monitoring bodies.

It has been remarked that the individual complaints process is inaccessible to many victims of human rights violations. The current system requires written allegations that conform to strict guidelines. Often those in most need of the process have no knowledge the complaint mechanism exists or have no assistance in drafting the complaint. Consequently, those who would benefit most from the process may not enjoy effective access.

The point has also been made that individual cases only look backward and therefore only correct a historical wrong through sanctions or remedies[16]. This is not an argument against a complaints mechanism – simply an observation that goes to the overall effectiveness of complaints.

It has been estimated that ICCPR committee decides approximately 30 individual complaints a year. By this estimate the committee has a backlog of 3 years for individual complaints. The UN system is currently debating whether to draft an Optional Protocol to the ICESCR to set up an individual or collective complaints system which is currently absent.

(b) Collective Complaints Mechanism

A Collective Complaints mechanism could serve many functions.

It could motivate disparate groups of persons with disabilities to come together and share their experiences. As such, it could act as a stimulus for them to convert their felt sense of grievance into the language of rights and thus connect better with the process of domestic change. Among other things, this would require the sector to agree on what bears complaining and to come forward with clear arguments – arguments that command widespread support – as to why the complaint should be upheld.

A Collective Complaints mechanism could thus serve as a catalyst to energise civil society which could have all manner of positive side effects in terms of raising overall levels of capacities to engage with the reform process.

[16] Alston & Crawford (eds.), The Future of Human Rights Treaty Monitoring, (Cambridge, 2000) 36.

Furthermore, a Collective Complaints system could enable more representative cases of violations to be brought to the attention of the treaty monitoring body – thus enabling it to gain a broader view of the issues at stake. The more representative the claims and the more cogent the evidence the greater is the likelihood that systemic injustice will be brought to light. Very often this systemic injustice is not due to lack of resources. It can often take the form of inequity as between different groups. It is in the interest of the States Parties to have a mechanism for highlighting such inequities so that its overall reform effort is kept on track.

A Collective Complaint mechanism also has the added advantage that it could reduce the risk (which is inherent in any system of complaints) that one case could present a distorted view of things and lead to results that inhibit rather than advance rational reform. States Parties will naturally be concerned that their overall reform efforts should have clear priorities and not be unnecessarily deflected. The provision of a Collective Complaints mechanism is certainly fully consistent wit this goal.

The Collective Complaints procedure is not unprecedented. It has been pioneered by the Revised European Social Charter of 1996 which is a Council of Europe human rights treaty in the field of economic, social and cultural rights. The relevant treaty monitoring body under that Charter - the European Committee of Social Rights – has recently begun to make good use of this procedure in the general field of economic and social rights as well as in the specific field of disability.[17]

In one landmark disability Collective Complaint (Autisme France v France) the Committee found a violation of the Charter on the basis of the slow rate of integration of autistic children into the French education system. Lack of resources did not appear to the problem in this instance and the result of the Decision was not to force the French State to spend more money but to require it to rearrange its administrative apparatus in order to achieve the laudable gaols which, to its credit, it had already set for itself in its own legislation.

We believe that the possibility of applying for and obtaining interim measure should also be available under a Collective Complaints approach. They may be even more necessary in the context of such complaints since it is likely that whole categories of persons with disabilities will be affected. Likewise, we also believe that the treaty monitoring body should have the option of

[17] See note 4 supra.

holding oral hearings on such complaints an retain carriage of the Complaint until such time as it is satisfied that adequate steps have been taken to remedy any shortcomings identified.

(c) Inquiries – Getting at Persistent Patterns of Violations

An Inquiries procedure can prove exceptionally useful at enabling persistent patterns of violations of human rights to be exposed. We believe that such a mechanism would serve an extremely useful purpose in the context of disability.

There may well be patterns of behaviour that States are not aware of in the sense that no one – or no institution – has consciously addressed them. They may be allowed continue for no reason other than the fact that the practice is considered 'normal'

Alternatively, there may be patters of egregious abuse and violence that rarely come to light but which can come to light is a torch can be shone on them through an Inquiries procedure.

We believe that an Inquiries procedure should be included in the convention. It could be triggered by the receipt of reliable information to the effect that a particular State Party is perpetrating grave or systematic violations of the convention. Part of the process should entail the possibility of country and site visits in order to ascertain the facts and collect information.

The Inquiry procedure is familiar under international human rights law. Ample precedent is available to draw on when drafting the relevant provisions. The important point at this stage is to press the case for the need for such a procedure.

4. Composition of the Proposed Treaty Monitoring Body

It is the view of the European Grouping of National Institutions that the following criteria should be applied in nominating and appointing persons to the Treaty Monitoring Body.

(i) Of the members of the Body, not less than 50% of them shall be persons with a disability.
and
(ii) Of the composition of membership of the Body there shall be parity as between the sexes.

and

(iii) The Body may not include more than one national of the same State.

and

(iv) The members of the Body shall be nominated by the States Parties and appointed by the Secretary General of the United Nations.

and

(v) The members of the Body shall be appointed and shall serve in their personal capacity.

and

(vi) In appointing the body, consideration shall be given to equitable geographical distribution of membership and to the representation of the different forms of civilization and of the principal legal systems.

(vii) A person shall be appointed by the Secretary General after consulting with eminent experts in the field of human rights. A person shall not be appointed by the Secretary General to be a m e m b e r of the Body unless it appears to the Secretary General that the person is suitably qualified for such appointment by reason of his or her possessing the required experience, qualifications, training or expertise as, in the opinion of the Secretary General, is or are appropriate, having regard, in particular, to the functions conferred on the Body.

5. Summary of Our Recommendations

There should be a treaty monitoring body established under the draft convention.

Overall Goals of Monitoring

The treaty monitoring body should be tasked and resourced so as to enable change to occur and to nurture a self-sustaining process of domestic reform.

National Action Plans

States Parties should take their domestic sovereign responsibility seriously by crafting National Action Plans to achieve the aims and purposes of the Convention. Such Plans should be crafted in close consultation with persons with disabilities and disability NGOs.

1. The treaty monitoring body should provide Protocols and Recommendations for the drafting of National Action Plans.

2. It should issue General Comments on general matters, on specific rights and on themes as it decides.

3. Each State Party should first draft a Baseline Report on 'what is' before drafting their 'National Action Plans' on 'what ought to be'.

4. The treaty monitoring body should be given the task of monitoring progress in the achievement of National Action Plans with the active and formal assistance of National Human Rights Institutions as well as NGOs.

Role of National Human Rights Institutions

National Human Rights Institutions can and should play a vital role in championing the cause of domestic reform on disability and human rights issues.

They should be specifically tasked and adequately equipped to keep the human right situation of persons with disabilities under review and to provide – or assist with the provision – of complaints procedures.

National Human Rights Institutions can play an important role in advising and enriching the deliberations of the treaty monitoring bodies with respect to national situations. They should be specifically empowered to directly assist the treaty monitoring body in assessing progress achieved under National Action Plans.

Civil Society

The treaty monitoring body should be specifically tasked to help raise the capacities of disability NGOs to engage constructively both with domestic reform processes and also with itself and cognate treaty bodies.

There needs to be a frank acknowledgement that the best form of change is change that is informed by its intended beneficiaries.

Thematic Studies & Targeted Recommendations

In recognition that many of the obstacles to the full and effective implementation of the convention will require sustained analysis and forethought, added value should be sought at the international level by tasking the treaty monitoring body to conduct Thematic Studies leading to a clear set of Recommendations.

Such Thematic Studies should be chosen and carried out with the active involvement of States Parties as well as disability NGOs and all relevant United Nations Specialised Agencies and other bodies.

Enriching the Deliberations of the Other Human Rights Treaty Monitoring Bodies

The disability treaty monitoring body should play a pro-active role in raising the level of awareness of its sister human rights treaty monitoring bodies to disability as a human rights issue. It should play an active part in the coordinated work of these bodies and in any future integration.

Adding a Focal Point to the Specialised Agencies

Since the implementation of the convention will take concerted effort at International, Regional and national levels the treaty monitoring body should play a key role in adding focus to the activities of the Specialised Agencies in particular.

The Specialised Agencies possess key knowledge, insights and skills that would enrich the thinking of the treaty monitoring body. Likewise, the treaty monitoring body should be able to bring its own insights and knowledge to bear in helping the Specialised Agencies to achieve their goals more effectively in the disability context.

Harnessing the Strengths of the Office of the UN Special Rapporteur

The Office of the United Nations Special Rapporteur should be made an ex officio – though non-voting - member of the new treaty monitoring body.

This would ensure that maximum complementarity is obtained from the two instruments. This would ensure a connectedness between the two instruments – and though them between the unique contributions of the social development and human rights dimensions to disability.

The Regional Dimension

The treaty monitoring body should convene Regional meetings with the States Parties in order to foster greater shared ownership of the process of change.

Part of the Recommendations of the treaty monitoring body dealing with National Action Plans should touch on the Regional dimension and on how Regional co-operation could further advance the goals of the convention.

Likewise part of its Recommendations emanating from Thematic Studies could be directed toward Regional groupings of States toward the same end.

Individual Complaints Procedure

An optional Individual Complaints procedure should be included in the convention. Such a procedure would allow the raw edges of human experience to be expressed. It would fix the gaze of the treaty monitoring body on how the rights are actually experienced on the ground by its beneficiaries. It would add a dimension that might not otherwise get expressed.

Collective Complaints Mechanism

An optional Collective Complaints mechanism should also be added which would enable the treaty monitoring body to reach systemic issues that affect a class or sub-class of persons with disabilities.

Such a procedure would be useful to States in helping to focus attention on major failings as well as gross inequalities. It could further help to motivate disability groups to engage with the reform process both at home and at the international level.

Inquiries Procedure

An optional Inquiries procedure should also be added to enable the Treaty Monitoring Body to reach allegations of persistent patterns of violations. This could be especially useful in highlighting a pattern of behaviour that States may have felt to be 'normal' in the past but which no longer pass muster under new thinking on disability. And it may prove particularly useful in bringing to light violence and abuse especially of vulnerable persons with disabilities living in residential or other institution.

Treaty Monitoring Body

The Monitoring Body should, to the fullest extent possible, represent the actuality of experience of those with a disability. It should be, and be seen to be, independent in the exercise of its functions, broadly representative of civil society and gender balanced. In addition; it should have the greatest possible level of expertise available to the United Nations.

EUROPEAN GROUP OF NATIONAL HUMAN RIGHTS INSTITUTIONS
Common position regarding the European Commission's proposals for a Council regulation establishing a European Union Agency for Fundamental Rights

To the Council of the European Union, the European Parliament, the European Commission, and Member States of the European Union:

The European Group of National Institutions for the promotion and protection of Human Rights (NHRIs) welcomes the development of the creation of a Fundamental Rights Agency of the European Union (thereafter referred to as « the Agency »), in order to create a focal point for all human rights work within the European Union.

The European Group of NHRIs had already expressed its position on the matter in two different papers. First, during the public consultation organised by the European Commission, it had issued a position on December 17th, 2005 on the context to be considered within the setting up of the Agency, on the mandate and the tasks to be assigned to the Agency, and on its structure. Second, on July 6th 2005, it had specified its position relating to the structure of the future Agency in order to guarantee its independence and efficiency.

Today, the European Group takes note of the proposals for a Council regulation and decision recently issued by the European Commission[1]. We wish to update our principled positions and express some of our serious concerns, hoping they will be duly considered before the setting up process of the Agency is finalized.

The setting up of such Agency is only of interest, after the experience of the EUMC, if this new institution is able to fulfil its mission with legitimacy, efficiency and credibility. However, the Commission's proposals do not seem to give the Agency the means to guarantee these conditions. To this end, the European group of NHRIs reckons that the Agency must comply with the principles of independence, pluralism and transparency contained in the UN "Paris Principles" on National Human Rights Institutions.

[1] COM (2005) 280

1. Independence

The European group of NHRIs is of the opinion that the UN "Paris Principles"[2], reference document for NHRIs, could be used as a basis for discussion on the future Agency within the EU Council, and as such facilitate the setting up of a strong and efficient Agency. The Paris Principles call for substantial and financial independence from Governmental bodies and public authorities. Within the institutional framework of the European Union, this implies that the Agency be endowed with complete independence, in its structure, tasks and means. This independence principle requires in particular that the members of the Agency will themselves be guaranteed as independent and impartial, through a transparent appointment process.

However, concerning the structure of the Agency, the European group notes that the management board would be composed, according to the Commission's proposal, of "independent persons" appointed by each Member State; of an "independent person" appointed by the European Parliament; another one by the Council of Europe, as well as two representatives of the EU Commission. Moreover, half of the members of the executive board of the Agency (two out of four) would be the representatives of the EU Commission. And because the management board is expected to meet only once a year in ordinary sessions, it seems that the decisions will mostly be taken at executive board level. Moreover, it is provided that the decisions of the executive board shall be adopted by simple majority vote, which will give the Commission a power to block decision taking. Finally, the director of the Agency would be appointed by the management board, based on a list of candidates proposed by the EU commission.

In the light of this composition, mainly dependent from the member States and the EU Commission, the European Group of NHRIs wishes to express its deep concern relating to the real independence of the Agency. The principle of independence may well be mentioned as a guiding principle in the regulation proposal, but it is not reflected in the composition of the Agency's bodies nor in the appointment process of its members. This lack of effective independence is harmful to the establishment of an Agency which should be strong by its legitimacy and efficient by way of its independence.

Moreover, the mandate and the tasks of the Agency, as provided for in the Commission's proposals, contradict the principle of independence and will

[2] «Principles concerning the status of national institutions for the promotion and protection of human rights», adopted by the General Assembly of the United Nations in its resolution 48/134 of December 20 1993.

consequently affect its efficiency and credibility. As an independent body, the Agency should be able to determine itself its program of work, and be given an ability to take up issues upon its own initiative, within the framework of its statutory mandate.

However the field of action of the Agency would be limited by a Multiannual framework determined by the EU Commission. Moreover, it is provided that « the conclusions, opinions and reports formulated by the Agency when carrying out the tasks mentioned in paragraph 1 shall not concern questions of the legality of proposals from the Commission under Article 250 of the Treaty, positions taken by the institutions in the course of legislative procedures or the legality of acts within the meaning of Article 230 of the Treaty. They shall not deal with the question whether a Member State has failed to fulfil an obligation under the Treaty within the meaning of Article 226 of the Treaty. »[3] This excludes in particular any possibility for the Agency to take position on the compliance of Commission's proposals for Council legislation with the fundamental rights of the EU, which means a large part of European standards being drafted.

Actually, according to the European Commission's proposals, it seems that the Agency would only be called to play an extremely limited role in the four areas where human rights hold a central position, i.e.: the compatibility of the EU Directives with the EU Fundamental Rights, the respect of fundamental rights by the EU member States, the human rights requirements imposed on candidate states to the EU, and the human rights clauses existing in EU cooperation agreements with third countries[4].

However, the European Group of NHRIs takes note with particular interest of the fact that the Commission's proposal opens the possibility for the Agency to "pursue its activities under this regulation also with respect to the areas covered by the Title VI" of the EU treaty, when empowered by the Council acting within these provisions. It is indeed necessary that the Agency, in order to be effective, be given a role in the fields of justice and home affairs, because of their clear link to human rights. The European Group therefore welcomes article 28 of the Commission's proposal for a Council regulation as well as its proposed decision empowering the Agency to pursue its activities in areas referred to in Title VI of the Treaty on European Union.

[3] Article 4, paragraph 2 of the Commission's regulation proposal

[4] In this latter field, the Agency will only be able to work "at the request of the Commission" (article 3, paragraph 4)

2. Pluralism

The pluralism of the Agency implies a close cooperation with the already existing institutions, particularly NHRIs and other national independent bodies. The EU's subsidiarity requirement and the need for local input should guarantee the Agency's legitimacy and efficiency. The Agency must not be conceived as an additional bureaucratic body but as a body which can bring an added value and play a role in coordination and impetus.
We had already insisted on the necessary anchorage of the Agency at national level, in order to play a significant role in relation to the protection of human rights in the European Union's member States when implementing community law. In order to guarantee this, the European Group of NHRIs had suggested in its last common position a similar structure to that of the working group created by Article 29 of the Directive on the protection of personal data[5]. For the Agency, this implies that such a structure should be composed of representatives of national human rights institutions (NHRIs) and of representatives of European institutions. However, we note that there is no intention to include NHRI representatives within the executive body of the Agency (the executive board)[6].

Regarding the Management board, as mentioned earlier, it would include, according to the Commission's proposals, an independent person appointed by each Member State, "with high level responsibilities in the management of an independent national human rights institution; or, with thorough expertise in the field of fundamental rights gathered in the context of other independent institutions or bodies."[7]Only this first option can answer to the participation demand by NHRIs, and this is to be welcomed. But it will not allow for a systematic inclusion of NHRIs within the Agency. Moreover, it is not specified whether an independent person appointed in accordance with the first option should act as a representative of its NHRI.

Moreover, in spite of this positive possible inclusion of member(s) of national institution(s) within the management board of the Agency, it is worth noting

[5] Directive 95/46/EC on the protection of individuals with regard to the processing of personal data

[6] There is only one scenario in which this can be made possible, but this will not be automatic: when the chair and/or vice-chair of the management board (both members of the executive board) are members of NHRIs. However, even in this rare situation, they do not necessarily act on behalf of their national institution, and do not, for sure, represent all of the NHRIs of the EU member States.

[7] Article 11, paragraph 1 of the Commission's regulation proposal

that no institutionalized link exists between the Agency and the European Group of NHRIs as a whole. Through the European network of NHRIs, the Agency will benefit from a solid human rights base within the member states as well as strong links with local communities.

3. Transparency

It is worth stressing that the principle of transparency also requests openness to civil society, particularly to Non-Governmental human rights Organizations, trade unions, academics, and research centres. If the inclusion of such actors is provided for by the Commission in its regulation proposal, within the framework of the "Fundamental Rights Forum" (article 14), the latter does not seem to ensure an effective openness, as it has a very weak power of proposal (limited to the implementation of the annual program of work of the Agency, itself limited by the multiannual framework of the EU Commission; and to the follow up on the basis of the annual report). This effective openness is considerably limited by the fact that this forum shall merely "meet annually, or at the request of the Management Board. » (which itself would only meet annually as well).

The Agency cannot be a mere bureaucratic tool, without a permanent dialogue with the strong forces of civil society. It should be based on openness towards NGOs and different social partners, through consultation and cooperation methods that should go beyond an annual meeting. At a time of crisis of the European idea, the Agency should aim at raising the awareness and participation of all European citizens to the promotion of human rights. Bearing in mind the proven limitations of the EUMC, the EU needs to ensure the full effectiveness, appropriate resourcing, empowerment and independence of the new agency in the field of fundamental rights.

GNCHR OBSERVATIONS ON THE DRAFT "HANDBOOK FOR NATIONAL INSTITUTIONS: HIV/AIDS & HUMAN RIGHTS"*

1. The Greek National Commission for Human Rights (hereinafter, the GNCHR) welcomes the joint initiative of OHCHR and UNAIDS to draft a "Handbook for National Human Rights Institutions: HIV/AIDS and Human Rights", which is meant as a tool that will assist them in adopting a human rights-based approach to HIV/AIDS within their mandate, and to develop practical strategies to respond to HIV/AIDS-related violations of human rights.

2. GNCHR believes that policy concerning HIV/AIDS must be attuned, as every policy concerning social problems, to human rights principles and rules. It is also of the opinion that HIV/AIDS is an extraordinary kind of crisis, both an emergency and a long-term development issue[1]. It is of the conviction that social exclusion, economic deprivation and discrimination are often closely linked to HIV/AIDS, and that those who are on the social margins of the society, due to race, ethnicity, sexual orientation, gender or other social characteristics are more often than not denied access to basic human rights (freedom from discrimination, education, physical integrity, health care and economic security) and, thus, become more vulnerable to HIV infection. When suspected of infection by HIV, or assumed at risk of infection, they are often stigmatized, discriminated against, subjected to ill-treatment, denied entry to foreign countries, rejected by the social service and health care systems, and denied housing and/or employment. All the above generate the fear of stigmatization, which, in turn, discourages individuals infected by HIV from revealing their condition or seeking treatment, thus increasing the spread of the disease.

3. While the development of national responses to AIDS is indispensable, synergy at the global level is also crucial. Nelson Mandela's public announcement of the death from AIDS of his 54-year old son Magatho[2], the French President's Jacques Chirac recent proposal to introduce a global tax for the fight against AIDS[3], or the British MP's Chris Smith disclosure that he is gay and HIV positive, contributed to raising the awareness vis-à-vis

* Drafted by Christina Papadopoulou, Research Officer of the GNCHR, and V. Georgakopoulos, Research Officer.

[1] UNAIDS: 2004 Report on the global AIDS epidemic: Executive Summary, http://www.unaids.org/bangkok2004/GAR2004_htm/ExecSummary_en/Execsumm_en.pdf .

[2] «Nelson Mandela loses a son", The New York Times, 08.01.05.

[3] "Chirac proposes global tax to fight AIDS", 27.01.05, http://euobserver.com .

the disease. It should also be noted that there are some positive signs from a number of countries (e.g. Brazil, the Dominican Republic, Uganda and Thailand), which have succeeded in reducing HIV infection[4].

With 40 million dead so far from HIV/AIDS worldwide, genuine commitment from both the national governments and the international community as a whole, is essential in order to contain the disease. As Nelson Mandela put it during his speech, at the closing ceremony of the International Conference on AIDS in Bangkok, on 16 July 2004[5], "History will surely judge us harshly if we do not respond with all the energy and resources that we can bring to bear in the fight against HIV/AIDS".

4. Linking the fight against the HIV/AIDS epidemic to abiding by the human rights standards is essential, as this very issue is a clear example of the interrelation between other Human Rights and the right to Health. This became evident when government responses to HIV/AIDS (in Africa, Asia and Latin America) violated basic rights of those infected by the disease, such as the right to freedom, privacy, freedom of association, non-discrimination and equality before the law. It was these discriminatory state responses that mobilized human rights activists who advocated for the adoption of the human rights approach in order to protect the rights of the carriers and patients and to ensure that government responses to the HIV/AIDS epidemic were based on science, rather than stereotypes and stigmatization attitudes[6].

5. State responsibility vis-à-vis the social right of the public and the individual health is embedded in the cornerstone human rights instrument, the Universal Declaration of Human Rights (UDHR); in addition, several other international human rights instruments further elaborate and specify the rights set out in the UDHR, e.g.:

a. the International Covenant on Civil and Political Rights

[4] Op. cit., UNAIDS 2004 Report on Aids.

[5] http://www.nelsonmandela.og/documents/4664-bangkokclosingspeech.pdf, (Nelson Mandela Foundation).

[6] Lesley Stone and Lawrence O. Gostin, "Using Human Rights to Combat the HIV/AIDS Pandemic", Human Rights Magazine, Winter 2002 (American Bar Association).

b. the International Covenant on Economic, Social and Cultural Rights[7]
c. the International Convention on the Elimination of All Forms of Sexual Discrimination
d. the International Convention on the Elimination of All Forms of Discrimination against Women
e. the International Convention on the Rights of the Child

All the aforementioned instruments set out legal obligations for the states/ parties.[8] State care of the public health, combined with non-discrimination is a basic principle of the human rights system. This rule of non discrimination is, in few cases, applied at the national legislation level, with regard to HIV carriers: e.g. South Africa has adopted specific legislative measures with a view to protect people infected by HIV/AIDS from discrimination. These measures contribute to the alleviation of the stigma associated with HIV/ AIDS, thus making people feel more confident that their rights and dignity are going to be secured and more willing to seek testing and treatment.[9]

6. With regard to the national context, Greece was among the first countries in Europe to enact a Law in 1992 (Law 2071/1992), which (in Article 47) refers to the "Rights of the Hospitalized Patient". In 1997, Law 2519/1997 established the "Entities for the Protection of the Rights of the Patients". Those are:

a. The Independent Service for the Protection of the Rights of the Patients, and
b. The Control Committee for the Protection of the Rights of Patients.

Two years later, under Law 2716/1999, the following bodies were established and started operating in every hospital:

a. The Citizens Information Bureau, and
b. The Committee for the Protection of the Rights of the Citizen (which makes reference to the Rights of HIV/AIDS infected patients).[10]

[7] For Kenneth Roth, Executive Director of Human Rights Watch, this is the leading human rights treaty in this area (Kenneth Roth, "Human Rights and the AIDS Crisis: The Debate over Resources" in the Bulletin of Experimental Treatments for Aids, Autumn, 2000 – A Publication of the San Francisco AIDS Foundation).
[8] Sofia Gruskin and Daniel Tarantola, "Human Rights and HIV/AIDS", HIV In Site Knowledge Base Chapter, April 2002 (François Bagnoud Center for Health and Human Rights, Harvard School of Public Health), http://hivinsite.ucsf.edu/ .
[9] Op. cit., Lesley Stone and Laurence O. Gostin.
[10] "Dikeomata Asthenon", http://www.hivaids.gr/koinonia/dikaiomata.html .

Finally, in 2000, the Ministry of Health introduced Circular Y1/3239, which set the guiding principles for the protection of the rights of HIV/AIDS patients[11].

It should also be noted that, so far, the GNCHR has not dealt with any case that is specifically related to HIV/AIDS. This does not translate into the non-existence of HIV/AIDS related violations in Greece, but simply to the fact that the Commission has not come across such issues during the five years of its operation as, according to its founding law, its competence does not concern individual cases, which belong to the competence of the Ombudsman.

7. The Handbook can become a valuable means to increase the capacity of NHRIs in addressing the issue, in the lines of the OHCHR Handbook for NHRIs on ESC rights, which provided useful guidelines for NHRIs as to how to improve their performance in promoting and protecting this group of rights. Guideline 7 of the UN's "International Guidelines on HIV/AIDS and Human Rights"[12] underlines the role NHRIs can play in assisting states to adopt and implement legal assistance services, as well as educational activities that will inform people affected by HIV/AIDS on their rights as well as on their specific duties; it also emphasizes the role that NHRIs may play in enforcing these rights and in developing expertise on HIV-related issues.

8. To the perception of the GNCHR, the draft outline of the Handbook seems very comprehensive and articulate. We would like to draw your attention to the following points:

- While the Handbook comprises all the substantial components to address the issue in a holistic manner, it may be over optimistic to aim at covering all those points when the final output is to be as concise as planned (50 pages).
- Providing concrete practical guidance on the basis of good practices selected from NHRIs that have developed expertise on the matter, cannot be overestimated. This could be done more effectively by structuring the best practices presented by function area (education & training, complaints handling, monitoring, holding inquiries, legislative proposals and advice on draft laws and state policies, etc), as the key areas of activities of NHRIs differ a lot. Initiatives for improving the understanding of the complex scientific and medical aspects of the issue could also be highlighted.

[11] Apostolos Kapsalis, "Metanastes: Ygia ke Kinonikos Apoklismos", Enimerosi (INE/GSEE-ADEDY), Dekemvrios 2004.

[12] International Guidelines on HIV/AIDS and Human Rights, UNHCR. res. 1997/33, U.N. Doc. E/CN.4/1997/150 (1997).

- NHRIs perform their activities in contexts that differ a lot from each other: institutions in Africa or Asia face different challenges with regards to the HIV/AIDS issue, than those in Eastern or Southern Europe for instance. Regional aspects of concern (e.g. migration and population mobility, trafficking of women and children, conflict and displacement), should be addressed in a differentiated manner.
- Another contribution of the Handbook could be to provide ideas for facilitating joint activities in areas of mutual interest and to encourage the development of joint projects, training programmes and staff exchanges.
- Promoting information and psychological support addressed to non-infected people, carriers, patients and, particularly, their relatives is of utmost importance. Cases of intentional transmission of the disease, from infected heterosexuals and homosexuals alike, through intercourse with healthy people –including members of their own family-, have come to our attention.
- The role of the catholic and other churches, in promoting the use of condoms –instead of hampering it through preaching, is essential, and should also be emphasized in the handbook.

We are very much looking forward to the completion of this project and to receive the Handbook, which we will utilise to its maximum.

25 November
2005

GNCHR reply to the OHCHR on the issue of measures taken by Greece regarding conscientious objection and alternative social service*

Mr. Robert Husbands
RRDB, c/o OHCHR
United Nations Office at Geneva
CH-1211
Geneva 10

30 September 2005

Dear Mr. Husbands,

With reference to Ms Kedzia's letter dated 01.09.2005, the evaluation of best practices mentioned in the OHCHR Report E/CN.4/2004/55 (and referred to in Commission of Human Rights Resolution 2004/35)[1] appears rather difficult in the Greek case.

Let me first mention that, as early as 2001[2], a year after its foundation, the Greek National Commission for Human Rights had raised the issue and again more recently in 2004[3], before amendments to the existing legal framework were adopted by the Greek Parliament (19.07.2004). More precisely, on 10.06.2004 we have submitted the following recommendations to the Government:

1. That the duration of the alternative social service be longer than that of the regular military service by 50%.
2. That the duration of the unarmed military service be longer than the regular military service by 30%.
3. That the instigations of continuous and repeated prosecutions for refusing to perform military service be abolished.
4. That, as far as the competence of the Supervisory Body for Conscientious Objectors is concerned, it should be initially the responsibility of the Ministry of National Defence, on the condition that, when conscientious objectors are removed from the Enlistment Register, there would be a joint responsibility of the Ministry of the Interior and the Ministry of Health on the matter.

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* Drafted by Mr. Vassilis T. Georgakopoulos, GNCHR Research Officer, with the contribution of Prof. Haritini Dipla, First Vice-President of the GNCHR.

[1] "Civil and political rights including the question of conscientious objection to military service: Report of the Office of the High Commissioner for Human Rights", Economic and Social Council, E/CN.4/2004/55, 16 February 2004, p. 12 & (5) in CHR Resolution 2004/35, 55th Meeting, 19 April 2004.

[2] NCHR Annual Report 2001, National Printing Office, January 2002, pp. 165-166.

[3] NCHR Annual Report 2004, National Printing Office, March 2005, pp. 115-116.

5. That rejections by the Committee for the Examination of Conscience be justified in detail.
6. That the composition of the aforementioned Committee be strengthened with two more State representatives, one from the Ministry of the Interior and one from the Ministry of Health.
7. That a special list of public benefit NGOs in which conscientious objectors may serve be drafted by a joint ministerial committee.
8. That the geographical criterion for the completion of the alternative unarmed or social service obey to the same rules that apply to regular armed military service.
9. That the Council of Europe Resolution providing for long-term and elderly conscientious objectors to meet their military obligations be implemented.

Some latest developments

Law 3257/2004[4] introduced certain improvements to the legal regime defined by pre-existing Law 2510/1997.[5] In more detail, it provides that by decision of the Minister of National Defence, conscientious objectors may be discharged from the units or institutions in which they serve before the completion of the time prescribed of full or reduced unarmed military/ alternative social service.

Second, there have been some encouraging signs, mainly on an individual basis, since for the first time in Greek conscientious objection history it has been accepted that conscientious objector cases are civil cases without further court martial involvement.[6] Moreover, as Amnesty International (the Greek Bureau is a member of the Greek National Commission for Human Rights) confirmed on April 2005, the Military Court in Athens "ruled unanimously that religious conscientious objector Sergey Gutarov should be released and allowed to apply for alternative civilian service due to a "conflict of duties" (duty to the army and duty to his religion)".[7]

[4] Entitled: "Regulations of matters relating to the Armed Forces personnel and other provisions".

[5] "GNCHR Answers to the UNHCR questionnaire on conscientious objectors to military service", 1 October 2003, www.nchr.gr .

[6] The above court decision (1/2004) refers to the case of Lazaros Petromelidis. See: European Bureau for Conscientious Objection (EBCO), "An important step for conscientious objection in Greece – Statement of the International Delegation, Thessalonica, February 19, 2004" & "EBCO and WRI release joint statement on the situation in Greece, Brussels/London, February 16, 2004", www.ebco-beoc.org .

[7] "Greece: Historic decision by military court gives the right to former conscript to apply for alternative civilian service", AI Index: EUR 25/004/2005, 1 April 2005, www.amnesty.org .

Evaluation

As stated in GNCHR's previous reply to the OHCHR, "the most important issue regarding the problems of COs in Greece is that the alternative civilian service is totally controlled by the Ministry of Defence"[8]. This still remains the case in spite of GNCHR's suggestions, meaning that most of the issues mentioned in its reply remain relatively unaltered.

Let me remind you that these included briefly the following: (a) that all claims are examined by a special Committee of the Ministry of Defence, (b) that the decision of the Committee is not binding on the Minister of Defence, (c) that applicants are expected to make out a specific case relating to the grounds of their objection, (d) that a claim is not accepted during the period or after the military service, (e) that the length of the civilian service is normally double compared to the one of the full military service, (f) that the districts of Athens and Thessaloniki are excluded from places suitable for an objector to carry out civilian service, (g) that the discretional power of a recruiting Office to deprive an objector of his right to do civilian service remains in force, (h) that there is no specific provision regarding asylum for conscientious objectors , and (i) that there is only a short paragraph in the informative bulletins the army gives to persons who are about to be recruited, mentioning that "applications under Law 2510/1997 are available".

The above evaluation seems to be confirmed by War Resisters' International[9], Amnesty International[10] and the Association of Greek Conscientious Objectors (S.A.S.)[11]. According to the Greek Council for Refugees (GCR), who is also a member of our Commission, there have been a few cases of asylum seekers, mostly of Sudanese origin, who claimed to conscientious objector status. In any case, taking into consideration that the 1951 UN Convention on Refugees does not provide specifically for the category of conscientious objectors, to take the benefit of the CO status, the person in question should be able to present a persuasive CO profile.

Finally, GNCHR addressed a letter to the Minister of National Defence (3.12.2004), concerning cases in which a professional soldier expresses his conscientious objection in relation to a particular military operation, that is the war in Iraq[12]. The views expressed were: (a) that the term "conscientious

[8] Ibid, GNCHR Answers to the UNHCR Questionnaire.

[9] "Greece: Courts go mad: New sentences against conscientious objectors", War Resisters' International, 18 May 2005, www.wri-irg.org .

[10] "Greece: Unprecedented prison term for conscientious objector", AI Index: EUR 25/014/2005, 26 August 2005, www.amnesty.org .

[11] "CO Boris Sotiriadis is released from prison", Syndesmos Antirrision Syneidisis [Association of Greek Conscientious Objectors], 20September 2005 (in Greek).

[12] The GNCHR took into account the case of Giorgios Monastiriotis. See "Greece: Professional soldier Giorgos Monastiriotis is a prisoner of conscience and must be released", AI Index EUR 25/011/2004, 22 September 2004, www.amnesty.org .

objector" be interpreted in a broader way and (b) that the conscientious objection be possible not only before but also during and after the whole period of the military service. The Ministry's reply (17.12.04) referred to recent positive developments on the topic introduced by Law 3257/2004 and, more specifically, the reduction of the service for both categories (unarmed/social service) and stressed the fact that, at present, conditions are not judged favourable for a reconsideration of the term, although these could well change in the immediate future.

In conclusion, the results of the State's reforms appear at present only partially satisfactory.

Suitability and adequacy of the use of "Diplomatic Assurances for the extradition of persons suspected of terrorist activities to third countries"

Comments of the GNCHR[1], on the discussion paper on "the appropriateness and adequacy of using diplomatic assurances in the context of expulsion procedures", prepared by Wolfgang Heinz

After having perused all the information provided in the discussion paper, we have reached to the conclusion that allowing the use of ad hoc measures, such as the "diplomatic assurances", presents more problems than those it is supposed to solve. In other terms, the cons are by far more considerable than the pros, as is accurately and convincingly evident throughout the views from various bodies included in the paper.

A forcible refoulement of persons on the basis of such assurances is fundamentally incompatible with the international prohibition on the return of persons to countries where they face a risk of torture (the non-refoulement principle). This principle of law forms part of the absolute prohibition against torture and other forms of cruel, inhuman and degrading treatment or punishment contained in Art 3 of the ECHR, and it is also specifically established in Art 3 of the UN CAT, to both of which Greece is a State Party. This obligation is applicable to all States since it forms part of the absolute obligation not to torture, which is recognised as one of the highest norms of international law, as it is jus cogens, and must be applicable with no exception. Indeed no exceptions are allowed, even in time of war or public emergency. "Diplomatic assurances" or "Inter-State Memoranda of Understanding" can easily become means to circumvent the non-refoulement obligation and to erode the global ban on torture, particularly at this time when torture is so much expanded and committed even by "democratic" regimes!

As stated in the discussion paper as well, the essential argument against diplomatic assurances is that "the need for such guarantees is in itself an acknowledgement that a risk of torture and/or other ill-treatment exists in the receiving countries". Moreover, the basis for such trust vis-à-vis the countries concerned is totally absent. It defies common sense that a government that routinely flouts its binding obligations under international

[1] Drafted by GNCHR's President, Pr. Emer. Alice Yotopoulos-Marangopoulos and Christina Papadopoulou, GNCHR Research Officer.

law and misrepresents the facts in this context can be trusted to respect a promise in an isolated case. In addition, in order for torture to be prevented, effective safeguards at legislative, judicial, and administrative levels must be in place on a state-wide basis. These safeguards cannot be replaced by consular visits aimed at ensuring compliance with diplomatic assurances. Arguments that monitoring whether the receiving government complies with its promises or not, seem to ignore the serious limitations of such monitoring and the difficulties in detecting many forms of torture. Even the entry to this kind of centres is prohibited to all, even to official agents and/or authorities.

Several other inherent problems stem from the use of diplomatic assurances. Importantly, when they fail to protect returnees from torture, there is no mechanism that would enable a person subject to the assurances to hold the sending or receiving countries accountable. Diplomatic assurances have no legal effect and the person they aim to protect has no effective recourse if the assurances are breached. Besides, the sending government has a disincentive to find that torture has occurred: doing so would amount to an admission that it has violated its own non-refoulement obligation. When sending and receiving people under the above conditions, governments share an interest in creating the impression that the assurances are meaningful, and this implies that a danger exists.

Suggestions have been made that "minimum standards" on the use of diplomatic assurances against torture can be adopted. Such efforts can be dangerous. To develop guidelines for the "acceptable" use of inherently unreliable and legally unenforceable assurances is to ignore the real threat they pose to the integrity of the absolute prohibition against torture and to the principle of non-refoulement.

We can only share HRW's concluding remark of its statement of May 12th, 2005: "There's no way that diplomatic assurances against torture can be made to work. Attempting to create guidelines is simply going to legitimise their use, undermine the torture ban, and ultimately expose more people to abusive treatment".

Therefore, our position, in short, is that the use of such measures, which are unreliable, ineffective, not legally binding and generating serious dangers, must be totally rejected instead of regulated.

VI. ANNEXES

a) Observations of the Ministry of National Education regarding the first phase of the UN Plan of Action on Human Rights Education 2005-2007

E

HELLENIC REPUBLIC
MINISTRY OF NATIONAL EDUCATION
AND RELIGIOUS AFFAIRS
DIRECTORATE OF INTERNATIONAL
RELATIONS IN EDUCATION
INTERNATIONAL ORGANIZATIONS' SECTION
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Athens, 28-1-2005

TO:
Greek Ministry of
Foreign Affairs

Directorate of Human
Rights

CC:
Permanent Greek Delegation
In United Nations
Ms Athina Makri

Theme: "Remarks on the Plan of Action for the 1st Phase of the International Programme on Human Rights Education (2005-2007)"

Regarding the Plan of Action for the 1st Phase of the International Programme on Human Rights Education (2005-2007), we would like to let you know that we consent to that, as far as the content and strategic and goals are concerned. It is worth mentioning that, in the framework of other international organizations, there are programmes which are directly related with human rights or with specific aspects of human rights. These programmes are being implemented with great success in our country.

Specifically, Greece, as a member of UNESCO, takes an active part in the Network of Associated Schools (ASP net) of UNESCO (approximately 200 schools – nursery, primary, junior and senior high schools and vocational schools). In the current school year 2004-2005 the Greek Ministry of Education has proposed to ASP net schools that they should get engaged with issues of sustainable development, human rights, cultural diversity and intercultural understanding. It is obvious that these matters are directly and closely related with the content and the objectives of the Programme on

Human Rights Education, as well as with the International Decade for a Culture of Peace and Non-Violence for the Children of the World (2001-2010) and the United Nations Decade for Sustainable Development (2005-2014).

Moreover, in the framework of the Council of Europe there is a Programme titled "Education for Democratic Citizenship", which aims at promoting the values and skills required for the participation of each citizen in the democratic procedures. The Programme entails many dimensions of the education, such as intercultural education, human rights education, peace education, tolerance, democratic culture etc. Council of Europe has also proclaimed the year 2005 as the European Year of Citizenship through Education. The countries-members are going to take on several actions, in order to celebrate the Year. Greece, being represented by our Service, is planning a series of actions and activities (seminar, activities in the schools, creation of website etc.), so as to promote the objectives of the programme.

Therefore, Human Rights Education is one of the priorities of the Greek educational policy and for this reason there is a chance of creating synergies and partnerships among those programmes, as it is recommended in the Plan of Action for the Programme on Human Rights Education.

HEAD OF SECTION

ROY CHOURDAKI

2005 European Year of Citizenship through Education

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Greek Report on Education for Democratic Citizenship

December 2005
Athens, Greece

Dimitris N. Chryssochoou
National Co-ordinator

Hellenic Ministry of National
Education and Religious Affairs
International Organizations Section

1. About the EDC Project

The relationship between Europe, as an organized political space composed of overlapping institutions of governance, and 'the civic' forms part of an ongoing public discourse, which involves multiple actors at national and international level. In this context, the Council of Europe is taking the lead to impact on the democratic quality of social and political governance, by touching upon a fundamental value of Europe's civic culture: democratic citizenship through education. Since 1997 the Council has actively promoted a large-scale civic programme on 'Education for Democratic Citizenship' (EDC), which includes 'The 2005 European Year of Citizenship through Education' (EYCE). Both projects aim at bringing young people, especially students in primary and secondary education throughout Europe, closer to the institutions and processes of civic participation, by stimulating their interest in public affairs. Among the various themes included in these initiatives, central to their implementation are the notions of civic freedom, solidarity, intercultural learning, toleration and forms of participatory citizenship. From the outset, the EDC project became a central priority for the Council due to its relevance to the organization's core mission to strengthen pluralist democracy, human rights and the rule of law. These foundational properties in any contemporary conception of the good polity are not only linked with Europe's long-standing constitutional traditions, but also with its strive to becoming a collective political entity comprised of free and equal citizens.

According to the Council, the EDC project, and with it the EYCE, has three core aims: first, to strengthen democratic societies by fostering and perpetuating a vibrant democratic culture; second, to create a sense of belonging and commitment to democratic society; and third, to raise awareness of shared fundamental values in order to build a freer, more tolerant European society. Linked with the above aims is the multidimensional and inclusive nature of the project, together with the emphasis placed by the Council on promoting a lifelong perspective on strengthening civic competence and developing educational skills. The project thus rests, in large measure, on the dynamics of capacity-building, on networking arrangements as well as on the symmetrical sharing of information, practices and activities across all age groups and social classes, with particular emphasis on the educational community, policy-makers, decision-takers, NGOs, relevant regional and international institutions, voluntary and professional bodies and youth organisations. The overall aim of the EDC project is to draw attention to the role education plays, at both formal and informal level, in a lifelong perspective in strengthening democratic citizenship and active civic participation. At the same time, and in the context of the EYCE, the

EDC project provides the member countries with a general framework as well as specific educational tools to develop and promote further education in the field of democratic citizenship and human rights education. In that regard, active participation in these projects offers an opportunity to the participating countries to take over ownership of a collective endeavour, by bolstering their strength through the educational process.

2. On Civic Europe

In sketching a normative perspective on what it means to be a citizen in and of Europe, a first point that needs to be made is that the once nationally-determined fix between norms of citizenship and the territorial state is being increasingly eroded from below as well as from above. A new challenge has thus emerged, as citizenship establishes a kind of civic solidarity in the sense of a Habermasian public sphere that encourages the process of democratic will-formation. But perhaps the most celebrated property of democratic citizenship, both as a social construct and as substantive public engagement in the affairs of the polity, is the actual range and depth of participatory opportunities it offers the members of the political community - i.e., the demos - to fulfil their democratic potential in the determination of those public issues that affect them most closely and importantly. It is within this all-embracing and encompassing civic space that a feature central to the democratic process becomes crucial, that of strengthening civic competence: the institutional capacity of citizens as social equals to enter the realm of political influence with a view to sustaining a vital public sphere and to creating a sense of civic attachment based on a shared sense of the public good.

This refers to the development of a viable civic network that gives individual as well as organised citizens an equal opportunity to participate in an encompassing process of democratic public deliberation. In that regard, the pairing of 'civic' and 'competence' does not embody a category mistake, but rather acts in the interests of engaging the demos in the governance of the polity to which they belong. From a civic education standpoint, the development of civic competence at the grassroots aims at institutionalizing a firm commitment to a democratic and participatory form of governance, by embracing a central task of democratic life: active civic involvement in public affairs through education. Overall, the democratic potential of citizenship is threefold: first, it sets up a system of rights and civic entitlements, giving access and voice to the members of the demos; second, it induces integrative sentiments by motivating greater participation in the affairs of the polity; and third, it strengthens the bonds of belonging to an active polity by facilitating positive awareness-formation.

This normative view of civic governance and its assorted norms of civicness and politicality imply that the distribution of civic competence, whether national or transnational in kind, passes through the capacity of free and equal citizens to determine the functions of the political community to which they belong. For ultimately, what is vital both to the moral ontology of democratic citizenship through education and to the value spheres of civicness itself, is the emergence, consolidation and further endurance of a new, open, participatory and, above all, democratically constituted 'civic contract' between teachers, learners and all those civic and social institutions of that maintain an active interest in promoting citizenship education in Europe and, by extension, the norms of active citizen participation in public life.

One could even argue that, from a developmental perspective, these civic practices may bring about a genuine civis europeus characterised by multiple affiliations and identity-holding and by shared notions of belonging to a post-statist form of social and political organisation - i.e., a political community defined along the lines of an extended public sphere - which becomes an expression of a polity-building exercise. Accordingly, the prospects for strengthening European civic competence rest as much on national (and, in federal political systems based on extensive power-sharing, subnational) requirements and procedural guarantees, as they do on public responses themselves. From this angle, the development of democratic citizenship in Europe, together with the making of a multilevel civic order - composed of national and transnational forms of fellowship, and a multitude of non-territorial associative relations among diverse socio-political forces - aims at harnessing the democratic ethos of a nascent European civic body: a transnational demos, capable of directing its democratic claims to, and via, the central institutions. Thus the relationship between the extension and deepening of democratic citizenship and the social legitimation of Europe as a polycentric and multilevel form of polity becomes synergetic, espousing a new participatory ethos and a profound reconceptualization of citizen-polity relations.

At the macro-level, the triptych symbiosis - synergy - osmosis corresponds to the three stages in the making of a politically self-conscious European demos: the first describes the current state of the relationship between Europe as a compound polity and the segments as distinct but constitutive members of a larger entity; the second points to the development of horizontal links among the component demoi and a

corresponding strengthening of existing ties among their respective elites; and the third represents a culmination of the previous two in a democratic public sphere, emphasizing the importance of civic competence for the future of Europe as a transnational democracy in the making. In that sense also, civic competence is a call to democratic institutional reforms not only in the field of civic education but also in advancing the quality of social and political governance. The significance of tying the self-image of political elites to the dialectic between fostering democratic citizenship and transnational demos-formation is that no common civic identity may come into being unless all major actors see themselves as part of a multilevel political space that has to evolve from reciprocal interactions at the lower level 'upwards', that is to say, for the everyday networks of civic engagement. Important here is for the civic values and democratic claims of European citizens to be identified, debated, challenged and ultimately accommodated through the institutions and processes of civic inclusion.

If, then, by democracy is meant the highest form of civic association that human agency has ever designed for embracing the participation of the demos in the shaping of its political environment, it follows that the above conception of Europe as a new civic ordering among highly interdependent states and societies does not refer, merely or necessarily, to a normative-theoretical transformation derived from a 'pure' political-sociological approach to legitimate forms of collective governance, thus being deprived of any empirical implications. Rather, this conception of Europe as a politically organised public space points to a dynamic civic activity carried through processes of free public deliberation and democratic will-formation so as to generate a belief in the members of the larger demos of being the decisive actors in the transnational process, by assuming shared responsibilities for shaping and steering Europe. In brief, what is central to the making of an inclusive framework for the development of a common European civicness among the participating demoi and for the making of an open and participatory European public process, is a full-working transnational civic order that will allow Europe to acquire its distinctive model of democratic citizenship. But let us now offer a typology of civic governance that would help summarize the main points made so far on the qualitative transformation of the separate European publics into a civic-minded European demos.

Civic Competence

	Latent	Institutionalized
Nascent Civic Identity	Civil Society (functionalist demos)	Civic Space (interactive demos)
Formed	Public Sphere (deliberative demos)	Res Publica (civic demos)

The development of a shared civic identity in Europe has not yet met the institutionalisation of civic competence at the larger level. As the typology illustrates, this mix of variables is necessary for the emergence of a European civic space composed of an interactive demos. But Europe has not yet met the conditions for the institutionalisation of a public sphere, within which citizens deliberate through public argument and reasoning over possible ways of improving the democratic quality of their collective governance. After all, this is what the process of civic governance based on the discursive qualities of free public deliberation is all about. The envisaged democratic order refers to discourse-centred processes of civic engagement in public life. Whether or not formally instituted, it will serve the goal of a polycentric public sphere, for citizens could direct their democratic claims to those centres of authority that are able to commit the polity as a whole. Absent a principled public discourse to steer Europe's civic orientation, it is be naïve to expect its structural transformation into a purposeful res publica: a pluralist polity within which citizens operate at different levels and sites of power. Such a commitment performs a crucial formative function, by shaping the behaviour of citizens, encouraging public participation and creating an inclusive polity within which the notion of citizenship amounts to more than the aggregate of its parts, a normative quality to guarantee certain values.

3. Civic Education

Civic education in Europe aims at the development of a large-scale, inclusive and deliberative civic space that captures the democratic imagination of a tolerant and fair European polity. In that regard, citizenship

education is part of a diachronical quest for 'the good polity', which in the case of a multicultural and ever-dynamic Europe refers to the means and institutions of bringing about an encompassing 'civic partnership' among distinct historically constituted, culturally defined and politically organised demoi. Civic conceptions of Europe are thus part of a demanding intellectual current: the search for a democratic way of constituting and organising an emerging transnational public space that is capable of capturing the dialectic among the component national public spheres, through the institutionalisation of EDC policies. This philosophy accords with a civic understanding of a composite European polity founded upon the fundamental values of freedom, as well as on input-oriented forms of legitimacy and civic participation that bring into focus new concerns with the democratic conditions of governance within an extended political space.

Since the mid-1990s, when the EDC project was coming into being, the dynamics of regional co-operation in Europe have activated important questions about the structural importance of a transnational public sphere that aspires to the constitutive norms and functions of large-scale democracy. This normative turn in the evolution of Europe's political unity has opened the way for novel conceptualisations of Europe from a post-national angle and innovative means of making sense about the social constitution of its ontology. This conception of Europe as an ordered and democratically constituted arrangement for diverse communities and arenas for action - i.e., a heterarchical public space - combines unity and diversity, transcends pre-existing territorial boundaries (together with traditional forms of allegiance and types of affiliation), and projects a plurinational configuration of institutionalised rule.

Developing common understandings of Europe and its civic culture through citizenship education, helps citizens to capture the complexity and pluralism of the European condition, whilst discursive and input-oriented practices of civic inclusion encourage dialogue among the various components of Europe's emerging body politic. Civic education is therefore a means of bringing the constituent groups of European civic society into equilibrium with one another, moving them to pursue the common good through various levels of governance. This pluralist depiction of civic Europe brings about a new sense of being and belonging to an open and participative environment composed of free and equal citizens - i.e., a European public sphere, within which people act in the context of highly interrelated civic spaces.

Civic education embodies a strong commitment to civic deliberation for the promotion of the public interest (as opposed to factional demands) and

to the setting up of democratic institutions of governance founded on the notion (and praxis) of active citizenship. Such a democratic ordering, in the form of an active polity, is committed to offering citizens 'undominanted' (or quality) choice. In that regard, civic participation should not be taken as a democratic end-in-itself, but rather as a means of ensuring a dispensation of non-domination by others (or non-arbitrary rule). Another variation on the theme of vita activa takes democratic participation as a process of constructing a kind of public discourse that chimes well with the promotion of civic solidarity and opposition to arbitrariness. Put differently, it strikes a balance between negative and positive forms of freedom, by ensuring a deliberative mode of large-scale public engagement in the affairs of the polity. For ultimately, civic education is constitutive of freedom, in that it motivates citizens to take an active part in public life. From this civic conception of Europe one could also imagine the formation of a res publica composita, within which a multitude of commitments to core democratic values can bring about a sense of common European civicness.

4. A View from Greece

A recent contribution made by the Hellenic Ministry of National Education and Religious Affairs to a comparative study published by the European Commission in May 2005, in the context of the Eurydice programme under the title Citizenship Education in Schools in Europe, refers to Article 16 of the Greek Constitution in relation to citizens' rights and obligations, which are defined as follows: 'Educating Greeks to become free and responsible citizens is one of the basic aims of education, which constitutes the main goal of the State'. The study continues: 'Greek policy aims to modernise the Greek curriculum. In particular, an educational reform aiming to make education universally available, raise all-round educational attainment and modernise education has been successfully implemented. This reform is contained in Law 1566/85, which has three components, namely "didactic" (practice-oriented), "pedagogic" and one concerned with participation'. Although no specific definition of 'responsible citizenship' exists as such in the Constitution, the term derives from the Constitution's reference (Part II) to 'individual and social rights' (Articles 4-25), 'civic rights' (Articles 51 and 52), as well as to 'civic obligations' (Article 120).

As for the main orientations of Greek educational policy, the paper states, with reference to Law 1566/85: 'Article 1: The general aim of primary and secondary education is to contribute to full harmonious and balanced development of the emotional, psychological and physical capacities of pupils, in order for them to be given the opportunity to fully shape their

personalities and be creative in their life irrespective of their origin or sex. One of the special objectives of primary and secondary education is "to help pupils become free, responsible and democratic citizens, as well as citizens capable of fighting for national independence and democracy". Other special objectives are the cultivation of creative and critical thinking and the development of a spirit of friendliness and cooperation with people from all over the world. Freedom of religion is acknowledged as an inviolable right of citizens. Article 28 defines "further education and postgraduate studies" of teachers in such a way that they can be informed and functional within the spirit of contemporary society. Article 37 refers to the establishment of "school professional guidance", which aims to counsel and train pupils so that they can comprehend their skills and their responsibility for developing them and choosing a career, which will ensure their active participation in the labour market' (emphasis on the original).

On the Greek approach to citizenship education as reflected in the curriculum, the paper states: 'In primary education, citizenship education is both a cross-curricular educational topic and a separate compulsory subject in its own right. The separate subject of social and civic education is taught for one period a week in the fifth and sixth years of primary education. In lower and upper secondary education, citizenship education is offered as a separate subject in its own right and also integrated into several subjects (see below) … In the third year of lower secondary education, the separate subject social and civic education is taught in two periods a week. In the second year of upper secondary education, the separate subject of introduction to the law and civic institutions is taught in two periods a week' (emphasis in the original).

With reference to the aims and objectives of developing citizenship education in Greece, the paper in question states thus: 'In recent years, compulsory education curricula have been radically redesigned within a cross-curricular approach. This redesign is centred on an experiential approach to knowledge which, among other things, is also based on "education of the citizen" and aims to develop the social skills of students, namely the ability to acknowledge and accept differences, resolve conflicts without violence, assume responsibility, establish positive/creative (rather than oppressive) relations, and take part in decision-making and collective action. An attempt is made to adopt teaching models that focus on research, cooperation and action. The unified cross-curricular framework of primary education has the following aims for citizenship education: intellectual development through an understanding of the different values of human society; moral development through helping pupils to critically evaluate issues of equality, justice, and

individual and other rights and obligations in different societies; and cultural development through helping pupils to acquire a national and cultural identity and understand the nature and role of different groups to which they belong, and the multiple identities they possess'.

With reference to daily life at school, an issue linked with school culture and participation in community life, the paper states: 'Since the approach to knowledge (which includes the education of a citizen) has been redesigned as an experiential one by Law No. 1566/85 on education, current teaching models focusing on research, cooperation and action are supported by a simultaneous change of ethos at schools. The objectives of citizenship education are served by attempts to make schools a space for collective action and are supported by existing institutions, such as pupil communities and partnerships. Every teacher plays a major role in creating the teaching framework of the class, which may be characterised as "teacher centred". The choice of teaching methods that, through the development of dialogue, debate, identification of problems and the expression of different opinions, would lead students to take and consciously carry out decisions, depends to some extent on the personality, studies and training of teachers as much as on the context in which they work. Extra-curricular educational activities may raise the social awareness of students, although initiatives of this kind are marginal in the Greek educational system'. The paper states examples of interdisciplinary and extra-curricular activities that raise students' awareness on European citizenship: 'Students meet and exchange information with students from neighbouring schools that have taken part in European Programmes, such as Socrates-Comenius, etc. They meet and interview Greek Members of the European Parliament. They participate in student exchange programmes. They read fairy and folk tales, comics and the poetry of other European countries. They do research into games played by children from other European countries and relate them to the culture and tradition of each. They then present them to the rest of the school in the form of charts, pictures, anthologies, and posters, etc'.

An All-European Study on Education for Democratic Citizenship Policies published by the Council of Europe in November 2004 offers some information regarding the approach developed by Greece. Civic education modules are linked with cross-curricular activities and subject-specific themes at primary and upper secondary educational levels, with emphasis on democratic citizenship, introduction to law and civic institutions, ancient Greek literature, history of the social sciences, European civilisation and its roots, and sociology. To give an example, the module 'European Civilisation and its Roots', taught at the first grade of secondary education (upper level),

examines the history and evolution of Europe and its distinct social and political formations. In particular, it looks at the development of European society, the nature of power and politics in Europe, the Enlightenment, the French Revolution, the notion of a 'Citizens' Europe' (with reference to parliamentarism and the rule of law), currents in European cultural development and the formation of the European Union.

At the second grade of secondary education (upper level), there exist a module under the title 'Introduction to Law and Civic Institutions', which brings together the disciplines of law and political science, focusing on the nature of politics and the role of political science, the theory and practice of active citizenship, elements of democratic government, the legal and political system of the European Union, social norms and the law, the Greek political and judicial system, and issues in international organization. Particularly with regard to the international dimension, it is important for students to develop a better and more profound understanding on the way in which international society is being structured as well as on the workings and role of major international institutions, including the process and dynamics of European integration.

Civic education in Greece is also linked with the rich tradition of its ancient history and philosophical movements. A relevant module at the secondary upper level on 'Social and Political Organisation in Ancient Greece' examines the nature and development of the city-state, the classical and Hellenistic periods, social institutions and everyday life in ancient Greek, the road to democracy and the functions of a democratic polity, as well as other forms of political organisation like the formation of unions of city-states (sympolity) as the precursors of confederal arrangements. At the third grade of lower level secondary education, students engage themselves in the study of forms of citizenship, the organisation of social institutions and social groups, the understanding of culture, the process of socialisation and social accountability, the democratic process and the Constitution, the notion of civil society, the nature of international society, issues in international relations and the European Union. Linked with the above are the themes and concepts examined at the secondary upper level under the heading 'History of the Social Sciences', with emphasis on the relationship between science and the social sciences, the evolution of the latter, leading thinkers in social and political thought, the study of social methods and social behaviour, and the contribution of the social sciences in contemporary Greece and the European Union.

Through these modules, among others that are currently being taught at the fifth and sixth grade of the primary educational level, it is

expected that students cultivate a series of specific educational and social skills that would allow them to develop an active interest in the governance of the polity, thus encouraging them towards active citizenship, but also with the view to acquainting themselves with international processes and institutions of governance that are founded upon the norms and principles of power-sharing. Civic education in Greece thus aims at establishing linkages between national, regional and international frameworks of co-operation, through which students are given the opportunity to develop their knowledge, discursive qualities and analytical skills on a range of issues that fall within the domain of civics and, by extension, in the field of education for democratic citizenship and human rights educations. These educational arrangements at formal school settings also reflect the introduction of elements of flexibility in curricular organisation such as the institutionalisation of flexible learning zones and innovative school practices, designed to meet specific learning choices, whilst combining a greater and more systematic use and application of information and communication technologies at school level. Learning through civic education activities is a crucial component of enabling students to become informed and responsible citizens, giving them the opportunity to develop their social skills, knowledge and self-confidence, all of which are required for the emergence of a fair, tolerant and democratic society.

In recent years, Southern European educational systems have experienced a trend towards decentralisation, both structural and functional, and greater school autonomy. These parallel processes have led towards greater participation of students, parents and local communities in school life, something that in most Southern European countries constituted a welcome departure from previous school practices. In that context, participative processes are now considered an important aspect of tackling effectively organisational and other difficulties related to issues of resources, funding and effective school management. Likewise, throughout Southern Europe, educational policy is being increasingly linked with the emergence of support structures for lifelong learning, which already constitutes a policy priority in most European countries. In that regard, one of the challenges confronting the countries of Southern Europe is to adjust their policies and institutions, especially those related to the EDC project, into the development of core civic skills and competences, allowing individual students to take an active part in both national and international life. Such aims are fully in line with the tradition of the Greek educational system, which has been characterised as open and democratic, contributing largely to social mobility.

5. The Launching Conference in Athens

The EYCE in Greece forms part of a wider civic education strategy with the aim to promote and to raise awareness about the principles of the EDC project. The opening ceremony of the Year was officially launched on 2 April 2005 in Athens. The opening remarks were made by the President of the Hellenic Parliament Mrs Anna Benaki-Psarouda and the Hellenic Minister of National Education and Religious Affairs Mrs Marietta Giannakou. Other speakers included representatives from the Council of Europe's Department of School and Out-of-School Education, the Greek Pedagogical Institute, the Greek Centre for Educational Research, the EDC National Co-ordinator of the Republic of Cyprus, the Special Secretary for European Union Affairs and Community Support Framework of the Hellenic Ministry of National Education and Religious Affairs, the Deputy Ombudsman Head of the Children's Rights Department and representatives from school units in secondary education. The Conference was characterized by a fruitful discussion on the prospects for the EDC project to develop its principles in the rapidly changing environment of civic education in Europe, with reference to the notion of civic competence, social solidarity, intercultural toleration, etc. It also offered the opportunity to link the EDC project with initiatives taken by other international organizations and civil society agents. The principal focus of the Year in Greece is to foster and support the active and continuous participation of schools and other educational institutes in issues linked with the development of democratic citizenship as the basis of an open, deliberative and participatory society.

6. EDC and Year-related Activities in Greece

A series of events have taken place or have been scheduled to take place with the aim of developing the EDC and EYCE projects in Greece, with the active participation of Mrs Roy Chourdaki and Mrs Vasiliki Makri from the International Organizations Section of the Hellenic Ministry of National Education and Religious Affairs and the National Co-ordinator. The aim of these activities is to raise greater awareness on the EDC and EYCE projects, to link them with existing and emergent civic initiatives from the educational community, especially in the field of secondary education, to establish new creative synergies between local, national and European educational authorities and institutions and to disseminate information on democratic citizenship and human rights education to as wide an audience as possible. A Closing Conference on the EYCE under the auspices of the

Hellenic Ministry of National Education and Religious Affairs was held in Athens on 10 December 2005 with the participation of the Hellenic Minister of National Education and Religious Affairs and school representatives. A complete guide of events that have taken place in Greece includes:

'Fostering European Civicness: A View from Greece', Launching Conference of the 2005 European Year of Citizenship through Education, Education for Democratic Citizenship, Council of Europe, Sofia, 12-14 December 2004.

'Learning and Living Democracy', Educational Seminar addressed to Teachers responsible for Olympic Education, Directorate of Primary and Secondary Education of Athens, Section B, Office for Physical Education, Amarousion, 17 February 2005.

'Active Citizens through Education', Educational Seminar addressed to Teachers responsible for Olympic Education, Directorate of Secondary Education of Eastern Attica, Markopoulo, 10 March 2005.

'Education for Democratic Citizenship', Educational Seminar addressed to Teachers responsible for Olympic Education, Directorate of Secondary Education, Athens, Section A, 16 March 2005.

'The Constitutional Treaty and the Future of Europe', 3rd Lyceum of Kifisia, Athens, 17 March 2005.
'Reflections on the Political Constitution of Europe', Bahcesehir University, Faculty of Management, Istanbul, 25 March 2005.

'European Year of Citizenship through Education', Department of Political Science and Public Administration, University of Athens, Athens, 28 March 2005.

'European Year of Citizenship through Education', Department of International and European Studies, Panteion University, Athens, 28 March 2005.

'Civic Education and the European Union', Educational Seminar addressed to Teachers in Secondary Education, first phase, organized by the Hellenic Ministry of National Education and Religious Affairs under the co-ordination of Mr. Polydefkis Papadopoulos, Athens, 1-2 April and 15-16 April 2005.

'The Constitution of Europe', Directorate of Secondary Education of Western Thessaloniki, Neapoli, Thessaloniki, 7 April 2005.

'Education for Democratic Citizenship', Educational Seminar, Regional Directorate of Education in Epirus, Ioannina, 14 April 2005.

'Education for Democratic Citizenship', Educational Seminar, Regional Directorate for Education of Thessaly, Larissa, 19 April, 2005.

'Symposium on "1912-13": Impact of historical events upon the changing lives of ordinary citizens', Project on the European Dimension in History Teaching, Athens, 5-8 May 2005.

'Is Participatory Constitutionalism Possible? Exploring the Promises of Active Citizenship in Europe', Christian Union of Rethymnon, Rethymnon, 18 May 2005.

'Learning Democracy: Democratic Experience in Schools', Experimental Gymnasium of the University of Crete, Rethymnon, 19 May 2005.

'Education for Democratic Citizenship', Educational Seminar addressed to Teachers responsible for Olympic Education, Office for Physical Education of Athens, 3rd Lyceum of Athens, Palaio Faliro, 19 May 2005.

'Civic Education and the of Active Citizenship', Educational Seminar addressed to Teachers responsible for Olympic Education, Office for Physical Education of Piraeus, Piraeus, 19 May 2005.

'Equal Opportunities and the Right to Active Citizenship', Conference on 'Prospects for Special Needs Education in Primary and Secondary Education', Regional Directorate of Primary and Secondary Education of Central Macedonia, Directorates of Primary and Secondary Education of Western and Eastern Thessaloniki, Thessaloniki, 20 May 2005.

'Citizenship Education in Europe: A Public Sphere Argument', Athens University of Economics and Business, Department of International and European Economic Relations, Athens, 26 May 2005.

'L'éducation civique: enseigner aux enseignants. Questions de stratégie méthodologique et de politique educative', in 'Participatory Learning in Education for Democratic Citizenship and Human Rights Education - How is it Reflected in Teacher Training?', Teacher Training Conference, Council of Europe, Strasbourg, 16 June 2005 (paper given by Professor Dimitris Kotroyannos, University of Crete).

'Understanding the European Constitution', Hellenic Ministry of Foreign Affairs, Hellenic Foundation for European Studies, and Hellenic Foundation for European and Foreign Policy, 22 June 2005, Heraklion, Crete.

'Prospects for Civic Education in Greece', National School of Public Administration, 7 September 2005.

'Citizenship Education in the Greek School System: The Challenge Ahead', 4th Technical and Scientific Educational Unit of Kavala, 18 November 2005.

'Civic Education in Greece', International Symposium on 'Citizenship Education and Values: Experiences and Contributions for Europe', The Spanish Commission of UNESCO, the Spanish Ministry of Education and Sciences and the University of Madrid, Madrid 23-25 November 2005.

'Reflecting on Civic Education at School: Practical Orientations', 3rd Gymnasium of Kifisia, 28 November 2005.

'The Greek Report on Education for Democratic Citizenship', Standing Committee on Educational Affairs, the Hellenic Parliament, 10 December 2005.

'New Challenges to Citizenship Education: Lessons from the European Experience', European Youth Week, General Secretariat for Youth, Athens, 9 December 2005.

'Learning from the European Year of Citizenship through Education', Closing Conference on the European Year of Citizenship through Education, Hellenic Ministry of National Education and Religious Affairs, Athens, 10 December 2005.

'European Perspectives on Education for Democratic Citizenship', Conference on 'Active Citizens and Education', Department of Educational Sciences, University of Patras, 12 December 2005.

'The Many Different Meanings of Citizenship: Democratic Perspectives', 7th Unitary Lyceum of Larissa, 16 December 2005.

7. Links with Other Initiatives

The aims and objectives of the EDC project in Greece have been linked with other activities in the field of civic education, involving the dissemination

of information to schools that are responsible for special needs education as well as an invitation to participate at the beginning of the project. It also involves collaborative relations with civil society organizations like the Soma Hellinon Proskopon (Scouts of Greece) in relation to its programme 'We are All Unique'. EDC activities have also been linked with a project advanced by the European Union under the heading Spring Europe on the meaning of the Constitutional Treaty and the voluntary participation of schools throughout the country to debate Europe's constitutional vocation. Other initiatives promoting the notion of social inclusion and solidarity linked with the EDC project include the programme of the Scouts of Greece 'Friends Living Next Door', promoting intercultural toleration for composite polities. The project has been also linked with the Council's programme 'Teaching History', presented at a Symposium on the Balkan Wars in Athens on 5-8 May 2005, and with a series of teachers' training seminars on 'Civic Education and the European Union', organized by the Hellenic Ministry of National Education and Religious Affairs in April 2005. A second phase of this training activity will take place from October 2005 throughout the country. There have also been synergies with the Eurydice's programme of the European Union on the state of play in citizenship education in Europe through a comparative educational perspective. The Ministry of has also contributed to a study published by the Commission in May 2005 under the title Citizenship Education in Schools in Europe. Another synergy was established with the Deputy Ombudsman Head of the Children's Rights Department about the dissemination at school level in primary and secondary education, of printed material raising awareness on Children's Rights. The Greek delegation at the Launching Conference of the EYCE in Sofia in December 2004 proposed, with the active support of Cyprus and Italy, the institutionalization of a Citizenship Day in Europe, both as a symbolic as well as a substantive gesture to raise awareness on active citizenship issues. In preparing the Launching Conference, the Ministry has produced in Greek printed material about the EDC. This was made possible with the generous support of the Hellenic Parliament.

8. Dissemination

Earlier drafts of the Report have been sent to various Departments of the Hellenic Ministry of National Education and Religious Affairs, to schools that participate in the EDC and EYCE projects (to date, 47 school units), the Network of EDC Co-ordinators, the Hellenic Ministry of Culture, the Greek Politics Specialist Group of the British Political Studies Association, the Hellenic Political Science Association, the Scouts of Greece, the Hellenic University Association for European Studies, the Pedagogical Institute, the Centre for Educational Research, the Hellenic Observatory of the London

School of Economics and Political Science, the European Centre of Communication, Information and Culture, the Centre for Human Rights of the University of Crete, the Centre for Political Research and Documentation of the University of Crete, the Institute of European Integration and Policy of the University of Athens, the Institute of Greek Politics of the University of Athens, the Institute of International Relations of Panteion University, the National Documentation Centre, the Research Centre for Gender Equality, the Secretariat General for Equality, the National Hellenic Research Foundation, the National Centre for Social Research, the Centre for Political Research and Communication, the General Secretariat of Adult Education, the National Book Centre, the Academy of Athens, the Hellenic Institute of Education and New Technologies, the President of the National Council for Education, the National Centre of Public Administration and Local Government, the National School of Public Administration, the Hellenic Centre for European Studies, the Hellenic Institute for European and Foreign Policy, the European Ombudsman, the European Parliament (representation in Greece), the European Commission (representation in Greece), the European Commissioner for Education, Training, Culture and Multilingualism, the Marangopoulos Foundation for Human Rights, the Citizenship Foundation, the European Commission for Democracy through Law, The Foundation for Education for Democracy (Poland), the Center for Civic Education (USA), the CIVNET (website of Civitas International), the Center for Civic Education of the European Humanities University (Belarus), the DARE Network: Democracy and Human Rights Education in Europe, The European Agency for Development in Special Needs Education, WINPEACE: Women's Initiative for Peace Between Turkey and Greece, Politeia: the Network for Citizenship and Democracy in Europe, the European Network of Women (representation in Greece), Alkistis: Network Against the Social Exclusion of Women, the Greek Commission for UNESCO, the UNESCO Institute for Education, the International Bureau of Education (UNESCO), the International Institute for Educational Planning (UNESCO), the Foundation for Hellenic Culture, the United Nations High Commissioner for Human Rights, the Greek Ombudsman, the Deputy Ombudsman Head of Children's Rights Department, the Hellenic Council for Refugees, the Hellenic National Commission for Human Rights, the Hellenic Agency for International Development of the Hellenic Ministry of Foreign Affairs, the President of the Hellenic Parliament, the Standing Committee on Educational Affairs of the Hellenic Parliament, the Hellenic Parliament Foundation for Parliamentarism and Democracy, the Parliament for Youth, the Parliament for Children, the General Secretariat for Youth, the Greek School Network and the Standing Committee on Educational Affairs of the Hellenic Parliament.

9. Website Activities

A Greek translation of Glossary of Terms on Education for Democratic Citizenship can be found at the site of the Hellenic Ministry of National Education and Religious Affairs together with a PowerPoint presentation about the EDC project, composed by Ms Vassiliki Makri from the International Organizations Section of the Ministry. Other EDC-related documents produced by the Council of Europe that have been translated in Greek include, Edward Huddleston (ed), Tool on Teacher Training for Education for Democratic Citizenship and Human Rights Education, December 2004, and Concept Paper on The European Year of Citizenship through Education: Learning and Living Democracy, November 2004. Students and teachers can find general guidelines about the implementation of the EDC and EYCE projects in Greece at the site: www.ypepth.gr/el_ec_page3900.htm. A search engine is also available on the EDC website, based on the Google search engine and enables to find documents located on the EDC website through keywords. The search engine is located at the bottom of the EDC website welcome page. The Database of activities in 2005 can be found at the following:http://dsp.coe.int/EYCE/ActivitiesByCountry.asp.
At http://www.coe.int/T/E/Cultural_Co-operation/education/E.D.C/Country_profiles/ one can trace the country profiles, while the fact sheets on the Year can be found at: http://www.coe.int/T/E/Cultural_Co-operation/education/E.D.C/EYCE_in_countries/

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http://www.coe.int/T/E/Cultural_Cooperation/education/E.D.C/Documents_and_publications/Bibliography/Bibliography_on_EDC_&_HRE.PDF

11. The Press

The following articles have been published in Greek newspapers by the National Co-ordinator with the aim to communicate with a wide audience on issues linked with the EDC project. An interview can be found at www.coe.

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12. Communication

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